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Promoting Good Practices and Standards



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Editorial

The public perception of Police in India has been generally negative and it has been, more often than not, reinforced by the one sided views and messages being sent forth by media, politicians, Bars, organizations and votaries of human rights, to the exclusion of commendable work done by Police, as it does not carry news value for them. This is, however, not to deny that the police, particularly at lower rungs, are to be blamed partly for this image deficit, and partly it is the lack of initiative on part of police leadership to reach public through effective and imaginative media policy. This is one side of the coin that seems to have tripped the other side.

However, it is the other side that has led to the image deficit of police. The list is long: Grossly inadequate and poor salaries, outdated training modules, undue long working hours, political interference, denial of leave when most needed to discharge and family/social obligations, callous work culture, inadequate infrastructure, high expectations from police, viewing of even social and political issues as law and order problem, etc.

Moreover, the lack of performance by other departments of the State, especially public utility departments, invites the ire of the agitated public, which gets focused against the police because police is the only agency to intercede between mob out to violent rioting against the life and property and the Government. In the end, the issue gets reduced to agitated public vs. Police, evoking negative image about latter. It is a vicious circle out of which Police finds it very difficult to come out unscathed.

In this issue of Indian Police Journal (April-June, 2007) we seek to deal with this issue as it is adversely affecting the policing and internal security. In the article, **“Women’s Access to Justice: Domestic Violence, Governance and Human Rights”** Shri Vineet Kapoor maintains that police and justice system are not to be blamed for domestic violence against women and violation of their human rights. The patriarchal social order is to be blamed for this, which is reinforced by different agencies of State, its policies and civil society at large.

The article, **“Forensic Expert at Crime Scene: Threat to Health and Safety from Hazardous Environment- Some Basic Guidelines”** by Dr. B.P. Maithil deals with the threat to health and safety of the investigator at the crime scene. It presents some basic guidelines which can prevent any possible injury to the investigator, if these are followed.

Shri Hasmukh Patel, in his article, **“The Behavioural and Attitudinal change in Police: A Case Study”** puts forward the view that policing and internal security can be made more effective, if behavioural and attitudinal changes in Police towards people are brought forth through appropriate training and overhauling of organizational setup. He maintains that only training and its different modules can not prove to be of much help unless the change in organizational setup is also effected.

Dr. Usha Tandon, in her very timely and thought provoking article, **“Conceptualizing Human Rights of Police”**, underlines the need for conceptualization of Human Rights for Police force and their implementation. It has been seen that while everybody who is somebody in the society is showing concern for the human right violations of all categories of people ranging from common man to terrorists, but very few voices have been raised about the human rights of the police. Time has come when we should give long overdue priority to human rights of police.

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The Article, “**Socio-cultural Breaches of Computer Era**” by Shri Tej Singh Keshwal, Dr. Preeti Bala Mishra and P.B. Sengupta delves into threat and danger that computer era poses to our social and cultural system. The information technology and its offshoots like Internet, e-mail, phishing (identity theft), hacking, software piracy, etc. have provided the criminals and anti-social elements with a potent weapon to undermine our social and cultural system. This could be checked only by making people and society aware about downsides of the computer era, and taking well-thought and timely preventive and pre-emptive measures.

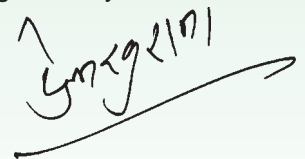
Shri K. M. Varshney, in article titled, “**Expert Evidence in Forensic Science under Court of Law**”, highlights the importance of forensic evidence in prosecuting criminals under Court of Law. As forensic evidence is not subject to any omission and commission, and there is no possibility of it turning hostile, it should be given utmost importance in prosecuting criminals.

Stress is a silent killer and is adversely affecting the work and morale of our security forces. Shri Rakesh Kumar Singh, in article, “**Stress Management in CRPF**” discusses the cause and effect of the stress in CRPF. He puts forward two-pronged strategy to combat the stress in CRPF: at personal and organizational level.

Shri Sankar Sen, IPS (Retd.), in article entitled, “**Fake Encounters are Symptoms of a Systematic Malaise**” deals with the menace of fake encounters in scientific way, putting these in proper perspective. He argues that fake encounters are symptoms of greater malaise affecting our security apparatus. It is the system of pulls and pressures that drives our police to engineering fake encounters. However, he cautions the police officers against falling into the trap of fake encounter, as it is counter-productive in long run leading to scant respect for law among Police force.

Corruption is a hydra-headed monster which devours society and if unchecked, can destroy it altogether. Shri Sayed Umarhathab, in his article, “Public Rating of Corruption” underscores the destructibility of corruption and its wider ramifications. It adversely affects the effective policing, putting further pressure on corruption infested society. He puts forward some substantial remedial measures to check corruption.

We hope that diverse readership of IPJ would appreciate our initiative to highlight the image deficit of Police and various factors leading to the depletion of goodwill towards Police among the people. We also solicit views of our valued readers to improve the journal progressively.



(P. N. KHURANA)
EDITOR

Promoting Good Practices and Standards



Abstracts & Key Words

Women's Access to Justice : Domestic Violence, Governance and Human Rights

Vineet Kapoor

Key Words

Legal discourse, Structural subordination, Social justice, Masculine power, Brutalized Marginalization, Gender myopia.

Abstract

Violence in the private sphere of the family and the victimisation of the women in the intimate relationships has recently acquired legitimacy in the legal discourse, starting from its recognition as a crime in last forty years; the issue is now actively advocated by the women's rights group as an important concern of women's human rights. This recognition identifies the violence in the private sphere not merely as a crime, but locates the context of this crime into the systemic process of structural subordination of women in a gendered social order where the violence reconfirms and reproduces those gender hierarchies through fear, which produce this violence in the first instance. That is why the criminal justice response is not similar to other crimes happening in the public sphere. The gap between the formal existence of a normative and legal framework at the one end and the accessibility of justice and

law enforcement on the other, ails much of the 'progressive' and social justice based laws, which are meant for the emancipation of the subordinated people and groups. The laws related to domestic violence also remain victim to these gaps. In the backdrop of the passing of the Domestic Violence Act in India in Oct 2006, this article attempts to consider that the women's lack of access to justice in the case of domestic violence remains victim to the structural issues of women's subordination which gets reflected in the delivery of justice and its distance from the victim; throwing challenges at the law, the justice and the governance of the country. It is how this law reaches women and how and in what context it is delivered, would determine whether women have an access to justice as an equal citizen.

Forensic Expert at Crime Scene: Threat to Health and Safety from Hazardous Environment : Some Basic Guidelines

Dr. B.P. Maithil

Key Words

Crime Scene, Health, Safety, Hazards, Physical evidence, Blood borne Pathogens, Hepatitis-B Virus, Human Immuno deficiency Virus, Traumatic Incidents, Explosion, Arson, Personal Protective Equipments, Mask.

Abstract

Crime scene examination of heinous crimes, mass disaster, explosion, arson and other violent crimes is treated as an urgent task. Forensic expert and his associates normally get overlooked or pushed back away from the immediate need of safety. Because of the inherent risk of exposed human blood, body fluids, chemicals, toxic fumes and other infectious materials present at the crime scene, health and safety of these personnel, are often compromised, therefore, it is necessary that forensic expert should maintain an acute awareness of the hazards present at their work environment and take the necessary precautions and measures to protect himself and their associates. There are many specific Occupational Safety and Health Administration (OSHA) standards, which apply to typical forensic laboratories and research centres. The crime scene investigation work due to its unpredictable nature, involves a variety of environmental hazardous factors. The forensic expert and his associates have a great threat from a variety of infectious materials like exposed blood, other body fluids that may cause serious diseases; therefore, it needs some different safety devices. The present paper attempts to identify possible hazards and appropriate safety guidelines that should be adopted during

handling potentially hazardous evidentiary materials or when exposed to hazardous environmental conditions. These are intended to serve only as a starting point for good health and safety practices. During crime scene investigation and evidence collection, personnel involved should consult the local authorities for additional safety requirements and standards.

The Behavioural and Attitudinal Change in Police : A Case Study

Hasmukh Patel

Keywords

Behaviour, Attitude, Behavioural and Attitudinal Change, Strategy, Paradigm shift, Free registration of complaints, Constabulary empowerment, Gender sensitisation, Competence development, Police-public relations, Experience sharing, Process standardisation, Citizen Feedback System.

Abstract

Behaviour and attitude towards people is a very important issue for police to perform effectively. The present system of police training does not give importance it deserves. Various training strategies are suggested to bring about behavioural and attitudinal change. The problem with these strategies is that the organisational culture may still play a major role in determining the behaviour and attitude of police personnel towards people. Thus solution to the problem lies in changing this culture. Unless the

basic way of how police work is changed this issue cannot be tackled effectively. In Bhavnagar district, a cultural change management initiative was introduced successfully that led to definite positive change in the police behaviour and attitude towards people. This paper covers the initiative in detail.

Conceptualizing Human Rights of Police

Dr. Usha Tandon

Key Words

Political pressure, Inhuman work culture, Callous work, Behavioural stress, Favourable conditions, Superman image.

Abstract

The police force in India works under very severe constraints. The overall work environment of police, particularly of subordinates and middle rank officers, is dehumanizing and deintellectualizing. Families of police personnel usually feel neglected. As a result, the police work exacts a heavy toll from the wives, children and relatives of police personnel. Article 7 of International Covenant on Economic, Social and Cultural Rights, 1966 recognizes the right of everyone to enjoyment of just and favourable conditions of work, which ensure in particular a decent living for themselves and their families; safe and healthy working conditions; rest, leisure and reasonable limitation of

working hours and periodic holidays with pay, as well as remuneration for public holidays. They do not give up their basic rights by signing up to the police services. The humane conditions of work are the key to the efficient and effective working of the policemen. To ensure that the police force respond positively to the needs and demands of the community they serve, it is imperative that their working conditions are such that the conditions themselves do not become irritant and a cause of tension for them. The political interference is manifested in appointments, transfers and promotions of police personnel which affect their initiative and efficiency. The police personnel are expected to present a superman image, who can do anything, in any situation. This superman image of policeman makes it difficult for him to be fully even a man. They do not mind if they are getting long work-hours, less salary, no promotion, bad service conditions etc, as, within the stern system, they have taken care of themselves by getting 'wet posting' or 'sensitive posting' which may generate money for them, but at the same time makes them 'evils in uniform'. No one bothers to understand the severe limitations within which a policeman has to operate. A number of police specific research studies have identified and then classified stress producing agents among police personnel. Top officials, according to the study, are more emotionally exhausted than non-gazetted and subordinate

officials. The higher rank officials are under more stress followed by the non-gazetted officers, it may be due to increasing responsibility with rise in organizational hierarchy because of their multidimensional role complex work environment. Therefore, there is a need to conceptualize and contextualize the human rights of police force, so that the true upholders of the rule of law do not remain deprived of their basic rights.

Socio-cultural Breaches of Computer Era

Tej Singh Keshwal,
Dr. (Smt.) Preeti Bala Mishra and
Dr. P.B. Sengupta

Key Words

Breaches, Computer era, High-tech crime, Social environment, Information age, Digital images.

Abstract

In a progressive society like India, technology boom was expected to follow age old social conventions and values adopted in its culture. Data obtained in the present study indicate towards wrong deeds adopted by variety of technology users which amounted to social breaches of criminal nature in its social environment. Observations recorded indicate malafide use of computer, cyber space and telecom gadgets by variety of users belonging to categories like common Internet users, service providers, conniving groups of website operators, profesinoal using

e-mail and Net, telecom services, computer / software dealers and even ignorant children. While utilising high-tech services, offenders were found to comit breaches of abusing Internet, websites, e-mail, Internet relay chat, software piracy and utilising telecom gadgets in a criminal way. An era has emerged, it appears, where precious services are breached with malafide intention.

Expert Evidence in Forensic Science Under Court of Law

K. M. Varshney

Key words

Expert evidence, Forensic expert, Court of law, Examination report, Criminal Justice system.

Abstract

Expert evidence deposed by the forensic expert is one of the essential parts for the investigation of high-tech crime in modern days. The opinion/expert evidence given by the forensic expert is an exceptional rule to general witness in the judiciary system in our country. The expert has been given certain prudence by the court of law to make his opinion based on his scientific experiments and findings in our criminal justice system. To deliver the best justice by the Hon'ble court, the expert must depose his court evidence unbiased, truly, correctly, carefully, and not with predetermined mind. The suggestions or guidelines described in the paper may be informative and

helpful to the forensic community in the deposition of their expert evidence in the court of law.

Stress Management in CRPF

Rakesh Kumar Singh

Key words

Stress, Emotional arousal, Expectations, Work pressure, Uncertainty, Insensitiveness, Risk, Role conflict, Social exclusiveness, Personality conflicts, Traumatic events.

Abstract

Stress at the work place are quite common these days and it has become a fact of life inevitable in this age of intense competition. However, stress is inherent in uniform services. But the situation becomes worse because of environmental factors like poor living conditions, odd and prolonged duty hours, toxic leadership and negative image in society and media.

The purpose of the study is to gather data through sample survey to understand the causative factors of stress overwhelmingly present in the Force and explore the possible remedies as well as analysis of the perception of personnel regarding their problems, so that the myth be demystified and provide focused direction to the Force leadership, to propel the system into dynamic action.

The purpose of this study is also to identify the problem, areas and need of empowerment of various

ranks at various levels to enable them to derive pride in their job.

Fake Encounters are Symptoms of a Systemic Malaise

Sankar Sen, IPS

Key words

Criminal Investigation Department, Fake encounters, Justice system in the county, Police leaders, Private defence, Magisterial enquiry, Gangsters, Intra-gang warfare, Misconduct.

Abstract

Fake encounters staged by the police officers resulting in the killing even criminals is illegal and has very rightly landed the senior police officers in a sea of trouble. It is however, a fact that false encounters are at times staged by police officers because there is pressure by the political masters to show quick results by means of fair or foul. The public, particularly the educated middle class, also do not mind if the police take the laws in their own hands and become executioners,

specially with regard to the dreaded criminals. But the hard fact to be borne in mind is that encounters are counter-productive and encourage contempt for law within the police. The practice of policing to break law in the name of law enforcement is unacceptable and intolerable in a democratic society governed by the rule of law.

Public Rating of Corruption

Syed Umarhathab

Keywords

Public Rating, Corruption, Corrupt, Transparency, Perception, Index, Vigilance, Illiterates.

Abstract

India is still retaining its title of being in the big league of the most corrupt countries. The corruption is one of the crimes that have been a problem for many society in this world; it affects the general morality of society. Corruption is generally defined as “the use of public office for private gain”. Contrary to popular perception, corruption was

quite rampant even in Pre-independent India when the controls and shortages caused by the Second World War resulted in huge illegal profits for bureaucrats and forced the colonial government to pass the Prevention of Corruption Act in 1947. The kind of corruption the ordinary person faces in India is something that is not even recognized in the developed countries. International organization like the Transparency International conducts regular study on the situation of corruption in all countries and scores their Corruption Perception Index (CPI). This Corruption Perception Index does not give the complete picture; it only provides a reasonable idea of the level of corruption in the country. The current study is an attempt to expose the public thinking on the issues of corruption. Public have been given a chance to rank the government departments according to their knowledge and choice. The study also has checked the public awareness on the Office of Vigilance and Anti-Corruption.



Key Words :

Legal discourse,

Structural subordination,

Social justice,

Masculine power,

Brutalized
marginalization,

Gender myopia.

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WOMEN'S ACCESS TO JUSTICE : DOMESTIC VIOLENCE, GOVERNANCE AND HUMAN RIGHTS

Vineet Kapoor*

‘Stay in your place or be afraid. Contrary to the argument that such violence is only personal or cultural, it is profoundly political. It results from the structural relationships of power, domination, and privilege between men and women in society. Violence against women is central to maintaining those political relations at home, at work, and in all public spheres’ (Bunch, 1990; 490-491).

The problem of domestic violence has gained increasing ascendancy as a priority issue in the legal and public policy domain, particularly in the last quarter of a century. Being informed by the feminist discourse, aimed at attaining substantive equality; the problem of domestic violence has moved over the years from its understanding as a family matter restricted to the personal life, belonging to the private sphere, to its establishment as a criminal act and more recently as a human rights issue. The move from a belief system which saw the violence within the family as ‘reasonable chastisement’ of women and children undeserving to be addressed

as an offence, to recognizing it as a punishable crime, has been a significant advancement in the law (Mckinnon, 2006; Merry, 2006; Dobash and Dobash, 1998). Through the human rights discourse it is now asserted that the state can no more avoid its responsibility in addressing the problem of domestic violence behind the dichotomy of public and private spheres of life as the issue itself is being viewed as a structural and systematic denial of human dignity and equality of women and a cruel attack on their individual autonomy and liberty which deserves full recognition as a human rights issue (Copelon, 1994; Tomas and Beasley, 1993; Charlsworth *et al*, 1991). This involves raising attention to particular abuses women encounter because they are women and locating the problem of domestic violence within the structural disadvantage which remains central to the perpetuation of domestic violence.

The central context of the problem of domestic violence and women’s access to justice is that despite a proliferation of laws, domestic violence is still perceived

as less condemnable than other forms of abuse. Locating violence against women as denial of human rights raises fundamental concerns for the women's access to justice and how the legal order of any country addresses this issue. More than 80 countries have now come up with some kind of legislation against domestic violence after persistent campaigns, lobbying and pressure through the women's rights groups, NGOs, United Nations Organisations and international treaty bodies like CEDAW, the Convention on Elimination of Discrimination Against Women (UNIFEM, 2006). The context of the subordinated social existence of most of the women, when seen through a human rights angle depends on how best a domestic legal order responds to these expectations (Dairam, 2004). Despite a proliferation of laws in this direction, there is a lack of proper law enforcement in case of domestic violence reflected by an international phenomenon cutting across different countries. This phenomenon confirms to a gendered social order of subordination in which women exist and struggle against their victimisation. The high stakes, the Constitution of India attaches to the question of equality, by enshrining it as a fundamental right, whose mandate covers the issue of non-discrimination on the grounds of sex, gives much credence

to the human rights readings of the legal discourse and women's rights in India. The women's emancipation and rights realisation on the ground however forms a different context (Kirti Singh, 1994; Nussbaum, 2000). The brutalised and subordinated existence of a large proportion of women within their social environment gives formidable challenge to the visions of equality and human rights which inform most of the 'progressive' laws designed to promote social justice and social change. The evaluation of women's access to justice gains primacy when we find that the progress in law has not often matched with the progress in providing justice to women.

This article locates violence against women as a salient concern of women's equality and human rights and their access to justice. It attempts to critically evaluate the evolution of domestic violence as an international concern, where it was initially recognized as a criminal offence and later as a human rights issue. In an evolutionary context it would be seen how the feminist movement which was in itself informed by the women's rights discourse, shaped the establishment of domestic violence as a punishable offence within the criminal justice system and later as a human rights issue in an international legal system. The problem of domestic violence is now seen as a social and



Abstract :

Violence in the private sphere of the family and the victimisation of the women in the intimate relationships has recently acquired legitimacy in the legal discourse, starting from its recognition as a crime in last forty years; the issue is now actively advocated by the women's rights group as an important concern of women's human rights. This recognition identifies the violence in the private sphere not merely as a



crime, but locates the context of this crime into the systemic process of structural subordination of women in a gendered social order where the violence reconfirms and reproduces those gender hierarchies through fear, which produce this violence in the first instance. This is why the criminal justice response is not similar to other crimes happening in the public sphere. The gap between the formal existence of a normative and legal framework at

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structural issue of women's substantive equality which can be most appropriately addressed through an integrated approach based on criminal justice and normative frame work of human rights. The discussion is related not only to the provisions of law but also with the impact of law and its translation into women's actual emancipation from violence, which remains a problematic area and a cause of concern. The barriers to the access to justice severely compromise the substantive equality for women, which human rights reading of domestic violence provisions propose.

The article discusses the particular context of India, where the development of law particularly in past quarter of a century has shown considerable progress as far as law making in the direction of prohibiting violence against women is concerned. The gap between the formal existence of a normative and legal framework at the one end and the accessibility of justice and law enforcement on the other, ails much of the 'progressive' and social justice based laws in India. The laws related to domestic violence also remain victim to these gaps existing within law and its reach to the subordinated people and groups. The women's lack of access to justice in the case of domestic violence remains victim to the structural

issues of women's subordination which gets reflected in the delivery of justice and its distance from the victim; throwing challenges at the law, the justice and the governance in the country.

Domestic Violence as Crime

The domain of the private sphere of the family had been traditionally subjected to an exclusive authority of the patriarchy which conferred on men the sense of entitlement to chastise their wives and their children across almost all the dominant cultures of the world. Wife-beating therefore pertains to this sense of entitlement which provided a culturally approved social licence to discipline the wives if they failed to be properly subservient (Copelon: 1994; 132). This provided a social sanction to violence in the family and produced a legitimacy to patriarchal authority which could exert authority to discipline the 'failure or refusal on the part of the woman to comply with or support her husband's wishes and authority' (Dobash and Dobash, 1980 : 135). Due to its social acceptance and cultural overtones the violence within the family, for example, if a man hit his wife or if a parent hit his/her child, could be considered as 'domestic argument' or 'disciplining' respectively, which was often considered normal and remained largely invisible and not

categorized as a crime. As compared to this social legitimacy of violence within the home, the violence outside the home in the public sphere was treated differently, for example where one adult assaulted another in the street, the act was categorised as a crime. This belief system lingers on in some cultures till now, while in some others it was strongly under currency till the first half of twentieth century but has left a considerable residue behind, which leads to the widespread contemporary tolerance and even encouragement of domestic violence (Saraga, 2001; 192). According to Joan Fitzpatrick, "This encouragement may result from socially constructed view of women as flawed and way ward creatures who require chastisement for their own and society's good. Or the encouragement may stem from a dominant focus on male self identity, using violence against women to define and differentiate men from the inferior 'other' " (Fitzpatrick, 1994; 562 n42).

It was until late 1960s that the problem was seriously scrutinized and the public concern started mounting against it. The issue of domestic violence came under the sharp focus of second wave feminism from 1970s onwards when the feminists attacked the patriarchal legitimacy of violence and talked of women's rights to security within

the family and their claims to equality and liberty within the private sphere. They argued that 'personal is political' and that the inner world of family should be open to public scrutiny so that the inequalities and power relations within the family could be made visible (Saraga, 2001; 196). Since the popular conception of violence at home did not merit much consideration as a punishable offence, the feminist movement, aimed at attaining substantive equality for women, regarded the domestic violence as one of the chief disabilities for the promotion of women's rights and their claims to equality. Women's rights movement struggled hard to campaign for the inclusion of various manifestations of domestic violence as a crime within the criminal justice system in order to get law on the side of the women in their struggle for justice. The feminist movement exerted influence in extending the reach of criminal law within the insulated world of private sphere manifested by family and the home.

By 1980s and 1990s many countries legislated for inclusion of domestic violence within the criminal law, while most of the countries still did not legislate and were slow to respond. Most of the countries which did not legislate against domestic violence as a distinct crime continue to treat it



the one end and the accessibility of justice and law enforcement on the other, ails much of the 'progressive' and social justice based laws which are meant for the emancipation of the subordinated people and groups. The laws related to domestic violence also remain victim to these gaps. In the backdrop of the passing of the Domestic Violence Act in India in Oct 2006, this article attempts to consider that the women's lack of access to justice in the



case of domestic violence remains victim to the structural issues of women's subordination which gets reflected in the delivery of justice and its distance from the victim; throwing challenges at the law, the justice and the governance of the country. It is how this law reaches women and how and in what context it is delivered, would determine whether women have an access to justice as an equal citizen.

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under its criminal assault laws (*ibid*: 223-229). There was growing realisation since late 1980s that domestic violence needs special attention and is closely associated with women's rights. Due to the growing influence and impact made by the women's movement between 1970s and 1990s the issue of domestic violence attained a primacy in at least the formal stance taken in public policy and criminal justice system of many countries (Dairam, 2004; Coomaraswamy, R. 1999). The local women's movement in many countries, inspired and energised by the international women's movement greatly contributed in exerting pressure on their respective governments to change their policy stance especially in the criminal justice system to comply with the ongoing international standard setting (Dairam, 2004; Abrar *et al*, 2000 : 236).

The international developments in this direction gave strength to the demands from the women's rights groups in India. The recognition of domestic violence as a crime in India was brought about in the early 1980s after a sustained campaign by feminist groups and women activists all over the country (Singh, 1994). There was a huge demand for the criminalisation of dowry death and domestic violence which led to the enactment of Sec 498A in the IPC

in 1983, Sec 304B in 1986 and corresponding provisions in the Indian Evidence Act, 1872. The criminalisation of domestic violence in the form of Sec 498A and 304B (dowry death) were considered significant developments in law in correcting historical, legal, and moral disparities in the legal protections afforded to abused women. It sought for the first time to bring the issue of domestic or family violence out of the protected private realm of the family and into the public domain in India (Kothari, 2005).

Despite these legal reforms, societal responses to domestic violence still largely exclude legal intervention. Women's access to these laws is very rare as male batterers are rarely arrested, prosecuted, or sentenced as severely as other violent offenders which are confirmed by studies done by several organisations and NGOs (Jaisingh, 2001). There are problems in access to justice and implementation of these laws. The police often exercise discretion in avoiding arrest while responding to domestic violence incidents and emphasise on mediation and conciliation. Public prosecutors fail to actively pursue cases of domestic violence under Sec 498A, as often women turn hostile during the prosecution and agree to drop the charges. Sentences tend to be less

serious for those convicted of domestic violence. The result of these processes has been a higher dismissal rate for domestic violence cases at the prosecution stage, compared to other violence cases, and less serious sentences (Kothari: 2005). The passing of the specialised legislation in October 2006, called the Domestic Violence Act which is a significant development in this direction as it provides much needed civil law remedies to provide protection to women victims of domestic violence. These criminal laws and the civil law provisions now make an impressive set of laws designed to deal with the domestic violence and to provide justice to the victims of domestic violence. Despite this, the important consideration is to assess how far these laws are being used by the victimised women. The delivery of these laws within a gendered social order raises number of concerns regarding the human rights of victimised women who exist in a position of structural subordination, which leads to formidable barriers in access to justice. As a background to discuss women's access to justice in case of domestic violence, it is useful to first discuss the domestic violence as an issue of women's human rights.

Domestic Violence as Human Rights Issue

During the course of the evolution of International Human Rights Law, the issue of prohibition on the discrimination on the grounds of sex, has undergone a deepening of understanding over the last three decades. This has directly impacted on the status of domestic violence, which is now being, considered as a human rights issue by the international community (Coomaraswamy, 1999). The feminist challenged the limited conception of human rights and pressed the need for revisioning of human rights from the perspective of woman's subordination and the existence of systemic violence against her. Charlotte Bunch's following words are illustrative of this critique, 'Violence against women is a touchstone that illustrates the limited concept of

human rights and highlights the political nature of the abuse of women...Victims are chosen because of their gender: the message is domination stay in your place or be afraid (Bunch, 1990 : 490-491).

The Feminist evaluation of modern international law developed in 1980s and early 1990s which severely criticized the international law, laying charges on 'Androcentricism' and 'Euro - Centricism' of its approach (Charlsworth *et al*,1991; Cook, 1994; Peterson and Parisi,1998). Blaming the 'gender-myopia' of the international law, Charlsworth *et al* in their famous critique, 'The Gender of Jus Cogens', commented that, 'although race discrimination consistently appears in jus cogens inventories, discrimination on the basis of sex does not' (Charlsworth and Chinkin, 1993 : 174). This criticism was based on the argument that the international law gives primacy to public sphere and to the statist system which due to structural reasons, is inhabited increasingly by men. Women, who due to the same historical and social structural disadvantage inhabit primarily the private sphere, do not get their concerns properly addressed within an international human rights law framework. This according to the feminist critique leads to the 'ghettoization' of the international mechanisms and bodies responsible for women's human rights as they get comparatively less priority. It was highlighted how domestic violence by its exclusive placement as a criminal justice issue has been marginalized and neglected in international human rights discourse (Fitzpatrick, 1994; O'Hare, 1999).

Feminist legal scholars see violence against women as an issue under international human rights law because it looks at the access to justice from the perspective of the women who exist within an unequal and oppressive social order defined on gender lines. They maintain that within this social order women are subjected to systemic cruelty and denial of basic security of person and freedom from fear, which reproduces subordination of women in

the form of inherently subservient and unequal group. This Human Rights critique recognises that domestic violence aims at male supremacy and deprives women of their civil and political, as well as economic, social and cultural rights by subjecting them to abuse indignity and denials which leave them vulnerable to further abuse, resulting in the reinforcement of the hegemonic masculine supremacy. According to Copelon the domestic violence is a systematic and structural mechanism of patriarchal control which subordinates women and robs them of their agency by depriving them of their human rights and this pattern is similar throughout the world across different cultures which conveys that an international normative standard setting to protect women's rights is needed and establishes the relevance of seeing women's rights as human rights. She comments, 'While the legal and cultural embodiments of patriarchal thinking vary among different cultures, there is an astounding convergence of cultures in regard to the basic tenets of patriarchy and the legitimacy, if not necessity, of violence as a mechanism of enforcing the system' (Copelon, 1994 : 120).

The feminist raise doubts at limiting domestic violence only as a criminal justice issue. They maintain that the justice to women is extended within a social structure of gender based inequality in which the justice gets compromised due to the social context in which it is delivered (Nash, 2002 : 422). When the domestic violence is seen as a human rights issue rather than just a criminal justice issue, the state's responsibility is invoked. The state's international obligation with regard to the acts of private individuals is to ensure that the state protects people's life, liberty and security against private assaults and that it must be done without discrimination on prohibited grounds. In order to invoke state's responsibility, there should be systematic discriminatory non-enforcement of the domestic criminal law against domestic violence to constitute a human rights issue. In this regard Thomas and Beasley have

highlighted the widespread absence of state intervention in the cases of domestic violence as compared to other crimes taking place in the private sphere, 'The widespread absence of state intervention in crimes against women is not merely the result of government's failure to criminalize a class of behaviour, but rather is the result of governments failure to enforce laws equitably across gender lines' (Thomas and Beasley, 1993 : 46).

Introspection within the international human rights law has led to a widespread endorsement to these criticisms over the last two decades, leading to a considerable advancement in international mechanisms which have facilitated the mainstreaming of women's rights as human rights (Coomaraswamy, 1999). The international standard setting mechanisms primarily at the behest of the United Nations and its various bodies, particularly through the CEDAW and regional human rights systems especially in Europe and the America exerted a lot of influence in giving this issue a focus in public policy and criminal justice practice of different countries (Fitzpatrick, 1994 : 536-537). This required the states to develop legislative measures to punish violence and offer redress to victims of violence. The move at the international standard setting was to press on the importance of access to justice for the victims of domestic violence through the criminal justice system along with addressing social and structural inequalities which inhibit the delivery of justice to women (O'Hare, 1999 : 377-378). The Security Council also gave primacy to this issue and regarded the problem of domestic violence as an obstacle to peace (Guichon, 2005 : 358). The issue of domestic violence along with rape was taken up in two distinct types of UN fora; within the Commission on the Status of Women (CSW) and the Economic and Social Council (ECOSOC) and within the UN Crime control bodies like the Committee of Crime Prevention and Control (Fitzpatrick, 1994 : 536). The principal approach put forward by these two mechanisms

was an acknowledgement that the 'domestic violence and rape tend to camouflage abuses, that they occur world wide, that they seriously jeopardise the personal development of women and are against the interest of the society' (*ibid*, 536).

The considerable activity going on in both these mechanisms and other UN bodies and regional human rights instruments lead the General Assembly to come up with the Resolution 40/36 in 1985, which required states to take urgent action to prevent domestic violence, to assist victims, and to make criminal justice system more sensitive. The resolution also required the Secretary General to undertake research on domestic violence from a criminological perspective (Fitzpatrick, 1994 : 536). The importance was placed on seeing criminal justice system as the most important strategy to combat violence against women. The later developments in the international instruments which had a much broad based vision of women's rights and the violence against women like the Declaration on the Elimination of all forms of Violence Against Women - DEVAW, the provisions of general recommendation No. 19 of the Committee on the Elimination of all forms of Discrimination Against Women, the mandate of the Special Rapporteur on the Violence Against Women its Causes and Consequences in 1994, the World Conference on Women in 1995 and its Beijing Platform for Action. These efforts maintained the basic conceptual theme of highlighting the importance of making appropriate domestic laws and ensuring their enforcement by sensitising the criminal justice system to the structural disadvantages of women's existence and perpetuation of their subjugation through violence and to mainstream gender concerns in the delivery of justice (O'Hare, 1999 : 376-382). The international standard setting mechanisms especially the Convention on Elimination of Discrimination Against Women (CEDAW); which requires governments to take positive measures to end legal, social and economic gender inequality (Article 3 and 4) and to modify the

social and cultural pattern of conduct (Article 5), give strength to the consideration of domestic violence as an issue of women's substantive equality and their human rights.

These provisions provide an optimistic reading of human rights standards and present a positive approach, which encompasses all the three human rights directed functions of respect, protect and fulfil which a limited approach of criminal justice redress can not address. The need of addressing the causes of domestic violence is equally important as punishing the offender and protecting the victim (Elson, 2006 : 103-105; Nash, 2002 : 419). The concern expressed here have not remained confined to law making alone and have moved to the delivery of justice, not only through appropriate criminal justice measures but also through the laws ensuring the fulfilment of women's rights in economic and social spheres and addressing to their capabilities and lack of them to come out of the vicious circle of violence and abuse. The issue of domestic violence is at the same time the issue of substantive and transformative equality of women in a hierarchically structured and gendered system of masculine power and control, in which brutalized marginalization and subordination denies agency and compels women to internalise low possibilities for themselves because of their life experience (Nussbaum, 2000 : 112). The criminal justice system can be effectively used as one of the important elements of addressing domestic violence from the perspective of abuse of women's human rights, but it should not be seen as the only system. Access to justice for the women is a comprehensive approach which can not exist only on the basis of a penal system. It requires substantive gender equality of approach and purpose, within the justice and governance systems. It also at the same time requires a focus outside the formal justice institutions, to look into the capability enhancement of the woman, as well as an investment in her agency, so that she is

able to access her rights and is able to use the law designed to bring justice to her.

Women's Access to Justice and the Criminalisation of Domestic Violence

The analysis of domestic violence as a human rights abuse, gives primacy to the denial of equality to women which is reflected in women's lack of access to justice. Failure of the governments to prosecute domestic violence stems from the inherent causes of violence which are rooted in social, economic, and legal structures that discriminate against women. The human rights conception of domestic violence is seen as a systemic denial of women's equality before law because it sees the state's failure in implementation of the criminal law which according to O'Hare, 'operates on a gendered fault line that distinguishes between public and private spheres for the purpose of legal regulation and enforcement' (O'Hare, 1999 : 368).

The limitation of an exclusive criminal justice based approach is that it tends to concentrate entirely on a crime based understanding of the domestic violence and almost completely neglects the causative aspects of the occurrence of domestic violence. The human rights based understanding of domestic violence requires the national criminal justice system to see the domestic violence as an abuse of the human rights of the women and to explore the relative lack of enforcement of criminal laws against those who indulge in domestic violence and thereby address the women's disabilities in getting access to justice (Cook, 1994 : 22). The problems attached to the exclusive reliance on the rhetoric and practice of crime control and its 'tackling' of domestic violence is located within the criminal justice system and its gendered culture and practice which create barriers to women's access to justice (Walklate, 2001). The crime control mechanics do not work effectively to further justice to women in a hegemonic masculine social order where

the substantive equality of the subject victim is totally compromised. This gives an indication that treating domestic violence as crime is not sufficient to address women's rights against domestic violence unless a more comprehensive view of the social and cultural context of gendered systems of power and control within the family are not addressed.

To elaborate it further, the criminological perspective of seeing the domestic violence as an exclusive issue of enforcement of criminal law in punishing and prosecuting the culprit, faces two fundamental problems from a human rights angle. First, such an approach can lead the governments to a false conclusion that all they need to do to eliminate domestic violence is prosecute aggressors equally with other criminals of violent crimes and secondly it largely limits the human rights organizations and the state to denouncing abuses after they have already occurred, when the victim is hurt or dead (Thomas and Beasley, 1993 : 58). The exclusive reliance on the crime control logic as a tangible approach for dealing with domestic violence is severely criticised by feminists as it displays short term and 'cosmetic success' and because, 'it poses less of a fundamental challenge to patriarchal system' (Cook, 1994 : 21). Criminologists point out at another important problem with the crime enforcement strategy to combat domestic violence, and that is the nature of crime enforcement itself.

There is abundant amount of criminological research which portrays a general lack of enforcement of law in the direction of domestic violence and explores the causes of the lack of law enforcement within the criminal justice system particularly the police (Kelly and Lovett, 2005; Walklate, 2004; Saraga, 2001; Dobash and Dobash, 1980 : 1992). The lack of law enforcement on the part of criminal justice system emerges from the cultural practices and belief systems which regard family as a prohibited area for law to intervene, based on the assumption of family as a site of safety and security and

a more importantly a widespread endorsement of the gendered hierarchy at home which accepts a male hegemony over the structure of power and control within the family (Copelon, 1994). This also comes from the socialization of essentially male dominated police and judicial services into a patriarchal system which enables the criminal justice system at large to take the domestic violence 'less seriously' or approach the victim with a biased attitude. In those cultures in which the patriarchal systems are very strong and the legal definitions of crime do not include domestic violence as a crime the avenues of access to justice are totally denied. The subjectivity in law enforcement is an important element in this context which portrays the general acceptance of certain crimes over the other causing neglect of domestic violence as it gains less of a prominence within the criminal justice system.

How the violence is perceived and responded to by criminal justice institutions depends very much upon a range of political and social factors. Crime is not an inherent activity; rather it is defined under particular circumstances and in relation to specific processes (White and Haines, 2004 : 4). It would be perhaps worthwhile to consider the construction of domestic violence as an issue in crime by seeing how crime is being defined. Among the various criminological approaches of defining crime, Criminologist J.Hagan's conception of 'formal legal' approach and 'labelling' approach of defining crime is worth considering. According to Hagan a 'formal legal' definition says that 'a crime is whatever the state identifies as a crime; that is, if something is written into criminal law and is subject to state sanction in the form of a specific penalty, then that activity is a crime' (Hagan as in White and Haines: 2004 : 4). This is contrasted by another competing definition identified by Hagan which is related to the 'labelling approach' of crime which says that, 'crime only really exists when there has been a social response to a particular activity that labels that activity as criminal.

If there is no label, there is in effect no crime' (Hagan as in White and Haines, 2004 : 5).

Seen from this perspective the state may legally define a crime and place it as a policy issue but the social and cultural context in which the individual agent of state operate, like the police and the prosecution who are duty bound to enforce the law might not have still internalised the occurrence of certain offending activities as legally defined crime, which they are formally duty bound to acknowledge. This is because of the cultural context in which they live and the culture in which they have been socialized do not label it as crime. As a consequence a compromise needs to be made between their official position and their cultural context in which they may regard certain offences as lesser crimes or secondary crimes. Domestic violence, often falls in this category. This phenomenon for example, was well illustrated by Thomas and Beasley, through a Brazilian study where the entire criminal justice system undermined the occurrence and incidence of domestic violence, even murders and rapes by giving these offences occurring within the family a secondary status as compared to other 'real crimes' like the robbery or street violence which are popularly perceived as crime or already 'labelled' as crimes deserving greater attention (Thomas and Beasley, 1993 : 51-56). The example of Brazil is only an indication of the similar patterns existing elsewhere in the world including India, where the domestic violence gets a subordinated treatment in criminal justice policy and practice through this dichotomy of what is real crime and what is not. This is why gaps may remain between the advancement in Law leading to criminalisation of domestic violence and its implementation and enforcement.

Masculinities and the Criminal Justice Process

In addition to the gender sensitivity of the criminal law which is designed to redress the harm in a domestic violence situation, it is equally important to consider the

social context of hierarchy and structural subordination of women, which most often remains unaddressed in the delivery of criminal justice. This concern is related to the realisation that the gendered inequality and discrimination are institutionalised throughout the society and the criminal justice system itself retains the elements of this institutionalisation. This is revealed by the fact that when the criminal justice system and its agents deal with women, in what ever capacity they do so, they do it on the basis of certain gender-related criteria. That is, the behaviour, marital status and appearance of women are constantly linked to particular ideas regarding the preferred forms of 'femininity'. In this way, what is labelled as 'criminal' or an act of 'victimization' depends to a large extent upon the perceived sexual behaviour and social status of the woman in question. In the case of domestic violence the 'home-maker' and 'home-breaker' notions attached to victim women's behaviour emerge from the double standard of morality and power manifested through the attitudes of the members of police, judiciary and correctional apparatus which amounts to the preservation of gender stereo types (White and Haines, 2004 : 123). These gendered attitudes work as deterrents within a complicated criminal justice process where the woman victim's victim-hood in domestic violence might remain marginal to the professional practices and organisational priorities of those who are responsible to deliver justice.

The criminal justice process involves a series of stages between the commissions of a deviant act : its discovery by the victim, its reporting to and recording by the police, police investigation which might or might not result in the charge. This eventually may lead to the shift in location of the process of justice to the court through the prosecution branches, where the trial would commence which might or might not be followed by the conviction. The role of the criminal justice agents and the opportunities of exerting discretion within the criminal justice process places concerns at the attitudes

and culture of those who are assigned the role of criminal justice delivery. The complications within the process of criminal justice produce marginalization of the victim of crime as the penal approach to crime control takes primacy over victimization prevention. The criminal justice system as Walklate points out is based on the focus of crime prevention whereas the domestic violence by its very nature demands an orientation towards victimization prevention. (Walklate, 2004 : 158). The problem of domestic violence is fundamentally related to the lack of legitimisation of the domestic violence as a crime in the process of criminal justice, this is because 'the articulated legal definitions of crimes are modified in interpretive enforcement practice' (Lacey, 1994 : 3). Crime is a product of many layers of interpretation, and that this 'social construction' of crime is of constant relevance to both the practical operation and the social significance of all aspects of criminal process. The social construction of women as a victim of crime in case of domestic violence is therefore ridden with numerous barriers of interpretation which affect the women's access to justice.

Within the criminal justice process the attitudes and the organizational work cultures within which the agents of the system like the police, the prosecution and the judiciary work and the general attitude of the members of the agencies working for the "women's welfare" are significant determinants of how the domestic violence is taken. There is often an easy blame shifting involved which lays all ills at the door of the police as far as lack of law enforcement in the case of domestic violence is concerned. The role of the police is a significant factor due to the gate-keeping function performed by the police in the process of criminal justice, but the causes of police inaction might run deeper which are related to the culture and context of policing and criminal justice system. Although the police have a statutory responsibility to record crimes, they retain much discretion about whether and how to deal with possible offences that come to their

attention. This discretion exists during the process related to - whether, how and under what laws the alleged offence should be registered; whether, when and how to arrest the alleged offender, during the course of investigation and during the framing of charges, and so on. McLaughlin points out that in the case of domestic violence, which is traditionally given a low priority, the police response is generally characterised by 'delayed responses, inadequate recording, aversion to investigation, refusal to arrest, charge and prosecute and, sometimes suspicion on the complainants behaviour and lifestyle. The time, energy and efforts devoted to domestic violence is proportionately very less as compared to other crimes in which the protection needs and constraints of the victim might not be as urgent as in the case of the victim of domestic violence (McLaughlin, 2001 : 62).

There is an ample amount of research which shows that the socialisation of the police forces within a patriarchal environment with heavy emphasis on masculinities and macho-culture forms a great impression on police attitudes on what is a high priority and a low priority crime or 'no crime' and domestic violence often falls in two latter categories (Kelly and Radford, 1990 : 39; Mc Laughlin, 2001 : 61-63; Saraga, 2001 : 225). There is an increasing concern at the particular types of masculinities existing in the policing cultures world wide, which are attached to the conception of police job as a source to exercise authority and power which gives importance to physical courage and the glamour attached to violence. This leads to prioritisation of those crimes and reports which have a potential for 'action', to show courage and counter violence and to exert authority and power. Smith and Gray categorize these sets of attitudes and norms as 'cult of masculinity' which has a strong influence on the formation of police attitudes and police priorities and the popular public expectations and cheering of police machismo confirms and reinforces these attitudes (Smith and Gray, 1985 :

372). The popular public expectations are located within the gender stereotypes which are preserved and reinforced in the society and the institutions and agencies like the police are socialised and nurtured within these roles and role expectations. The low priority given to the offences against women happening within the private domain of family, are predominantly the results of these attitudes. Consequently, there emerges a gap between the law and its enforcement and its reach to the victim. Another factor pointed out by the feminist critique in criminology is that the criminal justice system is not sensitive to the women's experience of violence at the hands of men in the intimate relations as it brings muddiness to the criminal justice process which is inherently geared to inquire the damage that strangers do to each other, which is predominantly the 'kind of violence which men perpetrated on each other. The domain of family as a dangerous place for criminal victimization is beyond this comprehension (Saraga, 2001 : 225).

The problems attached with the women's access to justice are not limited to the police but extends well beyond the police to the legal process and into the court room itself. The studies conducted from a micro-sociological perspective have highlighted how justice is negotiated and judicial order is maintained through control of the formal rules and symbolic boundaries of court interactions. The court room interactions are preceded by witness summons brought at home by the police or court personnel, long gaps between different court proceedings, multiple visits to the lawyer's offices, long waits in the court corridors with the accused and so forth. The uneasy process into the court room characterised by the use of high level of ritual in the formal procedures, the complex legal language and gestures by the court professionals, the court team; the magistrates, judges, clerk of the court, police, lawyers and the prosecution officers, who jointly manage to create an aura. This is coupled by the geography of the

court, the elevated bench, the private access to judge's chamber, the judge's throne like chair, the defendant in the dock, the witness spatially confined but projected and the public at the back of the court. In total the organization of space is such as to impede communication, especially for those who are not part of the routine administration of the court (Carrabine *et al*, 2004 : 265). The traumatised victim of domestic violence who might not be exposed to the public sphere before, is expected to communicate intricacies of her personal life and her victimization in the above mentioned settings and circumstances to get 'justice'. This sociological critique of the present state of the criminal justice process in relation to domestic violence, is close to the feminist human rights critique put forth by the feminist legal scholars as discussed above, which regards that the domestic violence gets low priority not only due to the systemic sex discrimination existing in the predominantly patriarchal social order but also due to the fact that the law and its enforcement itself is gendered in its basic character.

The criminal justice process in relation to domestic violence and for that matter any other form of court-based civil law proceeding in its present form, amounts to the strengthening of the inhibitions of the victim of domestic violence particularly in India, who due to her social placement, cultural practices, familial rules and educational attainments would have most often been denied any prior interaction in the public sphere. The tremendous psychological and social apprehensions to go to the police station, to the court, to the lawyer's office, to talk to the men outside the family and kin group, coupled by lack of awareness about the legal process particularly in the case of the rural and poor women, work as major deterrents to access justice. In addition to these; the fear of future victimization, the lack of any place of refuge, the cultural and social stigma of separation, the lack of economic independence, the lack of economic and social support structure, poverty,

inability or unwillingness on the part of married women's parental family to support her, remain fundamental determinants which inhibit women to access justice system. The above mentioned constraints in the justice system reinforce and strengthen the economic, social and cultural inhibitions of the victims of domestic violence. The domestic violence has to be seen in respect of the barriers to access to justice in context of the women victims and the reality of their day to day social existence. The barriers to access to justice has to be addressed through the law and also through the context and culture in which that law is enforced and justice is expected to be accessed.

Access to Justice and Women's Empowerment

The gendered social order does not reflect itself only in the formal justice system and the police, at whose door all ills are attributed, but exists within the crevices of the other agencies of the state and state policies and very often within the civil society itself. The problem of economic, social and psychological support is the fundamental problem which needs to be looked into in case of domestic violence in particular and women's empowerment in general. The provisions of refuge for women victims of domestic violence and the lack of economic, social and psychological support groups and legal awareness generation agencies is a significant factor in women's access to justice. Empowerment of women in the context of domestic violence is based on the freedom from fear. Fear is extreme opposite of empowerment as it freezes action and is probably the most debilitating, disempowering and dehumanising experience which is used by the powerful to subjugate and control the less powerful and keep them in their place and it is through this fear that a gendered social order is maintained (Bunch, 1990). Naila Kabeer's definition of empowerment is significant in finding solutions to women's victimization in domestic violence and their access to

justice. She defines empowerment as, 'the expansion in people's ability to make strategic life choices in a context where this ability was previously denied to them' (Kabeer, 2001). This view of empowerment gives salience to two principle factors in empowerment of women that is the 'enabling factors' and the 'agency factor'. Most of the discourse around enabling factors is located around economic, social and political resource for women and through the provisions of education, employment, economic self sufficiency etc. The provision of specialised laws for women also falls under the enabling factors. Research shows that women's access to resources and enabling factors does not necessarily lead to their greater control over resources and that 'changes in legal statutes often have little influence on practice' (Malhotra and Shuler, 2005 : 73). The agency factor is also of equal importance in empowerment as it encompasses the ability to formulate strategic choices and to control resources and decisions. Without women's individual or collective ability to recognize and utilize resources in their own interests, resources cannot bring about empowerment. Same is the case with law, it requires active involvement and agency of the women to access her rights and to combat violence subjected against her. The emphasis on the agency of the women and an emphasis on the psychological aspect is a pertinent factor in the case of domestic violence.

In the case of domestic violence the medium of subjugation and emancipation is psychological. Arjun Appadurai's use of the phrases 'term of reference' and 'capacity to aspire' are helpful in understanding the importance of the psychological factors in women's empowerment and their struggle against domestic violence. According to his view the subjugated people (like the women in case of domestic violence) are defined by more powerful groups (by patriarchal social order in case of domestic violence) and held in their place by social norms and expectations of behaviour facilitated

through a conformist upbringing and socialisation, often reified in public debates and even interpretation of scriptures. Unless these subjugated people fight to change their terms of reference as a group, opportunities will by pass them. The 'capacity to aspire' is defined as the forward-looking capacity of individuals and groups to envision alternatives and to aspire to different and better futures (Narayan, 2005 : 21). In this case if a person cannot conceive of better times she is unlikely to take action towards that end. Martha Nussbaum's use of the term 'adaptive preference' is illustrative of this phenomenon which explains that women often internalise low possibilities for themselves because of their life experience (Nussbaum, 2000).

Domestic Violence is perhaps one of the most typical examples of this phenomenon. The repeated violence and subjugation remain hidden within the four walls of an abusive home where no formal mechanisms of justice are utilised primarily due to the victim's internalisation of low priority for herself which amounts to a loss of the capacity to aspire. This results in an oppressive existence which confirms to the gender stereo type under which she is placed. The psychological make-up of the victim in such a situation leads to an inability to aspire to change her terms of reference. The agency factor of the victim woman in this situation remains under-utilised and the enabling factors of the existence of a specialised law, legal institutions or the provisions of the economic and social support structures alone cannot be effective in access to justice till the time these enabling factors are also sensitively utilized to address and build up the agency factor of the victim women. The agency factor of the victims of domestic violence needs to be built up through the self confidence and self-efficacy of the women as these traits are precursors to action. The gender sensitive law making and the gender sensitive attitudes of those who are the agents of justice system can address the problem, provided systematic efforts are deployed for building up the agency of the women.

Molly Warrington in her study in the geographies of fear in eastern England shows that a woman suffering sustained domestic violence may be spatially and socially restricted to the home and at best to the immediate kin group and neighbourhood, rarely venturing out of the home environment (Warrington, 2003). In an Indian context the patriarchal social order where permissions may be required by the women in normal conditions to venture out of home even to visit a religious place or secular institution like a hospital, the psycho-social distances are significant in defining the geographies of fear and geographies of access to justice. The socio-psychological correlates determine the spatial distance of a police station, a court or a lawyer's office. The restriction of social space of a woman in both rural and urban environments is significant deterrent in her access to social and economic goods. In case of the domestic violence, the psychological, social and spatial dimensions of a woman's existence exhibit the geographies of fear and geographies of access to justice. Lila Visaria's study of domestic violence in five villages of Khera District in Gujrat portrays this reality of lack of access to justice in the case of rural women. Visaria highlights the women's lack of access to formal and informal mechanisms for redress in situations of abuse. She found out that the majority of women experiencing abuse do not access any form of medical care for either psychological or physical injuries. Two out of every five women in abusive relationships stay silent about their suffering because of shame and family honour. The lack of viable options keeps women trapped in violent situations. Nearly one third of the women experiencing abuse had thought about running away, but most said that they feared leaving their young children and had no place to go. Social and economic constraints further compound their sense of isolation. Lack of awareness about their rights and lack of knowledge about how to seek help in the case of violence in the private sphere renders these women more vulnerable to continued and escalating abuse at home (Lila Visaria, 1999). The access to justice for women has to be obtained by passing through a

complicated pattern of barriers which reach back to the human rights analysis of structural inequality which has been discussed above.

The point here is not only about the formulation of the laws alone or the sensitisation of the criminal justice agents and agencies, but pervades much deeper to evaluate the role of other government and non-governmental agencies which claim to be devoted to the cause of 'eliminating' domestic violence. There is a lack of interagency collaboration as far as domestic violence is concerned. There are some funds within the Women and Child Welfare Departments which have their own projects and in which the role of police and criminal justice agencies is minimal; on the other hand the approach taken in by the police has limited or no role for such departments. The police response is related to setting up of special domestic violence cells and women's police stations which often do not get full support from the NGOs and other civil society actors in terms of helping out in the identification of victims and in bridging the gap between the victim and the police station by confidence building efforts, legal awareness and related help. Moreover the provision of special police stations sometimes results into the ghettoisation of the domestic violence within the specialised cell which over the time gets alienated from the mainstream police work.

Another point of concern highlighted by many studies with the specialised police cells is a heavy emphasis on the mediation and counselling in which a lot of moralising over the preservation of relationships often prevails over direct registration of the cases. This is due to the suspicion that the women may not cooperate in the investigation later which might adversely affect the setting up of criminal charge against her husband or relative in the court as many women still may try to preserve the relationship owing to a range of causes related to economic dependence, social stigma and emotional reasons (Merry, 2006; Kothari, 2005; Mitra,

1999). The police cells may lack properly trained counsellors and police officers, who due to insufficient and inappropriate training are often not able to see outside the gender stereo types. They are not aware of the gender equality issues and might not be well versed in laws related to domestic violence. These cells may also lack linkages with rehabilitation centres, women's groups and NGOs which can play an important role in women's access to justice through the building up of capacity, confidence and agency of the women by showing them alternatives and avenues for the viability of different futures.

It is a peculiar situation with the police in India. Although most of the 'progressive' and social justice based law, which have severe criminal sanctions aimed at removing fear of subordination and structural disadvantages amongst the vulnerable groups, the poor, the women, the scheduled tribes, the scheduled casts and other excluded groups are expected to be enforced by the police. No respectable forum of development and poverty eradication includes police as a significant arm of the development and governance machinery, worthy of being included in an official development discourse (except in the case of so called insurgency affected areas in the north east, and the J&K). Indian Constitution's spirit of social justice by promoting social opportunities for the subordinated people is reflected in the progressive laws (Dreze and Sen, 2002 : 375-376). The practice however has suffered. The social development endeavours of the so called welfare agencies in the government and even outside it, sometimes bypass the social justice variables provided in the law, adhering and confirming to social and structural hierarchies on the one hand and the criminal justice agencies, despite best intentions may not view themselves as of any consequence in effecting this radical social change in favour of the abused, the subordinated and the deprived on the other. There is a painful lack of integration and inter-agency approach.

The role of government agencies is significant in building up refuges and social and economic support structures. The civil society can certainly collaborate and play a very active role in building up economic and social support structures and in giving expert help to the criminal justice system by building bridges between the victim and the process of justice dispensation. Poonacha and Pandey's study of response mechanisms for domestic violence in Gujarat and and Karnataka highlights this fact that the prevailing types of response or intervention strategies, among both state and non-governmental sectors, are in essence reactive to individual complaints and are, therefore, short-term in their impact. The study, however, also points to the emergence of a variety of innovative, grassroots efforts to address domestic violence more proactively (Poonacha and Pandey, 1999). There is a need for holistic interagency approach with the joining of energies amongst the police, the courts, the other criminal justice agencies, the related government departments and the civil society actors and community based women's group.

The domestic violence has been made a criminal offence but it has got an important human rights connotation attached to it as it is produced through systemic subordination of women aimed at the preservation of the structural hierarchy between the sexes and therefore the response in combating domestic violence is not limited to crime control but needs to be comprehensive which should be holistic in approach with a vision of achieving what Diane Elson calls transformative equality where women can get out of subordination and realise their worth. This vision looks at the capabilities of women to, 'address the issue of the economic, social and political structures they need in order to be able to make those choices' (Elson, 2005 : 15). According to this viewpoint the criminalisation of the domestic violence is only a manifestation of the larger concern of women's human rights. Within the human rights framework the concern should be the access to

justice, for the law itself cannot address the concerns of violence against women. It is how this law reaches women and how and in what context it is delivered would determine whether women have an access to justice as an equal citizen.

The implementation and performance of all the social justice based laws designed for the emancipation of subordinated people and groups in India suffer from lack of access to justice for these groups. The access to justice by the subordinated people, the poor, the dalits, the adivasis, the religious and cultural minorities and the women is subjected to this reality of the existence of a progressive and social justice based law which gets delivered within a constraining social environment within which wider social context of structural hierarchy, stratification and subordination remain unaddressed or at best partly addressed (Baxi and Mandelsohn, 1994; Galanter and Krishnan, 2004). The socialisation and attitude formation of the state's agents of justice, right from the beat constable up to the senior bureaucracy, judiciary and even major elements amongst the civil society actors gets shaped in this social environment. It is the delivery of justice within these constraints that enduring barriers remain in the accessibility of justice to the poor, the subordinated and the marginalized. Women's access to justice in connection with domestic violence should be seen in the social, institutional and governance context and process in which justice is normally delivered.

The Domestic Violence Act of 2006 covers important concerns regarding domestic violence in India. It is however important to realize that seen from the global trends, India has responded very late in bringing out a specialised legislation in this field. This has also come about after untiring and sustained campaigns from women's rights groups in India over more than a decade now. There have been significant amendments in criminal laws in the 1980s and 1990s regarding women's

equality and violence against women. In the backdrop of all the laws designed to combat domestic violence and to bring equality for the women, it has to be realised that the focus of concern should now be on the implementation of this law. It is the women's access to justice which would determine whether their rights are realised as human rights. It is intimately related to the preservation of the human dignity of women as a rights holding individual whose worth and respect needs to be equally protected as a priority of the state, which ultimately bears the responsibility of the preservation of all human rights whether they are violated in the public sphere or in the private sphere of the family.

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FORENSIC EXPERT AT CRIME SCENE : THREAT TO HEALTH AND SAFETY FROM HAZARDOUS ENVIRONMENT : SOME BASIC GUIDELINES

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Introduction

A safe kitchen, garage, workshop or even a safe laboratory can be made but not a crime scene due to its unpredictable nature. Forensic expert who are working in the field of crime scene investigation and evidence collection, very often, exposed to variety of hazardous conditions. Since an accident is an unplanned event, in cases such as mass disasters, arson, explosions, industrial and other kinds of accidents, the harm is quite obvious. All the accidents are caused by a hazard. A hazard is anything that can cause harm. In a forensic laboratory, hazards can be chemical, biological and physical only but at the crime scene there could be others in addition to the above, such as falling through a hole in a floor, slip and falls from working in wet location and ergonomic hazards of lifting, pushing, pulling and respective tasks. Other physical hazards often, un-noticed are entering to a confined space or trenches, electrical, mechanical, acoustic or thermal in nature. Ignorance toward these could result in potentially serious consequences. While identifying

hazards it will seem that most things can cause harm under certain circumstances. The hazards in our work environment need to be addressed to assess their severity and the like hood that they will cause harm. The chance of a hazard causing harm is called “risk”. In general it has been misunderstood that an accident is a single event, but usually the combination of several factors that actually leads up to the accident. An effective risk management programme depends upon the ability of crime scene investigator to identify and prioritize the presence of risks and potential hazards before a work-related accident occurs. The crime scene investigator has a myriad of potential risks due to, in part, to the nature of evidence collection and their examination. The following factors should be considered in order to perform risk assessment:-

- ◆ Predict the possibility of an accident occurs.
- ◆ Determine the extent of the consequences.
- ◆ Identify job hazards before work-related accident occurs.

Key Words :

Crime Scene,
Health,
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Hazards,
Physical evidence,
Blood borne Pathogens,
Hepatitis-B Virus,
Human Immuno-
deficiency Virus,
Traumatic Incidents,
Explosion,

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TYPES OF HAZARDS

Hazard falls into three main categories : chemical, biological and physical.

Chemical hazards

Forensic expert routinely handles chemicals in various analysis. It is inevitable and the potential for harm or injury could be significant if they are misused or mishandled. The expert and his associates should know the type of chemical present at the place of work. It is one of the violations made by field workers at crime scene, which attests to both the importance given to its implementation and paradoxically, a failure of employers to fully comply with its requirements. Sterility, preservatives and cleaning agents are generally used in collection and preservation of potential evidence at the crime scene. Formaldehyde is the most common and usually found mixed with alcohol. Other chemicals include embed agents such as methyl methacrylate and cleaning materials such as ammonia, sodium hypochlorite, sodium hydroxide, hydrogen peroxide, etc.

Biological Hazards

Exposure to blood, body fluids and soft tissue are the some important health hazards, encountered by crime scene

examiners. The risk of exposure is frequently occurring event with severe consequences. Pathogens of blood like Hepatitis-B Virus, Human Immunodeficiency Virus are main concern when working with human remains. Other pathogens include are naviruses, Creutzfeldt-Jacob disease, filoviruses, herpes, smallpox, veralhermorrhagic fever, and non-HIV hepatitis. Evidence collection at crime scene involves a different set of biohazards including disease vectors such as insects and rodents, bird, bat excreta and soil organisms. Examples include histoplasmosis from bird or bat excreta, coccidiomycosis from soil fungi, and hantaviruses transmitted by rodents. Deer ticks can spread lyme disease. Some spider bite causes serious illness or even death.

Physical Hazards

In this variety hazards exist like entering to a confined space, trenches, places as different as the bilge area of a slip or the side of a highway. Fire scenes carry the normal hazards of a typical crime scene, but the added danger of what is often a highly uncontrolled environment. Electric supply at crime scene may not be switched off, which causes leakage of the current. Other hazards include holes in the floor, danger of structural collapse and wires poking out at eye level.

Arson,

Personal Protective Equipments,

Mask.



At the crime scene of an explosion the great risk of possible presence of live explosives always exists. The presence of compressed gas cylinders at arson crime scene is a unique hazard due to its extreme flammable nature.

TYPES OF SAFETIES

Chemical Safety

A variety of materials encountered to health and safety may be categorized as under:-

- *Flammable materials* : such as acetone, ether, alcohol, gasoline, ignites easily when exposed to ignition source.
- *Explosive materials* : like dynamite, TNT, nitroglycerine, etc. Heat, friction or fire could be means for explosion.
- *Pyrophoric materials* : like phosphorous, sodium and barium ignite spontaneously when exposed to air.
- *Oxidizers* : such as chlorates, nitrates, hydrogen peroxide, perchloric acid and sulfuric acid react violently with flammable and combustible materials.
- *Corrosive materials* : like formaldehyde, sodium hydroxide, hydrogen peroxide hydrofluoric acid, etc., cause injury to body tissue, skin and eyes.

Firearms Safety

A little negligence may cause a serious damage. Handling of firearm at crime scene needs the following:-

- ◆ A weapon should never be packaged and transported in a loaded condition.
- ◆ Remove all ammunition from firearm before packaging and transportation.
- ◆ Live ammunition should be placed in a cardboard box with appropriate label.

Finger Print Safety

Sometimes latent finger print evidence is contaminated by human biological material. In such cases appropriate personal protective equipment and engineering controls must be used during the examination.

Light Source Safety

At the crime scene use of ultraviolet lights, laser and other similar light sources are frequently used for evidence collection. Apart from their vital use, they also create many hazardous conditions if the user is unaware to consequences of these hazards. It is therefore essential that appropriate eye protective devices such as goggles and safety glasses should be used to avoid

Abstract :

Crime scene examination of heinous crimes, mass disaster, explosion, arson and other violent crimes is treated as an urgent task. Forensic expert and his associates normally get overlooked or pushed back away from the immediate need of safety. Because of the inherent risk of exposed human blood, body fluids, chemicals, toxic fumes and other infectious materials present at the crime scene, health



and safety of these personnel, are often, compromised, therefore, it is necessary that forensic expert should maintain an acute awareness of the hazards present at their work environment and take the necessary precautions and measures to protect himself and their associates. There are many specific Occupational Safety and Health Administration (OSHA) standards, which apply to typical forensic laboratories and re-

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direct exposure to eyes. Lasers create irreversible damage to the retinal tissues of the eye as they have enormous radiant energy. Goggles fitted with sufficient protective material can protect eyes from any angle. Also avoid both direct and reflected eye and skin contact with a collimated laser beam. The exit part of light source should be kept at a sufficient distance from surfaces to prevent over heating and combustion.

Confined Space Safety

An enclosed space with limited means of entry and exit and insufficient occupancy is termed as confined safety. Entry in to such spaces may expose to a variety of hazards, such as explosive atmosphere, lack of oxygen, and presence of toxic gases like methane and carbon monoxide. It should be considered dangerous to health and life for an individual, therefore the following safety tips should be adopted:-

- ◆ Never enter to an unknown confined space.
- ◆ Try to identify possible hazard and safety measures to deal with them.
- ◆ The space should be kept isolated from unwanted energy sources and hazardous materials.

- ◆ A proper ventilation device should continuously be made.
- ◆ Activities, which may produce harmful gases like welding and cleaning, should be avoided.
- ◆ Do not allow any unauthorized person to enter into it as they may make the space more confined and hazardous.
- ◆ Good communication between inside and outside personnel should always be adopted with backup device.
- ◆ Appropriate personal protective equipment should always be with the person who enters the confined space and he should have proper knowledge about their use and limitations.

ROUTES OF EXPOSURES

There are various means and possibilities of exposures to hazards described below:-

Inhalation

Inhalation is the most common route of entry for volatile liquids chemicals and infectious agents such as tuberculosis. Biological and chemical contaminants may present in inhaled air; subsequently, they reach to the lungs and bloodstream and circulate throughout the system causing damage to vital organs such

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as liver and kidney. Proper ventilation, work practices and respirators if required, should be used to minimize inhaling air contaminants in the form of dust, mist, smoke, vapours, gases or fumes.

Ingestion

This is a less common for route of entry both chemical and biological contaminates. Corrosive material damages the mouth, throat and digestive tract. To avoid ingestion of these toxic chemicals and biological hazards always wash hands before eating or smoking. Expert should avoid bringing food, drinks and cigarettes at the crime scene.

Contact

The second most frequent route of entry is contact of chemicals or infectious materials with eyes, skin or mucous membrane. Chemicals substances initially result in local damage and later enter to the blood stream due to absorption. Eye contact with a chemical ranges from irritation to permanent blindness. These exposures can be avoided by using gloves, goggles and face shields.

Injection

This route can cause a serious health hazard as chemical or

biological material directly reaches the blood stream or the tissue. It generally occurs through a mechanical injury from contaminated metal, needle, glass or other sharp objects.

PRECAUTIONS

The forensic expert should remember “safety first” when enters to a crime scene and be aware about the hazards present.

To keep himself away from hazards he should follow precautions described below:-

General precautions

- No unauthorized person should be allowed to enter the crime scene; an authorized person who enters the crime scene should be with proper safety and personal protective equipments.
- No one should be allowed to eat, drink or smoke at the crime scene.
- Human body or bodies should be treated as potentially infectious; therefore, appropriate precautions should always be adopted.
- Considerable attention should be paid to the chemical, environmental and mechanical hazards present at crime scene.



search centres. The crime scene investigation work due to its unpredictable nature, involves a variety of environmental hazardous factors. The forensic expert and his associates have a great threat from a variety of infectious materials like exposed blood, other body fluids that may cause serious diseases; therefore, it needs some different safety devices. The present paper attempts to identify possible hazards and appropriate safety guidelines that should be adopted



during handling potentially hazardous evidentiary materials or when exposed to hazardous environmental conditions. These are intended to serve only as a starting point for good health and safety practices. During crime scene investigation and evidence collection, personnel involved should consult the local authorities for additional safety requirements and standards.

Forensic Expert at Crime Scene : Threat to Health and Safety from Hazardous Environment- Some basic guidelines

- Always be alert for sharp objects such as needles, knives, razors, broken glasses, rusted nails and cut metal pieces.
- Broken glass should be collected using brush, dust-pan, tongs or forceps as they may be contaminated.
- Confined space such as under-car seats, beds, should be looked into using mirrors and flashlights.
- Wooden paint stirrer should be used to reach narrow and confined spaces, such as those found between car seats and chairs.
- Puncture-resistant containers should be used to place all syringes, needles and other sharp objects.
- Entry and exit of persons and equipments at crime scene should be monitored.
- Waste materials like infectious gloves, coveralls, papers, polythene bags, etc., should be kept away from camp office, crime scene vehicle and equipments. These wastes should be disposed off in a proper way.

“*One size fits none*”, therefore, specific precautions need to be adopted by the expert depending upon the exposure to the incident.

Exposure to violent crimes

Crime scene of this kind poses a greater degree of contact with infectious materials. These materials are infectious for Hepatitis-B Virus, Human Immunodeficiency Virus (HIV) and other blood borne pathogens. Therefore, following safety measures are required to be adopted:

- ◆ Always use barrier protections.
- ◆ Always avoid eating, drinking, smoking and applying makeup at the crime scene.
- ◆ Always use gloves if there are wounds, cut, or scratches on human body.
- ◆ Always change contaminated gloves if punctured and their ability to function as a fence is compromised.
- ◆ Always wash hands after having removed safety barriers to protect the contamination of unprotected skin or clothing.
- ◆ If known potential infectious materials are present at crime scene, always use disposable safety gloves, shoes, apron, etc.
- ◆ Always wear safety goggles, protective face-masks or glasses with side shields when splashes, sprayers, spatters, blood droplets and other potentially infectious materials are found at the crime scene.

- ◆ Contaminated broken glasses, needles, knives and other sharp objects should always be placed in appropriate leak proof, puncture proof and closable containers only. Avoid these to curve, replace, remove or handle otherwise.
- ◆ All equipments should always be decontaminated with a solution of household bleach, ethyl alcohol or other appropriate disinfectants.
- ◆ Blood and other body fluids should always be completely dried before packaging.
- ◆ The owner or occupants of the affected part of the crime scene should also be made aware about the risks before releasing the same.
- ◆ All the infectious materials should be placed in completely sealed containers with appropriate labels.

Exposure to traumatic incidents

Forensic personnel are often exposed to crime scenes of incidents like shooting, drowning, road and train accidents, sexual assault, suicide incident, etc. In such cases persons from victim or complainant side, often show anger and anxiety; therefore they have to face responses such as : Alcoholism, Drug abuse, Crying, Depression, Aggression, Fatigue, Intrusion, Guilty, Sense of danger, Nightmares, Numbness, Startle reaction such as sleepiness, headache, muscle ache, stomachache, high blood pressure, etc.

Exposure to Explosion

Crime scene of an explosion always needs extra precautions. The forensic expert should follow the following guidelines:-

- First, ensure that electric or gas supply is turned off.
- Try to find out any live explosive if left at the crime scene and possible safe area with help of local

authorities for immediate shifting of unexploded bomb.

- The bomb disposal squad should always check any explosive device, which is suspected, and until it has been rendered safe, do not touch or move anything from the crime scene.
- Always use proper personal protective equipments such as foul weather clothing, waterproof or puncture-resistant coveralls steel shank work-boot, hardhat, safety goggles and respirator.
- Always treat all explosive related materials with unknown composition as extremely sensitive and should be examined by the expert before collection.
- Trained explosive unit may be called for evidence collection if required.

All the evidences collected and found safe for transportation should be packed and labeled with appropriate caution.

PERSONAL PROTECTIVE EQUIPMENTS

The person who examines the crime scene is required a proper protection to different body parts. Accordingly there are various protective equipments described below:-

Hand protection

Gloves are normally used for hand protection. Glove material and materials, which have to be handled, are co-related. The glove material should be that which offers the best level of protection from biological and chemical hazards present at the crime scene. Some of the glove materials are described here:

- ◆ *Neoprene* : This is resistant to oil, grease, acids, solvents, alkalis and refrigerants.
- ◆ *Polyvinyl chloride (PVC)* : It is chemically resistant to oil, alkalis, dilute nitric acid and chromic acid.

- ◆ *Nitriles* : These provide protection from acids, alkalis, hydrofluoric acid, hypo lubricants, aromatic compounds, petroleum products and chlorinated solvents. Due sufficient strength, nitriles offer an excellent resistance to puncture, cut, etc., during use.
- ◆ *Latex* : It is supposed to be a soft glove material therefore, resistant to mild acids, caustics, detergents, germicides and ketones only. To handle with heavily contaminated with blood or biological materials, always use thick latex gloves. Always avoid reuse of all kinds of gloves.

Eye protection

This is the most important and sensitive kind of protection. Appropriate eye protection such as goggles; face shields and safety glasses should always be used at the crime scene while handling the following materials:-

- Corrosives or irritants.
- Explosive residues.
- Inflammable materials.
- Volatile liquids like formaldehyde.
- Laser light.
- Radioactive materials.
- Ultraviolet light.
- Biohazards.

Types of eye protective devices

- ◆ *Safety glasses* : At crime scene both chemical and biological hazards always exist. Some flying object may enter into the eyes. Safety glasses with side shields are adequate to encounter these hazards.
- ◆ *Safety goggles* : If there is a danger of splashing of blood or other biological fluids, chemicals or flying particles, in that situation, goggles are intended for eye protection.

- ◆ *Contact lenses safety* : If a person uses contact lenses and an event of chemical splash takes place, then it is extremely difficult to remove the contact lenses. Gases and vapours of chemical substance may be concentrated under such lenses which can cause severe injury or permanent eye damage. He should, therefore, wear prescribed safety glasses with protective lenses.

Face Protection

The best way to protect face and throat from flying particles and harmful biological and chemical liquids is to wear full-face masks or shields.

Foot Protection

Normal fabric or tennis shoes readily absorb liquid; therefore, in certain hazardous situations footwear that has conductive and insulated sole, steel toe and shank which is chemical resistant should always be used.

Respiratory Protection

Noxious fumes and other air borne contaminants are often found at the explosion and arson crime scene; therefore, respiratory protection is very much essential. Disposable dust mask and self-contained breathing apparatus may be used after consulting the health and safety professionals. Person who uses the respiratory mask should have basic knowledge about it.

Head Protection

Many accidents causing head injuries are difficult to anticipate and control; therefore, appropriate head protection must be adopted to eliminate the injury. A hat, which resists penetration and absorbs the impact, is an ideal way of head protection. In a crime scene where structural damage takes place additional head protection

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is required and heavy-duty fireman hats should be used, which provides protection to ears and posterior neck also.

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Key Words :

Behaviour,
Attitude,
Behavioural and
Attitudinal Change,
Strategy,
Paradigm shift,
Free registration of
complaints,
Constabulary
empowerment,
Gender sensitisation,
Competence
development,

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THE BEHAVIOURAL AND ATTITUDINAL CHANGE IN POLICE : A CASE STUDY

Hasmukh Patel*

Introduction

Behaviour and attitude towards people is a very important issue for police to perform effectively. The present system of police training doesn't give importance it deserves. Various training strategies are suggested to bring about behavioural and attitudinal change. The problem with these strategies is that, the organisational culture may still play a major role in determining the behaviour and attitude of police personnel towards people. Thus the solution to this problem lies in changing this culture. Unless the basic way of how police work is changed this issue cannot be tackled effectively.

In Bhavnagar district a cultural change management initiative was introduced successfully that led to definite positive change in the police behaviour and attitude towards people.

The Paradigm Shift

On 4th October, 2004, the day I joined as District Superintendent of Police in Bhavnagar, the media asked me about my plans for the

district. I replied "No society can make progress without order and order cannot be established without respect for the law of the land in the society. In our society there is a belief that there is order in the society due to fear of police. This is a misconception. Due to police fear in the minds of the people they don't approach the police for their complaints and grievances. They don't cooperate in police work, they don't help the victims, they don't depose before the court. They don't give information about the crime and the criminals. This gives criminals free ground to operate. Thus police fear in the community leads to disorder rather than order. The lack of police fear in the common man will create police fear in the criminals and that may bring lasting peace in the community"

The district was infested with the criminal activities of criminal gangs. Therefore, this answer didn't satisfy the media but I was very clear on this. It was a paradigm shift. A paradigm shift in the way police functioned. This couldn't be achieved without changing the behaviour and attitude of the police.

Communicating the shift in paradigm

The belief in police as well as in public that peace and order in the society is maintained due to police fear is very damaging. The communication of this to the people as well as police personnel was very important. This became a major theme in discussion with citizens as well as police personnel in various forums.

Free Registration of Complaints and the Change in Behaviour

On 8th October, 2004, the first crime prevention conference of all the officers of sub inspector and above rank was organised to communicate the new philosophy. It was very clearly told that our organisation will work with new philosophy. It will discard old way of working and find out new ways and means of achieving goals. Even the goals also deviate from the traditional goals we have been pursuing.

The first and foremost importance was given to the free registration of complaints. It was stated clearly that crime figures can not be the only criteria of judging police performance. Free registration will help improve police image. When criminals get the message that a complaint of

common man will be registered against anybody irrespective of the status of the person accused, it will create fear among the criminals. This will create right deterrent in the society.

The importance of behaviour with the citizens was emphasised. A clear message was given that any misbehaviour will be dealt with very strictly. This message was clearly sent by taking action in such cases.

The effect was good as the free registration of complaints removed major reason for misbehaviour. The crime figures increased by 35% in a year and the complaints of misbehaviour went down considerably. But there was a long way to go as no systematic efforts were made to change behaviour.

The strategy

On 25th November, 2005, there was a public meeting of the Chief Minister in Bhavnagar. Around 250 police personnel were mobilised for the same. I treated this as an opportunity to talk to them. There was no specific agenda but I always tried to grab the opportunity to discuss with them the issue of behaviour with the public.

The discussion is presented in Box-1. The experience was very heartening. It made me think that



Police-public relations,
Experience sharing,
Process standardisation,
Citizen Feedback System.



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behavioural change need systematic effort. The initiative kicked off there. We learned a lot in the process.

Many new dimensions, methods and methodologies got added in the journey.

Abstract :

Behaviour and attitude towards people is a very important issue for police to perform effectively. The present system of police training doesn't give importance it deserves. Various training strategies are suggested to bring about behavioural and attitudinal change. The problem with these strategies is that the organisational culture may still play a major role in determining

Box-1

Interaction session about change in police behaviour :

Around 250 police personnel had assembled for CM public meeting the next day. The SP took this opportunity to organise training for behavioural change. The session was interactive and they were told to comment on police behaviour and police image in the minds of the people. The reactions and the final outcomes were recorded as follows:-

The Reactions from the police personnel :

1. People are bad.
2. They don't know police functioning.
3. Police image is bad since long.
4. People are not ready to obey law.
5. People don't cooperate with police.
6. Special programmes should be organised to make people aware about the police functioning and to improve police image.
7. The police personnel are very scared of the senior officers. They don't know what exactly they are supposed to do.
8. Police image is bad due to portrayal in films.
9. Police rules and regulations should be a part of the syllabus.
10. One head constable narrated how one couple entered in a railway coach where police were travelling with an accused. The husband advised the wife not to sit in the coach. The wife said that this is the safest coach. She sat there. It became obligatory for police officer to behave properly when a lady is there. They behaved well. That resulted in a life long relation.
11. Many other shared such good experiences.

Outcomes :

We can't change people but we can change ourselves.

1. We can't blame people. We need to improve.
2. Every day every police personnel on an average interacts with 15 people. If he behaves well and informs people every year we will be able to reach 50 lac people.
3. It was felt that good behaviour by police personnel go unnoticed. It was decided that such behaviour should be rewarded and appreciated in public.
4. Police should organise special programmes for informing people. But police should use public functions like mass marriages, religious, social programmes and the media for this purpose.



Rewarding Good Behaviour

In police reward system good work is rewarded by giving Good Service Ticket (GST) and the monetary reward. The bad behaviour is punished by way of departmental action. Good work is rewarded but good behaviour is never rewarded not even by a word of appreciation. This needs to change.

Clear instructions were issued to bring good behaviour of the personnel's to the notice of the SP for reward. This helped in changing the attitude towards the whole issue. The issue of behaviour and attitude towards citizens got special emphasis in the organisation. It also motivated personnel for improving behaviour.

Gujarat Foundation Day Celebrations in May 2005 was a quite difficult and taxing job for Bhavnagar police as more than hundred programmes were organised at different places and many VIPs stayed in the city. But once the programme was over I started receiving a number of phone calls from people appreciating police behaviour and minimum disturbance to their daily life. I conveyed this to every constable by a personally addressed letter. Specific reference was made about "strictness in law and politeness in behaviour".

The Constabulary Empowerment

The main aspect of the initiative of constabulary empowerment was improving performance through motivation, delegation, capacity building and enhanced status. No initiative of constabulary empowerment could succeed unless their status is increased. This initiative has made major contribution in changing behaviour of the police personnel.

Various measures were taken to improve their status within and outside the organisation. It was made very clear that no effort to bring their status up can bring result unless they behave well with the citizens. Addressing them as officers wouldn't make them officers unless they behave like officers.

Box-2

Empowerment of Constabulary

1. Police Constables are addressed as Police officers.
2. Police Constables as village duty police officers-every village has as a police officer.
3. They perform all police functions except investigation of criminal cases.
4. They sit with S.P. in public meetings.
5. All new police buildings are inaugurated by police constables.
6. Competent development training for imparting knowledge and skill.

the behaviour and attitude of police personnel towards people. Thus solution to the problem lies in changing this culture. Unless the basic way of how police work is changed; this issue cannot be tackled effectively. In Bhavnagar district a cultural change management initiative was introduced successfully that led to definite positive change in the police behaviour and attitude towards people. This paper covers the initiative in detail.

Kshamata Vikas Talim (The Competence Development Training)

Training and capacity building was essential for any constabulary empowerment initiative. A training programme called Kshamata Vikas Talim (The Competence Development Training) was initiated for the purpose.

The syllabus of the programme is given in box-3 below. One of the subjects was behaviour with the people. Additionally all the first 9 subjects emphasised on behaviour with the people. For example the subject of crowd control, VIP Security, Law and Order emphasised how to behave with people while performing such functions. The subject of registration of complaint taught the importance of behaviour at the time of registration of complaint. This kind of approach

Box-3

Competence development training

Main features of the course:

- ❖ *Participants* : 33 Police constables, Head constables and ASIs.
- ❖ *Duration* : 3 Days.
- ❖ *Timings* : 9.30 to 13.30 and 14.30 to 17.30.
- ❖ *Dress code* : Civvies.
- ❖ No drill.

Syllabus :

1. Importance of training.
2. The protection of scene of crime.
3. Traffic regulations.
4. Laws relating to women and children and attitudes towards them.
5. Registration of complaints.
6. Crowd control, VIP security, Law and Order.
7. Behaviour with people.
8. Human rights.
9. Relation with media.
10. Health.
11. Wireless communication.
12. Self Management.
13. Stress Management.
14. Investigations.

highlighted the importance of behaviour and attitude towards people.

Police Public Relation Seminar

On 28-29 May, 2005, a police public relation seminar was organised for police leaders of the rank from sub inspector to superintendent of police. This emphasised on their role in going closer to the people by bringing about behavioural and attitudinal change within the organisation.

Box-4

Police-public relation Seminar

Topics covered :

1. Police – issues, criticism etc.
2. Communications skills.
3. Personal effectiveness.
4. Public relationship.
5. Problem solving.
6. Leadership and team work.
7. Attitude, values and ethics.
8. Police – Citizen partnership.

Saptahik Karyadakshata Karyakram

This is a weekly programme organised on every Saturday in every police station and the District Headquarters. The main elements of the programme are mentioned in box-5.

Box-5

Saptahik Karyadakshata Talim

1. Felicitation of police officers by SP for good behaviour.
2. Felicitation of police officers by SP for good work.
3. Felicitation of police officers by citizens for good behaviour as well as good work.
4. Felicitation of citizens who have helped police.
5. Press release about the felicitation of police officers and the members of the citizen.
6. Experience sharing.
7. Expert lecture.

Initially the programme of expert lecture at the time of evening roll call on every Saturday at District Headquarters was started in March 2005. By February, 2006, it got evolved into a full fledged performance enhancement programme covering: 1. Behavioural and Attitudinal Change, 2. Knowledge Management and 3. Public Relations aspects. It was organised at every police station and the district headquarters. All the police personnel who are not on emergency duties attended the programme.

This District programme was the main one where the SP attended. He addressed all the police personnel present on current issues. This gave him an opportunity to emphasise on the importance of behavioural and attitudinal change. Anything that got reported about police behaviour in any part of the country got discussed there. The discussions at this programme were circulated to all the police units in the form of a weekly Karyadakshata bulletin.

Police personnel were felicitated publicly in that programme for good behaviour as well as good work. They were given sanmanpatra (commendation letter). Even the citizens, who had good experience in terms of good performance and behaviour, felicitated the concerned officer by giving an appreciation letter in this weekly programme. The citizens who have helped the police or got involved into ensuring security of the community like helping accident victims, giving an information, getting involved into catching a criminal etc were felicitated in this programme.

All these activities were issued to media through media releases. The good work and behaviour of police officers and the involvement of citizens in ensuring their own security became regular news in the media. This changed public attitude towards police and police attitude towards the public.

The felicitation for good behaviour emphasised the importance of behaviour and attitude. It motivated others to exhibit the same behaviour.

The experience sharing included the good as well as bad experiences. The sharing of good experience helped in motivating others. Sharing of bad experience helped in analysing the bad experience. The same experience looked different when discussed in these sessions in different light. They gave opportunity to the police officers to express themselves, to show to others how they are trying to serve the people. They could also express their problems, frustrations and disappointments. The senior officers present there could suggest solutions to avoid unpleasant experience and to find out solutions to the various issues. Rather than prescribing solution, it became a process of finding out solution where everybody participated.

Gender Sensitisation Training

This training was given by Ahmedabad Women's Action Group to officer-in-charge of police station, Police Station Officer (PSO), women police constables, Inspectors and Dy. SPs. This has helped a great deal in bringing about change in police behaviour with women.

Process Standardisation and Public Contact

Many times public is not satisfied with police behaviour because police don't know exactly how to act in a particular situation. For example, in things like passport verification and character verification, opinion for arms licence etc. police are not clear about how to go about them. It is governed more by convention than by exact rules and regulations. That is why police behaviour is not satisfactory.

In Bhavnagar District SOPs were prepared and implemented for ISO certification of the district where the first chapter deals specifically with the police behaviour. The second chapter covers all the police services and how police should behave while delivering these services. These chapters cover SOPs in detail to the extent that it also prescribes how to respond to somebody who come with a wedding invitation to the police station.

This gave lots of clarity for the police personnel about what is expected of them in behavioural aspects.

Citizen Feedback System:

A citizen feedback system was designed for evaluation of the services delivered to the citizens. In all 14 citizen feedback forms, covering various aspects of police service delivery and behaviour were designed and implemented. A feedback form for visitors of police station is given in box-6.

The feedback of the people on different aspects of the police station is represented in Table-1 below. Row 4 in Table 1 shows the public feedback of police station

Box-6

Feedback Form for the Visitors of the police station

Name of the police station:

- 1. What was the reason to visit the police station?**
- 2. How was the police behaviour?**
 - (a) Very Good
 - (b) Good
 - (c) Average
 - (d) Bad
- 3. Whether you were offered water? Yes/No**
- 4. Whether your complaint was recorded or not? Yes/No**
- 5. Whether you were given copy of the FIR? Yes/No**
- 6. Whether police listened to you patiently?**
 - (a) Very Good
 - (b) Good
 - (c) Average
 - (d) Bad
- 7. Whether you were given information about progress in the investigation? Yes/No**
 - (a) Very Good
 - (b) Good
 - (c) Average
 - (d) Bad
- 8. Whether your problem is solved or not?**
 - (a) Very Good
 - (b) Good
 - (c) Average
 - (d) Bad
- 9. Whether police took any action on the basis of your information?**
 - (a) Very Good
 - (b) Good
 - (c) Average
 - (d) Bad

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10. If you visited the police station for giving a statement, how was your work done?

- (a) Very Good
- (b) Good
- (c) Average
- (d) Bad

11. When you were sitting in the police station, how was the behaviour of police personnel among themselves?

- (a) Very Good
- (b) Good
- (c) Average
- (d) Bad

12. On the basis of the above experience would you like to visit the police station again? Yes/No

13. If No, the reason thereof:

14. Any other suggestion:

Table 1. Outcomes/Changes resulting from the Initiatives

Sr. No.	Feedback Forms No.	Feedback Forms - Various Activities	Public Opinion (Feedback in Percentage)			
			Very good (%)	Good (%)	Average (%)	Bad (%)
1.	2.2 C	Feedback on Case Progress Information	93.44	6.55	-	-
2.	2.3 A	Feedback on Police Investigation	80.43	19.56	-	-
3.	2.13 C	Feedback on Getting Documents for Ps	97.36	2.63	-	-
4.	2.33 A	Feedback of Police Station Visitors	91.63	7.98	0.32	0.05
5.	6.1 G	Feedback - Traffic Victims	54.54	45.45	-	-
6.	6.1 H	Feedback - Traffic awareness	60.76	37.1	1.91	0.21
7.	6.1 I	Feedback - Traffic Management	69.61	10.75	9.61	12.5
8.	7.2 A	Feedback – Bandobast	87.46	12.53	-	-
9.	9.2 A	Feedback - Safety and Security of women	29.15	35.54	34.78	0.51
10.	14.1 A	Feedback - Opinion organized crime	79.77	13.85	6.36	-
Total			72.82	16.76	7.84	1.57

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visitors. 91% of the visitors felt that the response at the police station was very good and 8% felt that it was good.

The other feedback forms like feedback on case progress information, feedback on getting documents from the police station, feedback on traffic accident victims, feedback on traffic awareness efforts, feedback on bandobast also cover some behavioural aspects.

When the feedback system was started many officers were quite sceptical about it. My contention was that at least at the time when it is time for citizen to fill up customer feedback form, the police personnel will behave well and this ultimately lead to

behavioural change. But the results were more than expected.

Conclusion

The cultural change management initiative introduced successfully in Bhavnagar district emphasised on behavioural and attitudinal change in police personnel. This, ultimately became a key success factor responsible for the success of the initiative.

The strategy for behavioural and attitudinal change should not only rely on training strategies only. Rather it needs cultural change in the organisation, and radical change in the organisation work.



CONCEPTUALIZING HUMAN RIGHTS OF POLICE

Dr. Usha Tandon*

Introduction

Recently, in a landmark judgement,¹ their Lordships of the Supreme Court of India (JJ Y.K. Sabharwal, C.K. Thakker & P.K. Balasubramanyan) issued various directions for police reform for immediate compliance by the Central Government and/or State Governments. The long overdue directions aim at insulating police from any pressure whatsoever, particularly political pressure, separation of investigation from the law and order etc. Any concern for police reform, however, will be incomplete, if it does not take into account the inhuman work culture ruling police force in India. The police force in India, work under very severe constraints. The overall work environment of police, particularly of subordinates and middle rank officers is dehumanizing and deintellectualizing. The police personnel who are obliged to protect and uphold the human rights of others are themselves the victims of the violation of their human rights in the form of undue long working hours, leave problems, denial of

family life, denial of social life, delayed promotions, inadequate infrastructure, poor salaries etc. An attempt has been made in this article to emphasize the need to conceptualize and contextualize the human right of police force.

Callous Work Culture

According to the National Police Commission, policemen work for long and arduous hours on most days of duty, very much in excess of the normal eight hours.² A survey carried out by the National Productivity Council has revealed that the normal working time put in every day by an average subordinate police officer employed in public order or crime investigation duties is anywhere between 13 to 16 hours on an average. The police job is said to be 'twenty-four hour duty'. The policemen work even on gazetted holidays, when others celebrate their festivals. They are sometimes not able to avail their normal entitlement of leave every year. The upcoming trend of suicides or killing of superior officers on refusal of leave amply testify the frustration, stress and strain caused by unfavourable work culture prevailing



Key Words :

Political pressure,
Inhuman work culture.
Callous work,
Behavioural stress,
Favourable conditions,
Superman image.

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Abstract

The police force in India, work under very severe constraints. The overall work environment of police, particularly of subordinates and middle rank officers is dehumanizing and deintellectualizing. Families of police personnel usually feel neglected. As a result, the police work exacts a heavy toll from the wives, children and relatives of police personnel. Article 7 of International Covenant on Eco-

in police force. Even the peons and clerks employed in private and public sectors enjoy better quality of work conditions, than policemen serving the country. The prevailing captive and callous work culture has made the police force the democratic slaves.

Families of police personnel usually feel neglected. As a result, the police work exacts a heavy toll from the wives, children and relatives of police personnel. A number of studies on this subject have highlighted their problem comprehensively. In one of the studies, insufficient time for the family was identified as top ranking stressor in policemen of Hyderabad city³. It is established as most potent stressful stressor. The intensity of this stressor is most severe in the lower rung of the organization. Police officers typically suffer a variety of physiological, psychological and behavioural stress effects. Police personnel operating under severe and chronic stress may well be at great risk of errors, accident and over-reaction that can compromise their well being, performance, jeopardize public safety and pose significant liability cost to the organization.

Human Rights and Police

Louse Henkin asserts that 'every human being in every

society, is entitled to have basic autonomy and freedoms respected and basic needs satisfied⁴. Jack Donnelly defines human rights by emphasizing that human rights, 'the rights of man' are literally the rights that one has because one is human.⁵ Maurice Cranston defines a human right as 'a universal moral right, something which all men everywhere, at all times ought to have, something of which is owing to every human being simply because he is human'⁶. Similarly L. Wiseberg opines that 'the premise of current International Law is that these rights are inherent in every human person. They are not given to people by the State, and the State can not deprive people of their rights.'⁷

Article 23 of Universal Declaration of Human Rights mandates that *everyone* has the right to just and favourable conditions of work. It further states that *every one* who works has the right to just and favourable remuneration for himself and his family, an existence worthy of human dignity. It emphasizes in Article 24 that *everyone* has the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay. Article 7 of International Covenant on Economic, Social and Cultural Rights, 1966 recognizes the right of *everyone* to enjoyment of just and favourable conditions of work, which ensure in particular a decent living



for themselves and their families; safe and healthy working conditions; rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. Article 1 of Vienna Declaration, 1993 reaffirms that all human rights and fundamental freedoms are for all and the universal nature of these rights is beyond question.

Article 42 of the Constitution of India prescribes for securing just and humane conditions of work.

Police officers are Governments servants who are, in principle, entitled to the same human rights as any other citizen. They do not give up their basic rights by signing up to the police services. The humane conditions of work are the key to the efficient and effective working of the policemen. To ensure that the police force respond positively to the needs and demands of the community they serve, it is imperative that their working conditions are such that the conditions themselves do not become irritant and a cause of tension for them. Securing their human rights will undoubtedly enable them to protect, help and reassure the people of India in a better way.

Why Police Image is so Bad?

The literature on Indian police is full of adverse comments made

against them for their dishonesty, corruption, unscrupulous methods in investigation and general lack of efficiency. In the words of Justice O. Chinnappa Reddy, the police have always been the object of attacks by the press and politicians, Bench and Bar, lawyers and legislators, rogues and reformers, citizens and criminals.⁸ Why is the police image so bad? The answer cannot be given in terms of one or two factors. There are many contributory factors responsible for the unfortunate situation. The political interference with their work has widely been recognized and there is certainly a lot of substance in it. The political interference is manifested in appointments, transfers and promotions of police personnel which affect their initiative and efficiency. There are other 'hidden' factors responsible for the ugly face of police. There is a palpable dichotomy in public expectations from the police. On the one hand, the people take a high moral position vis-a-vis third degree methods, but in private the same people goad the police to take recourse to third degree methods if their personal interest is involved. There is a joke that the same judicial officer who rebukes the police in public for being high handed will expect the police to recover his stolen properties by any means, fair or foul.

conomic, Social and Cultural Rights, 1966 recognizes the right of *everyone* to enjoyment of just and favourable conditions of work, which ensure in particular a decent living for themselves and their families; safe and healthy working conditions; rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. They do not give up their basic rights by signing up to the police services. The humane conditions of



work are the key to the efficient and effective working of the policemen. To ensure that the police force respond positively to the needs and demands of the community they serve, it is imperative that their working conditions are such that the conditions themselves do not become irritant and a cause of tension for them. The political interference is manifested in appointments, transfers and promotions of police personnel which affect their initiative and effi-

Further, the expectations of public from the police are lot more and sometimes unrealistic. The police personnel are expected to present a superman image, who can do anything, in any situation. This superman image of policeman makes it difficult for him to be fully even a man.

Another important factor which, hitherto, has not been explored is that the police system itself, regards the poor, and unjust conditions of work an essential fate of policing. A pilot field survey, conducted by the author, reveals that some of the senior police officers (IPS) are not sensitive to the harsh conditions under which their force work. Their attitude towards their force is "every body knows that the police job is like this only. No one is given an invitation to join the police force. If they know that the bus is already overcrowded and still they board in, later on they can not make any complaint"⁹. This crude and loutish mind-set about the system needs to be reviewed as it is this thinking which has driven the police personnel in corruption. Instead of making complaints about their fate they have adjusted themselves seeking blessings in disguise. They do not mind if they are getting long work-hours, less salary, no promotion, bad service conditions etc, as, within the stern system, they have taken care of themselves by

getting 'wet posting' or 'sensitive posting' which may generate money for them, but at the same time makes them 'evils in uniform'.

People get the government they deserve. Perhaps the same is true of the police force also. The police force of a country cannot be very different from the rest of the society. Police in India may be corrupt, it may be brutal and inefficient also. But then what is the quality of the other things in our national life? What is therefore needed is a positive and considerate attitude towards the police and their problems. Expressing concerns for the police force, late Prime Minister Pandit Jawahar Lal Nehru said "...Every day we see the policemen working. Often we make allegations against them and criticize them. Some of the criticisms are justified, while some are not; but we forget how difficult their work is."

A social Activist like Shiela Barse while discussing the issue of brutalization of police argued that "I have begun to feel that the police has become the new Harijan in the Media-created caste hierarchy, the holy Patrakars and the opinion-making Brahmin seem to have isolated the police as a new minority which must be accused and disdained but not heard and understood"¹⁰. Recently, the former President of India, Dr. A.P.J. Abdul



Kalam speaking on “Improving the System of Police” has remarked that “our security forces generally work away from the limelight. Their successes and sacrifices always go unsung while their failures make news.”¹¹

No one bothers to understand the severe limitations within which a policeman has to operate, the hard work which he has to put in with bad service conditions and poor emoluments, and the emotional strains caused by being up against criminals and bad characters, all the time without adequate public sympathy and support.

Regarding the peculiar problems faced by the policemen, Martin Symonds, a medical man attached to the New York City Police for 20 years observes: “Considering the nature of police work and the stress it places on the individual, I have been impressed with the mental health of the ordinary policemen. The job of being a policeman is unique. It is one of the few occupations that a man engages in for which he is feared, sometimes hated, occasionally reviled, or even assaulted in the ordinary performance of his duties. When we consider that most people need and want to be liked, and that the young patrolman starts his career by seeing himself as an individual who will help and protect others, the

uncooperativeness, antagonism or hostility of the public whom he serves will place an emotional strain on him.¹² Writing on the same point, Stern provides an interesting reading: “As a group, policemen have a very high rate of ulcers, heart attacks, suicides and divorces...A man can not be a cop for hours and then just turn it off and go home and be a loving father and husband—particularly if he’s just had somebody die in the back of his police car.”¹³

The same spirit is conveyed in the following words, though in more realistic terms, in an essay on police in the *Time* magazine it is said that: “Nothing is tougher than being a policeman in a free society; the policeman is supposed to mediate family disputes that would try a Supreme Court judge, soothe angry ghetto Negroes despite his scant knowledge of psychology, enforce hundreds of petty laws without discrimination, and use only necessary force to bring violators to courts. The job demands extraordinary skills, restraints and character.” The extracts quoted above not only give some idea about the hazards involved in police work but also convey the nature of the qualities required in a policeman.

An evaluation of the human material available to the police in India reveals that the quality of

ciency. The police personnel are expected to present a superman image, who can do anything, in any situation. This superman image of policeman makes it difficult for him to be fully even a man. They do not mind if they are getting long work-hours, less salary, no promotion, bad service conditions etc, as, within the stern system, they have taken care of themselves by getting ‘wet posting’ or ‘sensitive posting’ which may generate money for them,



but at the same time makes them 'evils in uniform'. No one bothers to understand the severe limitations within which a policeman has to operate. A number of police specific research studies have identified and then classified stress producing agents among police personnel. Top officials, according to the study are more emotionally exhausted than non-gazetted and subordinate officials. the higher rank officials are under more

persons recruited to police leaves much to be desired. It is common knowledge that a police job is the last refuge for many who are unable to find anything more worthwhile. The requirement of higher education, as suggested by the various police commissions, may improve the situation to some extent but nothing very tangible shall be achieved unless the working conditions and emoluments are radically changed.

In order to enhance the competence, effectiveness and efficiency of police, it is essential to pay a great deal of attention to the welfare of the men and the members of their families and to provide them with various amenities to make their otherwise hard and monotonous lives bearable. It will facilitate them to be efficient, physically fit and robust, able to provide high quality leadership potential at all levels of the hierarchy and be a model for conduct and discipline. It may be noted that the quality of Criminal Justice System in the country, to a large extent, depends upon the working of the police force. Thus, having regard to the larger public interest, it is absolutely necessary to take issue of humane working conditions of police force with urgency and seriousness.

The Research Studies

A number of police specific research studies have identified and

then classified stress producing agents among police personnel. In one of the studies conducted to investigate the extent of police specific stress and well-being among police personnel at different levels of police organizational hierarchy, it was found that the officials working at the upper level experienced greater stress. Top officials, according to the study are more emotionally exhausted than non-gazetted and subordinate officials. However the findings of this study are in sharp contrast with those who reported that constables are under more stress than other officers. The findings further suggested that the higher rank officials are under more stress followed by the non-gazetted officers, it may be due to increasing responsibility with rise in organizational hierarchy because of their multidimensional role, complex work environment. Moreover, the most significant thing as revealed by the officers during verbal exchange during the course of the testing that it is the senior officers who were under constant pressure from the politicians and at the same time they have to be responsible to the public and are always under constant media scrutiny.¹⁴ Another study on police officers¹⁵ has reported that subordinate and senior officers are the most stressed. Varied explanations have been given for



these, for example it has been said that the middle-rank officials are more stressed because they are 'sandwiched' between the senior officers and the juniors as well as the public.

Various research studies sanctioned by the Bureau of Police Research and Development, New Delhi, have worked on welfare facilities available to police personnel in the country¹⁶; social security schemes and welfare facilities available to the police personnel¹⁷; stress, health and performance¹⁸; mental health problems among police personnel¹⁹; and stress management²⁰ etc.

The issue of police reforms has been examined by various High Powered Committees and Commissions like Khosla Commission²¹, Dharamvira Commission²², Malimath Committee²³ etc. The Model Police Act, 2006²⁴ has been prepared by the Police Act Drafting Committee, (PADC) Ministry of Home Affairs Government of India. The Model Police Act, 2006, though aims to provide better service conditions to the police personnel, unfortunately, retains the old provision whereby, every police officer shall, be considered to be always on duty.²⁵ It may be noted that, in the light of another provision of the Model Act²⁶ which requires State Governments

to take effective steps to ensure that the average hours of duty of a police officer do not exceed eight hours a day, the retention of 'always on duty' syndrome will create unnecessary interpretational problems for the Courts, exposing the flaws of draftsmanship. No such corresponding provision exists in the statutes governing para-military forces. In any case this provision of '24x7' mandate is in violation of UDHR, ICESCR and the Constitution of India; hence, liable to be dropped.

Conclusion

In none of the above studies, nor to the best knowledge of the author in any other study, the working and living conditions of police force have been analyzed from "human rights" perspective. The importance of 'rights discourse' is that rights are not mere gifts or favour for which gratitude is the sole fitting response. A right is something which a person can stand on, something that can be demanded or insisted upon without embarrassment or shame²⁷. Therefore, there is a need to conceptualize and contextualize the human rights of police force, so that the true upholders of the rule of law do not remain deprived of their basic rights. Securing human rights for police force will, undoubtedly enable them function effectively and efficiently, serving the nation better.

stress followed by the non-gazetted officers, it may be due to increasing responsibility with rise organizational hierarchy because of their multidimensional role, complex work environment. Therefore, there is a need to conceptualize and contextualize the human rights of police force, so that the true upholders of the rule of law do not remain deprived of their basic rights.

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SOCIO-CULTURAL BREACHES OF COMPUTER ERA

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Introduction

Evaluation of information technology involving computer softwares and network services has produced wonderful results good or bad to the society and paved a way to a tremendous progress particularly in the service sectors remaining abreast with the needs of the 21st century. But its speed of growth, rather explosion, was so fast that the society and its environment could not keep pace with it which resulted in serious breaches in the form of high - tech crimes (HTC) India was a competent society in reaping good fruits of this revolution but for the majority of its population, ignorant to HTC, bad fruits were feared to affect the social scenario as has been worked out by experts belonging to the law enforcement agencies Amsterdam (1996). As early as 1996, Amsterdam emphasized that cyber crimes are not limited to the operation of computer networks but also encompasses all social activities in which digital information and communication technologies are deployed with wrong intentions.

Wasan (2003), Director of CBI was prompt enough to highlight the need of creating awareness amongst different sections of society, senior executives, security personnel and similar agencies through training and auditing on HTC. Cyber activists and President NASS2CQM (National Association of Software and Service Companies), Kiran Karnik (2005) also expressed concern over HTC increasing alarmingly in different social environments. He elaborated that United States is the capital of cyber crime and about 60% of cyber crimes originate from within the organisation. In case of system service, cyber crimes have been costly for victims who have been ripped off for a staggering loss of 456 billion dollars. About 10% of all cyber crimes including virus attacks and snoofing, involved financial frauds. In the year 2003, British security company called ICC commercial crimes services found that 63% of the world's cyber crimes originated in the US. Numbers seem to suggest that India, where the first major cyber frauds came to light in April, 2005 was safer than most other countries.



Key Words :

Breaches,
Computer era,
High tech crime,
Social environment,
Information age,
Digital images.



Abstract :

In a progressive society like India, technology boom was expected to follow age old social conventions and values adopted in its culture. Data obtained in the present study indicate towards wrong deeds adopted by variety of technology users which amounted to social breaches of criminal nature in its social environment. Observations recorded indicate malafied use of com-

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puter software. Skills and matters in this direction if security is asked for, where India is better posed on social counts. Analysing the HTC situation in the country Rahul Sharma (2004) reported that from 6266 incidents involving more than 600 organization and Industry segments during 2001-02, e-mail abuse cases were the highest. Other crimes were data theft 5% data altering 15%, malicious code 21%, social engineering 11%, media theft 7%, remote dial-in 5% and Internet attack 4%. Among data theft, source or object code theft 37%, credit card information 29%, business plan 20% and other 14% were prominent. In case of crimes involving E-mail abuses, obscene material 60%, threatening 25%, defamation 15% were reported. In case of crimes relating to unauthorized access, malicious code attack was 38%, remote dial-in 18% and Internet based crimes 15%. All said and done, newer technologies are also no less feared e.g. file sharing is going to contribute more serious breach says Jeff Weiner (2005). Google earth software programme could permit users to view high resolution digital images that challenges privacy, security and social norms in more serious way. In future, users will be able to annotate digital images in the social context also, although file sharing has been viewed as copyright violations using peer to

peer software. Abundance of user generated contents like online games, desktop video, citizen journalism sites which poses a new kind of threat to the society forms a new business venture. In a more serious context over Indian social environment, cyber pornography assumes the highest place so far as social breach is concerned because it constitutes one third of all cyber crimes occurring in the country reports Vishwa Mohan (2005). Piali Banerjee (2005) reported that simple fire walls and virus scanners (computer security softwares) aren't enough to keep hackers at bay as cyber crimes become a virtual reality. This is because cyber criminals are constantly trying to stay ahead of cyber security forces that are falling short. Cyber criminals has joined the main stream of misdeeds in the dark alleys of virtual underworld comprising of stalkers, spies, sexual abusers, robbers, identity thieves and those who can bring services or business standstill. Internet users provides a faster option than traditional dial-up-ones. But the bad news is that broadband connections are always 'on' which makes them hacker's dream. Its like-having a car unlocked with the key in the ignition. Computer security devices like firewalls or Intrusion prevention system (IPS) can be broken into by the criminals. Hence, the best security lies in the social awareness says .Dasgupta, (2005), Founder "Net-

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monster”, an online security firm. Few people know that anti-virus packages should be upgraded twice a week, since there are about 300 new viruses released weekly worldwide. In addition, hacking for fun today is giving a way to hacking for money and spyware helps in this process. Spyware is a software that enters the computer and sits there collecting information from key strokes for its owner. Thus, information as like log in names, passwords, credit card numbers etc. are then used for theft. If money can be stolen in person, the identity through phishing techniques can be stolen virtually making life of the owner miserable. Thus the security companies are neck deep in existing problems.

Things can go worse in future with the invention of video camera surveillance and artificially intelligent household appliances being linked to the net. There shall come a day in the near future when we shall be operating house hold appliances at home from the work place through internet. Then hackers will be able to cause personal damage and cause your services stand still. Maheshwari (2003) discussed another serious breach connected to white collar crimes in the society. Salami technique is a programme or module manipulation where thin slices of financial transactions are

moved from one account to other through an put manipulation by falsified electronic information. Alfred Hagger (2005) quotes Sober - x virus / worm to be the fearest one capable of stealing all data contained in a computer. This worm sent via e-mail of CIA/FBI agencies of USA entered 75 thousand user computers in a year.

Keeping in view the above reports, a study was conducted to know the social environment under the prevalent threat of high tech crimes described above.

Material and Methods

The universe of study was selected amongst metro-cities and the State of Madhya Pradesh being situated in the centre of India with especial reference to Jabalpur. Targeting Jabalpur had social and demographic considerations because of its cosmopolite nature since the British era and its defence establishments, including Signal HQ and telecom-organizations. Observations were collected from :

- (i) Work places
- (ii) Educational institutions
- (iii) Social fora and business field
- (iv) Hotel and logistics
- (v) Others including media and industries.



puter, cyber space and telecom gadgets by variety of users belonging to categories like common internet users, service providers, conniving groups of website operators, professionals of E-mail, use net, telecom services, computer / software dealers and even ignorant children. While utilising high tech services, offenders were found to comit breaches of abusing internet, websites, e-mail, internet relay chat, software pi-



racy and utilising telecom gadgets in a criminal way. An era has emerged it appears, where precious services are breached with malafied intention.

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Respondents for collection of data were from the following categories:

- (i) Personnel from police and other law enforcement agencies.
- (ii) Criminals and the probables.
- (iii) Engineers and computer technicians.
- (iv) Cyber cafe and software dealers.
- (v) Photo copiers and media people.
- (vi) Personnel from telecom and financial institutions.

In addition, detailed review of literature, media survey and

questionnaire data were obtained for the study. Aspects of high tech crime were studied by organising the information into following groups 8.

- (i) Awareness about high tech crime (HTC).
- (ii) Acceptance limits of society.
- (iii) Mass ignorance of HTC.
- (iv) Prevalence of HTC and the know how.
- (v) Breaking barriers of social stigma and peer effects.
- (vi) Un employment and related features of society.

Data were compiled and analysed and presented in tabular form below.

Table 1. Distribution of HTC in different types of social environment

Type of crime	Incidence of crime at					
	Work place	Educational institution	Social Fora	Logistics	Others	Total
Internet crime ¹	7	7	32	7	3	49
Web site crime ²	2	3	8	-	5	18
E-mail crime ³	4	4	23	4	3	35
Use net crime ⁴	1	-	10	2	2	15
internet relay chat	9	-	6	-	6	21
Telecom related crime ⁵	3	35	41	7	11	97
Software abuses	2	16	25	6	21	69
Total	28	64	135	26	51	304

1. Duplicate software, photocopy, CD, Cassette, DVD, Ringtone etc. 2. Obscene clips, MMS porn etc. 3. Including personal information, digital images. 4. Including worms, information cloning etc. 5 Including cellphone abuse and illicit broad band centres.

Result and Discussion

Data in table 1 indicate steady increase in different HTC during 2003-05. Out of five situations studied the crime incidence was the highest in social form cyber cafe, software shops, mobile phone dealers, business fields and shops followed educational institutions and employee work places. High tech crimes were also prevalent at hotels / logistics and other vulnerable areas. Telecommunication related crimes were found to be the highest followed by software abuses including piracy, e-mail and Internet crimes, website. Usenet and Internet relay chat were found to be less in number.

Category of persons involved in HTC could be tentatively fixed as under :-

1. Internet crimes by commoners.
2. Website crimes by organised gangs and groups.
3. E-mail crimes by professionals having access to computer.
4. Usenet crimes by technicians, and experts and dealers in computer technology.
5. Internet relay chat by habitual computer users and children.
6. Telecom related crimes including mobile phone users students and children.
7. Software abuse including piracy by all sorts of people including children.

Crime components

1. **The crime** : It was observed that high tech crimes were performed using high tech gadgets like computer/software, mobile phones, servers and even broad band tools. Most of the serious crimes were found to be done using computer in the following ways:-

- (i) Using computer as target for theft of data, information Intellectual property rights and trespass.
- (ii) Using computer as subject or source of communicating crime.
- (iii) Newer and newer crime techniques available being tried.
- (iv) Computer used as an instrument : One computer connected to other computer or computer systems. Most of the frauds, spoofing, espionage and spamming. activities were done where computer served as an instrument only.
- (v) Computer used as incidental : Most commonly the criminals or elements with malafied interest used computer to make the crime easy and quick. For all sorts of crimes computer use enhanced the criminal behaviour of the culprits particularly for financial and espionage activities.

Modes of HTC

Different crimes observed during the study exploited ignorant users in the following ways:-

1. *Internet crimes* : Internet facilities were found to be misused for hacking, defacing of website, theft of data / information, password or credit card, denial of services, spoofing espionage or spamming.
2. *Website crimes* included theft of information or credit card and letter of credit number and online gambling.
3. *E-mail crimes* were done by committing financial frauds, extortion and defamatory acts online.
4. *Use-net crimes* were of applied type of crimes committed by organising illegal sales and purchase of software and services including distribution of pornographic and plated softwares, and techniques of befooling customers online.

5. *Internet relay chat* has become a practice for undesired online activities of cyber punks which is usually done for fun sake, system disturbance, harassment of individuals, stalking and display of child pornography material.
6. *Telecommunication system abuses* have been found to be common habits relating to multimedia services involving cellular phones including blue tooth technology gadgets, *WiFi* or short distance wireless communication systems.
2. **Hackers** : They were the strangers mostly techies and gangsters which break into computer systems with ill interests tampering with data on the net work simply against the challenges. These acts formed the strongest of the criminal groups.
3. **Crackers** : Similar to hackers it forms the next hardcore criminal group particularly the professionals breaking into the security system of the computer or the Net work also against the challenges.

Targets of HTC

1. Crime against persons included harassment via e-mail abuses, stalking, pornographic material display, trafficking, indescent exposures, impersonation and identity thefts.
2. Crime against property involved vandalism, propagating harmful programmes, trespass and data theft.
3. Crime against the Govt. formed the worst and dangerous type of computer crime that affected essential and allied services, intelligence operation and terrorism.
4. **Phreakers** : They were the usual category of telecom users who as a regular practice break into telephone company network and used the codes and identity numbers of customers.
5. **Virus writers** : Also technicians who posed a serious threat to common computer users, systems and network world wide manipulating various programme codes.
6. **Foreign intelligent service abusers** : Commonly called FIS used cyber tools as part of their espionage activities against other agencies or countries in an organized manner.

Criminals of HTC

By analysing data in table 1 it becomes evident that the increase in HTC within a short period observed at all the situations studied show that the criminals were not the borne one but the white collar convertees as described by Deepti Chopra (2003). They can be studied well by grouping them as below :

1. **Insiders** : Employees / workers particularly the disgruntled one in corporate bodies, Govt., Public sector etc. were lured by various developmental needs.

7. **Cyber terrorists** : Like usual terrorists, unauthentically and forcibly used Networks to formulate their malafied plans for raising funds, spreading propaganda against the Govt. public or rival organisation.

Conduct of crime

Saravade and Saravade (2003) and Bulwinder Singh (2000) observed that for a white collar crime exact criminal behaviour could not be assigned. Under such a situation, investigation of cyber crime and producing suitable evidence became difficult. The data presented

in table 1 indicate towards the following ways the high tech criminals were found behaving:-

1. **Tampering with computer source document** : For undesired purposes computer or systems were found to be used in hacking, virus / worm attack, trojanhorse, logic bomb attack, impersonation, unauthorised access to the system and IIP spoofing breaching the provisions of sections 65 of the IT Act 2000.
2. Knowingly the criminals conceal, destroyed or altered other computer programmes, computer sources or computer Networks breaching the provisions of IT Act 2000.
3. Destroying, deleting, altering or in any way harming a computer resource knowingly for hacking a system violating the provisions of section 66 of the IT Act 2000.
4. Publishing information which was obscene in electronic form or provided information of obscene nature violating the provisions of section 67 of the IT Act 2000.
5. Managing unauthorised access to a protected computer system network or computer programme. Evil elements having enough access to computer or telecommunication links indulged in illegal online activities.
6. Violating norms and procedures, computer technicians involved themselves in breaking confidentiality and privacy with regard to electronic records, books, registers and e-documents. Such acts are prohibited under section 72 of the IT Act.

Techniques used

Criminals adopted following techniques in performing criminal activities related to computer systems:-

1. **Data diddling** : An easiest way where useful information stored in computers were altered or destroyed through this technique.
2. **Trapdoor entry** : Unauthorised and quick entry in other computer programme defying secret points of entry or bypassing security gadgets.
3. **Password suiting** : Automated guessing of phone numbers, user IDs and passwords enabled financial frauds and information thefts.
4. **Worms** : Programme that replicated itself on one computer and infected other computer as and when got connected through illicit softwares and networks.
5. **Cyber loafing** : Spreading excessive time on internet for gambling, pornographic activities, checking stock travels and sports, sources etc.
6. **Salami technique** : Unauthorised programme that caused un-noticed debiting of small amounts of assets from large number of sources or accounts.
7. **E-mail abuse** : Sending unwanted e-mails eg “I love you virus”, “love bug” etc and similar malafied programmes / codes.
8. **Cyber harassment** : Indulged in online violation of norms for activities like sexual, racial, religious abuses and privacy breaches.
9. **Information warfare** : Performed by foreign nations against critical places, infrastructural positions and service systems.

It is evident from the explanations and interpretations above, that high tech crime constitutes all those acts creating allurements to various categories of users of computer, software or the Internet services. All this indicate that abuses of computer use in illicit way remained free from stigma for fear from society, police or the peers as discussed by Kashyap (2004). Sharma (2004) also confirmed this interpretation through a detailed analysis of 6266 incidences of high tech crime in the country during the year 2001-02. This analysis

highlights that more than 600 organisations and industry segments were involved in these crimes which included data theft 5%, alteration of data 15%, e-mail spoofing 52%, malicious code attack 22%, social engineering 11%, media theft 7%, remote dialing 5% and Internet attack 4%. The data theft included source / object code attack to a tune of 37%, credit card information 29% and business plan 20%. E-mail abuses included publishing obscene material by 60%, threats 25% and defamatory statement 15%.

Social breaches

Inferences drawn from these observations indicate that the instances of voyeurism on internet, MMS episode of Delhi Public School and the spycom case in Pune have thrown a direct challenge to social police to contain these breaches. This has become necessary in order to reporting online gambling, wherein Neeraj Roy (2005) commented that the revenue on this illegal act touches 16 billion dollars annually. It has taken off exponentially in a way one can access by logging to a website, downloading and playing an on going game residing in other's server. Indian gambling industry is estimated to be worth Rs. 20-30 crore annually, pirated market to grow 3-4 times every year. Sidharth (2005) extending support to above interpretation suggested the need of appropriate check from the society in coping with the technology boom in the days to come. He reported that cellular phone (mobile phone) culture followed by satellite phone (Thurayatech) invention are going to join the race becoming unwitting appendages of our functionality and culture brought into a new avenue of violating privacy and providing sikos to harass women and rich or nich as well in our civilised social environment. Similarly SIM cloning has also been found to become a rage of law that stands insufficient at present to deal with it. But the socio-cultural aspects may prove to be of more significance in this direction as suggested by Rajesh Kumar (2005). This has become necessary for applying

check on the technology eruptions rendering the society crippled and confused. Cyber crimes have been designated as white collar crimes (Colvin 1979). Since it does not require physical presence at the crime site, one or the other will be allured to undertake undesired acts as has been observed in cell phone, MMS (multi media services) and similar abuses (Kukday 2005). Salami techniques involving huge and easy financial gains are feared to be conducted by those engaged in financial and bank services. If moral and social pressure does not exists in the society (Dixit 2001, Mohan 2002). Under such a situation more easy crime tactics like slicing or phishing (ID theft), hacking for fun may creat social breaches of serious nature, explains Subhash Dey (2000) and Rachhoya (2003). Data presented in table 1 appear in conformity of these reports. Sharon Gamsin (2005) of Master card company reported that computer hackers may have accessed more than 40 million credit card accounts all over the world in what could be the largest in a series of security breaches involving consumer data. A case reported in recent time can be taken as the most serious type of social breach where a 24 year software engineer through Internet involved himself in criminal intimidation through anonymous communications, making unwanted gestures intending to insult modesty of women and send obscene message to women (Anonymous 2005). Awareness about the loopholes existing in the IT Act 2000 against such acts and absence of social and ethical fear made the job easy, supports a warning proposed by Vishwa Mohan (2005) commenting on the telecom breaches occurred during recent past.

More serious social breach was reported by Tamboli (2005) when a virus attack crashed Internet service and destroyed computer files and data of important public service organisation. Piali Banerjee (2005) and Gupta (2005) explains as to how pervasive, economic, social, cultural and mental factors in the society form a peculiar combination where a person becomes helpless in adopting white collar crimes in the society. Cyber

pornography and similar telecom abuses assumes top most choice in this context where age groups of 21-31 years under a peer pressure fall prey of technology abuses adds Dixit (2001). This puts a challenge on the social set up warns Prakash (2000 and Balvinder Singh (2000) assessing the present situation which could go out of hand if users do not sit-up and brass themselves against the challenges of high tech revolution. On website front more serious breaches affecting societies Internationally have also been identified (Kataria 2005). Still worst can happen when criminals giving allurements for some good thing make you click more and your computer downloads a software code instead of good thing. That code turns the user computer into launching pad for internet warfare called zoomby. This way your computer follows the instructions from remote master who is beyond control of any law enforcement agency. In a more acute social breach, software piracy assumes highest place and file sharing adds to a common practice where no care is applied at the user's end and it amounts to violation of copyright and privacy infringement as reported by Jeff Weiner (2005). Similarly use-net abuse by public servants and people at work place during working hours using Internet facilities in viewing pornographic and malicious programmes, doing online shopping and playing games. Such activities of cyber slackers have been reported to cause 17 Billion dollar losses in USA every year (Karnik 2005).

A boom that is coming up in the form of Blue tooth technology is feared worst abuse in destroying all social norms and traditional work habits. Just imagine if a hidden criminal play with your telephone bills, examination answer books, court proceeding online with an e-form device from distances functioning wireless and powerlessly. Although this type of crime still sounds to people all over world like something straight out of 'Star war', it has immense, capacity to generate serious social breaches. And now "Scifi-aficionados", as carbon nanotubes (Nanotechnology)

gadget are feared to affect human society beyond imagination of present day scientists reports Rajesh Kumar (2005).

Fashion come and go. But basic civilizational values remain the same. Thus the, parents, teachers, and the society must exercise their moral authorities in support of these values so that the technological abuses do not overcome the traditional gifts. In this context, Tamboli (2005) reported a most harassing socio-criminal activity in a case at Raipur (M.P.) involving a virus attack on Internet services that crushed unprotected files and data including utility services. It was sent via e-mail from abroad. In the last but not the least, an ugly scene awaits Indian society, the online dating, netting the thin and rich on the Internet. A 2003 report by COM-score-Networks states that nearly 40 million Americans had visited online dating sites (Varian, 2005).

Summary and Conclusion

Study reveals a big quantum hike in high tech crimes during the year 2003-05. These were computer related and telecommunication related crimes involving different types of abuses of Internet, website, e-mail, use-net services, cellphone (mobile phone) and software misuses, violating the provisions of IT Act 2000. Maximum number (135) of crimes were reported from social fora including cyber cafe, software shops photocopy centres, business fields and computer shops. Next higher number of crimes was found in educational institutions (64) followed by work places and logistics. Telecom related crimes including cell phone abuses were the highest (97) followed by software (69), internet (49) and e-mail (35) abuses. Crimes involving websites and usenet were comparatively lower i.e. 18 and 15 respectively. Persons involved in these crimes were mostly commoners and groups / gangs of professionals, organized groups of technicians, experts in electronics and dealers of software gadgets. Piracy was found to be the most prevalent crime observed from

photocopy centres, book and software shops and business fields. The modus operandi in such crimes was focused on use of computer as target, as subject or source and as incidental which made the crime easy, quick, untraceable and unidentifiable as the crime site was not asked for. The persons involved in HTC were found to be insiders, hackers, crackers, phreakers, virus writers, cyber terrorists and intelligence breachers. It was analysed that the crimes were conducted by tampering 'with computer source document, altering or destroying the programme through virus / worm codes, publishing obscene material online or on MMS and breaching confidential informations like password or credit card details and financial information. Based on data collected and analyzed it can be concluded that the ignorance in the part of users including the respondents or the stake-holders and the society in general was the worst exploited aspect enabling serious social breaches in a developing society like India.

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EXPERT EVIDENCE IN FORENSIC SCIENCE UNDER COURT OF LAW

K. M. Varshney*

Forensic Science plays a vital role in the investigation of various types of crimes. Its role is not only limited to the examination of scene of occurrence and crime exhibits in the laboratory but also contributes a significant part in the deposition of expert evidence in the Hon'ble courts in our criminal justice system for crime investigation.

A forensic scientist may be exceptionally good in his own field of analyzing / examination of crime cases, but may lack sufficient experience for effective deposition as expert witness to put forth the reasons for arriving at the conclusion in a methodical and convincing manner. He may not have sufficient court experience for the deposition of court evidence successfully. He may be well versed in scientific investigation but may lack the necessary wherewithal to face the Court which may be due to psychological fear, lack of self confidence or lack of experience / training / guidance. While the expert, when called for to tender evidence puts forth his argument in the form of expert evidence in the Hon'ble court of law, as to how he has arrived

at a particular form of opinion after carrying out the required analysis/ tests. He does not come to know about the result of his evidence in the court proceedings because normally he is not being communicated either by police or by the court of law. That is another factor, which causes stumbling block for the expert to have a sort of self-evaluation about the efficiency of K is expertise in tendering evidence. Though the forensic scientists are well educated, trained, experienced, in their jobs, his ability is identified only by the judge, who is sitting at the time of expert evidence.

The responsibility of forensic chemist/scientist is not only limited to the output of his experiments/ examination of physical evidences and report but also to defend himself in the court of law. Opinion evidence of forensic scientist helps in the investigation. He is one of the strongest public witnesses from the side of the prosecution who come forward to tell the facts based on the scientific findings against the criminal without any fear. He gets a special status and respect from the Hon'ble Court as the judge is calling



Key Words :

Expert evidence,
Forensic expert,
Court of law,
Examination report,
Criminal Justice system.

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Abstract :

Expert evidence deposed by the forensic expert is one of the essential parts for the investigation of high-tech crime in modern days. The opinion / expert evidence given by the forensic expert is an exceptional rule to general witness in the judiciary system in our country. The expert has been given certain prudence by the court of law to make his opinion based on his scientific experiments and findings in

/summoning him for the clarification of the facts which helps the court for making the opinion regarding the case. The witness means a person that must be confined to the facts only but not to state his opinion and the formation of the opinion is the function of the judiciary. But it is unusual right given for the forensic scientist against the general rule for witness in our criminal justice system who can make his opinion based on his scientific investigations.

While the prosecution depends on the circumstantial evidence on the one hand, the dependence on the physical evidence based on the report submitted by the expert by carrying out scientific investigation cannot be undermined. The advantages arising out of such dependence are many which include the facts that the conclusions arrived at and being produced by the prosecution are foolproof. The question of expert turning hostile also does not arise at the time of his evidence in the court. Further the expert has invariably to stand on his test report and he cannot afford to give any controversial or false statement under any circumstances, as it would otherwise affect his career. Moreover a certain amount of dignity is conferred on the expert who is called by the Hon'ble court for this special purpose making him at with all the responsibility to

ensure that natural justice is restored in fee case. Similarly while in the case of other witnesses they are expected to submit before the Hon'ble court only the facts as known to them and 'not permitted to express any opinion whatsoever, the expert witnesses are conferred the privilege of giving their opinion which is of considerable importance and provide the necessary scope and base of the judiciary to examine and analyse the entire case in the proper perspective and form the correct opinion before delivering the judgement.

To go into the definition of an expert under the court of law, he can be described as a person, who has extraordinary knowledge, skill, expertise or information about the matter of investigation or inquiry. He might, have obtained the same through his experiences, practice, studies, or observations. Generally an ordinary layman does not have such type of knowledge without the help of expert. To more specific as per section 45 of the Indian Evidence Act of 1872 when the Hon'ble court has to make an opinion on a matter of foreign law, science, art, handwriting, or finger prints the opinion upon that matter of persons specially skilled in such field to tell the relevant facts are called experts. Forensic scientist / chemical examiner is one such expert under the above definition in the court of



law. His report has the value of sworn testimony and can be admitted as evidence without any formal proof under Cr.P.C. 293. Though the persons mentioned above are treated as experts they may have to undergo the cross-examination to defend their opinions or to prove their expertise/skills in the court of law. No doubt that the opinion given by the expert is not binding on the part of the judiciary to accept the same and it is only advisory in nature. The duty of the expert is to present the facts with reason and results based on the scientific tests conducted by him. It is for the judiciary to consider the opinion on or the technical / scientific aspects submitted by the expert in forming their overall opinion to deliver justice.

The crime exhibits, material evidence, or clue material related to a crime can not be conclusively proved beyond doubt for their identity merely on the basis of the visual examination but their identity requires to be proved by chemical examination/ analysis to be carried out by chemical analyst/chemist/ expert authorized under section 293 of the Cr. F.C. 1973. According to this section only Government experts are authorized. Some of them are Chemical Examiner, Assistant Chemical Examiner to Government, the Chief Inspector of Explosives, the Director, Deputy.

Director, Assistant Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory, the Director Finger Print Bureau, the serologist to the Government etc. Their reports of chemical examination of the crime exhibits are admissible in the court of law. The report of these Government experts may be used as evidence in any enquiry or trial court. However, if the Hon'ble court feels fit that the expert may explain the confusion or doubtful facts, he may be summoned to examine these experts to find out truth/ clarification about the subject matter of his report.

While carrying out the above responsibility of scientific investigation, the expert has to take into consideration whether important factors like chain of safe custody of the sample, correct packing and sealing of the samples, examination of genuine samples, use of foolproof method for testing the sample, and submission of clear and unambiguous report / opinion as the court is relying on such vital facts to form opinion while delivering justice in crime cases. Hence caution is the watchword the expert has to follow by all counts while performing his honest responsibility lying on him,

The forensic expert is bound to be cross-examined and face the

our criminal justice system. To deliver the best justice by the Hon'ble court, the expert must depose his court evidence unbiased, truly, correctly, carefully, and not with predetermined mind. The suggestions or guidelines described in the paper may be informative and helpful to the forensic community in the deposition of their expert evidence in the court of law.

Hon'ble court for deposing the evidence too. He has to convey the court about the facts/ findings of the crime exhibits logically and scientifically. Other scientists/ analysts/laboratories normally do 'not have these responsibilities and they are restricted to the analytical part. Forensic expert has to interpret/reconstruct the crime and form an opinion for the submission in the court of law to help criminal justice system. He can refresh his memory by referring the case file, report, or literature at the time of cross-examination under the court of law. While deposing the court evidence in various courts, many times he faces difficult, oak words, harassing or embarrassing situation. The defense council also asks irrelevant and silly questions to confuse and trap the expert. In such situations the expert should not feel that he is helpless and alone, he should not get nervous, the judges do come for his help or he must bring the same to the notice of the court. In such conditions, he should tackle / answer with cool, calm and composed temperament. Mostly, general things related to receiving the case and its related documents etc. are being questioned from the expert in the court during the deposition of his evidence. The expert has to respond the queries asked in the court very carefully with presence of mind, tactfully, and intelligently. If any of the public evidences/witnesses is shaken and not able to convey the Hon'ble court with his proper reply, the whole effort of investigation may go in vein and defense council may get benefit of doubt for his client as the aim of our criminal justice system is let hundred criminals be free/ acquainted but one innocent person should not be punished/prosecuted.

Keeping in view the significance of the report and evidence of the expert in the deliverance of the criminal justice system, it can be succinctly put that the expert under no circumstances should lose his balance, coolness, temper while tendering evidence in the Hon'ble court. There would be various circumstances under which they are likely to be distracted or be under psychological

pressure from the defense lawyer many times. All that he would need to gather for himself while presenting the evidence he is to display presence of mind, tact and alertness and not to speak of the least a thorough knowledge of the case examination he has carried out and his own subject. It is not to be forgotten that the expert evidence being rendered by the expert is very crucial for the judiciary to arrive at the justice and also has a bearing in preempting the criminals and other antisocial elements to restrain themselves from committing any heinous crimes in future. This only can provide the right impact in building a society which can live with better security and safety in this age of high-tech crimes mostly carried out in an organized manner leaving a little scope for investigating officer to nab them purely based on circumstantial and other non scientific evidences.

General Guidelines

Following are some of the suggestions and guidelines for the deposition of the expert evidence in the court of law with special reference to the cases of forensic expert. These guidelines may be helpful for the expert while attending the court in connection with deposition of court evidence. These are only the guidelines; the expert has to apply his common sense, response the cross to the best of his knowledge and ability while deposing the expert evidence in the court of law. Some of the important points to be kept in mind at the time of deposition of court evidence are given below:-

1. Personality impression is one of the ways to judge about a person. Give an impression of your personality before the Hon'ble court.
2. Though there is no dress code for expert for attending the Hon'ble court, attend the court in sober, neat, clean, and well-pressed dress. If possible wear well-knotted tie preferably matching with your dress in

- case of gents. ladies, likewise, may wear saree or salwar suit.
3. Attend the Hon'ble court with shoe preferably well-polished leather shoes.
 4. Reach well before time in the court for evidence and meet public prosecutor to discuss or clarification of doubt, if any, regarding the case before deposing the evidence.
 5. Pay honor to the Hon'ble court whenever you enter or leave the courtroom.
 6. Inform the Hon'ble court (Judge, Nayab court, public prosecutor, or reader) about your arrival in the court.
 7. Sit properly at appropriate place in the courtroom and maintain the decorum of the court.
 8. Be alert on the turn of your case.
 9. Ensure that you are going to depose the evidence of correct case mentioned in your summon.
 10. Acknowledge the summon. If you are not in a position to appear before the Hon'ble court on required date and time, inform the court with genuine reasons well in advance to the extent possible.
 11. Try to depose the evidence on calling the summons first time itself.
 12. First listen and understand the question carefully, then reply to the point.
 13. Do not try to show your over - smartness while deposition of your court evidence.
 14. Do not get excited while cross-examination with defense council.
 15. Speak politely with moderate voice.
 16. Study the case file well before attending the court for the deposition of evidence.
 17. Study the subject matter (technical things) related to the case well before attending the court for the deposition of evidence.
 18. Reply to the Hon'ble court after listening to the question from the defense council or public prosecutor.
 19. Prove your expertness before the Hon'ble court by telling your qualifications, experiences, and trainings etc at the time of examination in chief.
 20. If possible, request for dictating your self about the chief in examination regarding your self and case.
 21. Try to avoid your answers in 'Yes' or 'No'. If such situation arises request for giving volunteer statement to make things clear. Depending upon the query and answer it may be also said 'Partly No' and 'Partly Yes'. So you may be automatically asked by Hon'ble court to explain the things.
 22. Whenever you are asked to identify your report, signature, or remnant of the exhibits, first request to show the objects, see the things carefully and then give your reply accordingly.
 23. If you are not able to understand the question, you may request for its clarification.
 24. If inadvertently, some mistake is left in your report it may be requested and mention at the time of examination in chief. For this, you may be asked by the Hon'ble court to produce all the relevant/ genuine and necessary supporting documents to prove you are correct.
 25. You may request for your volunteer statement whenever you feel that the things are not becoming clear in the statement during the cross-examination by defense council.
 26. If defense council wants to take your case file to see it, do not argue with defense council. Ask the permission of Hon'ble court and do accordingly. The help may also be taken of public prosecutor in this matter.
 27. If Hon'ble court asks to submit any paper or document etc. of your case file, do not argue, rather

- request to get Xerox/attested copy of the document to keep in your case file. Also keep a note about the matter in the file. It may also be mentioned in your statement of the evidence about the submission of the document.
28. Do not depose the court evidence with predetermined mind. Tell the facts whatever you are being asked to the best of your knowledge and intelligence.
 29. Before signing on your statement, read it carefully. Mistakes, if any, may be brought to the notice of the Hon'ble court and corrections may be made with the permission of the court.
 30. If you feel that the defense council is asking irrelevant questions, it may be requested to Hon'ble court about the irrelevancy of the question.
 31. Avoid involving the names of your staff/officials if not required.
 32. Do not underestimate the defense council.
 33. Depose your evidence in convincing way and in dear layman's language to explain your technical aspects if they are being asked.
 34. If you do not know the local language, which is being used, during your evidence, it may be requested to the Hon'ble court for using Hindi or English language.
 35. Keep the case file fit and complete after the case examination.
 36. Examine the case as early as possible.
 37. Examine the case with all possible care using referred methodologies/technologies.
 38. Study the case/document carefully before the commencement of its examination.
 39. Use atleast one of the identification techniques like GC-MS, IR/FTIR etc. for the examination of crime exhibits in the absence of standard/control/reference sample along with other tests. Wherever possible, secondary standard sample may also be used.
 40. Do not forget to collect your court attendance certificate after evidence.
 41. Do not leave the courtroom without the permission of the Hon'ble court or public prosecutor after your evidence.
 42. If you find in the courtroom that the date of your evidence has been adjourned due to any reason, report to the Hon'ble judge, public prosecutor, or reader about your arrival and for getting attendance certificate or for alternate arrangement for the deposition of your evidence.

Acknowledgement

The author is thankful to Dr. C.N. Bhattacharyya, Director, Central Forensic Science Laboratory, Ramanthapur, Hyderabad, who had encouraged me to bring out my experiences about deposing the expert evidence in the court of law in the form of a publication. I would be failing in my duty if I do not thank to Mr. S. Raghunathan, Section Officer and my staff members of the chemistry division to provide their cooperation.



STRESS MANAGEMENT IN CRPF

Rakesh Kumar Singh*

Stress is a fact of life and is inevitable in this age of intense competition, increased expectations and innumerable other activators of stress. Nevertheless, stress has always been present and will continue to be present irrespective of gender, age, social class and profession. However, it is not necessarily harmful but most of the time stress leads to unpleasant consequences and serious negative effects on both physical health and psychological well being.

Stress is a multi faceted process that occurs in reaction to events or situations in our environment termed as stressors. Stress is a reaction or response to any kind of change. It is the physical and emotional response to situations, which are perceived as novel, frightening, confusing, exciting or tiring – situations that are not usual or normal. Stress not only results from external factors but can also be generated from within by our hopes, fear, expectations and beliefs. It acts as a signal for the mind to get prepared for any change in situation.

Stress in CRPF

The stress is inherent in uniform services. However, in recent years the level of stress has gone up very high due to pressure to deal with internal security scenario and shift in socio-cultural life. Frequently, we come across cases of shooting incidents by Force personals, killing seniors, making colleagues hostages and committing suicides. This is really a matter of concern and discussion amongst one and all particularly regarding the causative factors of stress and methodology to eliminate it.

In this background an effort has been made to probe into depth the problems in CRPF which are causing stress to the Force personnel. For this purpose a survey was conducted on the module of two questionnaires to know about stress and its causes.

Total 240 personnel responded to the questionnaire in which 80 were GOs and 160 NGOs. In response to another set of questions prepared by Rudolph M. Moss, Centre for Health Care Evaluation; Stanford university USA, in all 70



Key words :

Stressors,
Emotional arousal,
Expectations,
Work pressure,
Uncertainty,
Insensitiveness,
Risk,
Role conflict,
Social exclusiveness,
Personality conflicts,
Traumatic events.

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Abstract :

Stress at the work place are quite common these days and it has become a fact of life inevitable in this age of intense competition. However stress is inherent in uniform services. But the situation becomes worse because of environmental factors like poor living conditions, odd and prolonged duty hours, toxic leadership and negative image in society and media.

Gazetted Officers responded. This set of question was circulated to GOs only. There was a great deal of enthusiasm amongst all ranks regarding this study and most of the personnel responded to the survey questionnaires.

Analysis and Interpretation of Data

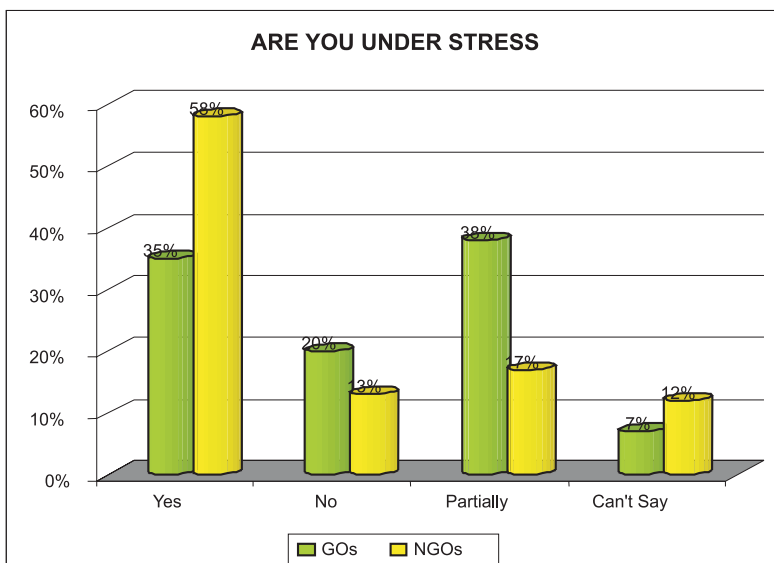
“The peacekeepers of the Nation” is under severe stress and unrest. To protect the country and its citizens they are losing their health and are neglecting their family. Upon responding to the question as “Do you feel that you are under stress.” 35% of the officers of the Force said that they definitely were, 38% said that they were partially under stress whereas, 20% said that they were not under stress and 7% were not able to apprehend

the fact that they were under stress or not.

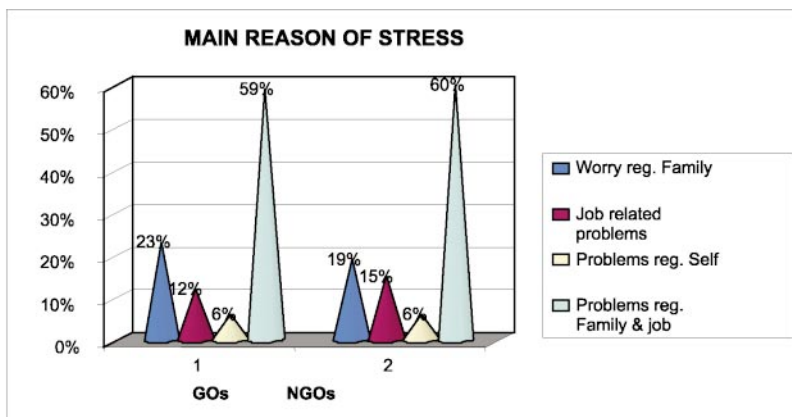
Corresponding figures of NGOs are 58% said that they were under stress, 17% partially under stress, 13% said that they were not under stress whereas 12% could not say whether they were in stress or not.

This is probably an unique outcome as with almost 35 + 38 = 73% of officers and 58 + 17 = 75% of other ranks of the force are under stress and still the organization is marching smoothly ahead to fulfill its mission and come upto the expectation of the nation.

In response to another question as to what causes them stress, is it the ‘job related worries’ or ‘family related worries’ or ‘both’, 59% officers and 60% non-gazetted



Stress management in CRPF



officers said that both the job-related as well as family-related worries are main reason for stress, 23% officers and 19% NGOs think that it is exclusively the worry about family that causes stress as they are away from family and poorly linked to them. So even in emergency it is difficult to reach them immediately for help and support. Only 6% officers as well as NGOs said that their problems regarding themselves were the main reason of their stress.

In our Force the reasons for stressful life are generally well known. Following are a few areas which causes tremendous stress:-

- (i) Excessive/uncertain mobility that too at a very short notice.
- (ii) Separation from family.
- (iii) Odd working hours.
- (iv) Poor working conditions.
- (v) Dependence on local administration even for basic amenities like accommodation, telephone, water, electricity etc.
- (vi) Shortage of officers in the Units vis-à-vis inability to plan and proceed on leave. Stoppage of leave in respect of Force personnel due to additional strength to be provided to local administration quite frequently.
- (vii) Disruption of Education of the children due to frequent movements/transfers.
- (viii) Long, strenuous duty hours.
- (ix) Deployment of Force in difficult areas under adverse climatic conditions.
- (x) Financial crisis due to maintenance of more than one establishment.
- (xi) Insensitive and punitive leadership style.

The respondents were asked as to what characteristics of your

The purpose of the study is to gather data through sample survey to understand the causative factors of stress overwhelmingly present in the Force and explore the possible remedies as well as analysis of the perception of personnel regarding their problems so that the myth be demystified and provide focused direction to the Force leadership to propel the system into dynamic action.



Stress management in CRPF

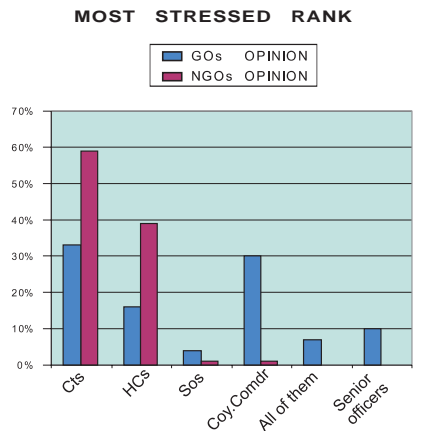


The purpose of this study is also to identify the problems, areas and need of empowerment of various ranks at various levels to enable them to derive pride in their job.

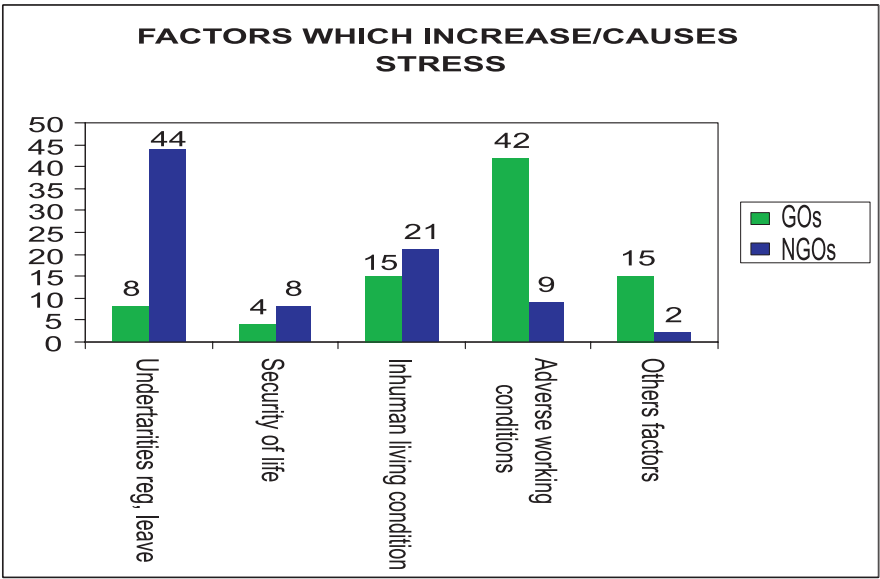
job causes you the most stress i.e. the attribute/element in your job which creates or increases stress in you 8% GOs and 44% NGOs said that it was about the uncertainty regarding leave which is the main worry in job. If the leave is assured at times of need lots of problems can be solved. Inhuman living condition is another factor assessed by 15% GOs and 21% NGOs as the main reason for job stress whereas 4% GOs and 8% NGOs are worried about security of life inspite of working in an organization where casualty rate is high as well as the threat perception is always alarming.

All ranks think that they are; generally the most stressed one however, respondents had identified the institution of Coy Commander as the most

problematic which causes stress amongst others. Obviously, at the ground level the Coy Commander has to get all the orders executed without any authority to reward or improve the living condition. Coy Commander for that matter are apparent face of leadership and command structure.

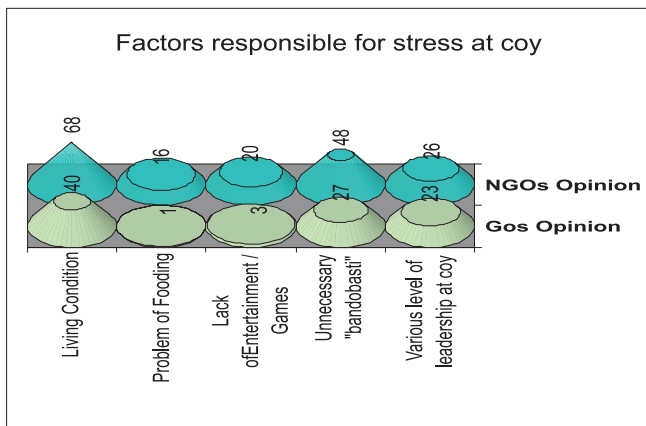


Contrary to popular belief that most of the time it is the operational

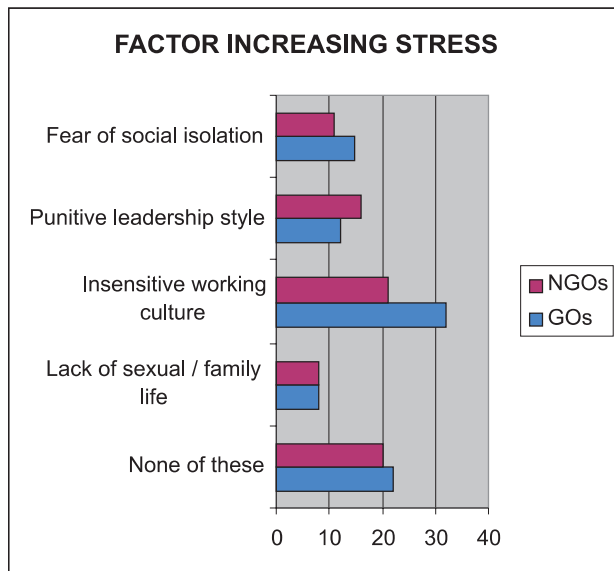


conditions which are responsible for stress. In fact 41% officers and 24% NGOs think that operational conditions are “not at all” responsible for stress.

In the opinion of NGOs and GOs it is the poor living conditions and lack of basic facilities which are generally responsible for stress and the second factor identified which causes them stress is “Unnecessary bandobast”.



At company level stress is also caused due to lack of proper infrastructure facilities like problems of communication with family, local social life, non-availability of stores and medical facilities.



Leadership and administrative causes in relation to stress

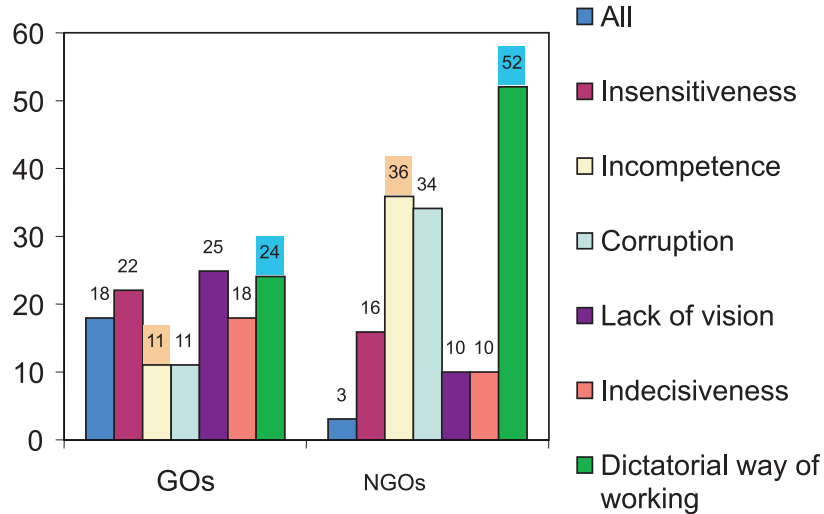
The study reveals that it is the various administrative factors which are more responsible for increasing the stress. The factors which may be causative vary widely ranging from family problems to provocation on ill-treatment; denial of permission for leave or out-going permission, perceived harassment and discrimination, use of abusive language etc.

All these causes are one way or the other related to administrative cause which has a very wide ambit including leadership, man-management, training and humane considerations. However the broad factors which do find its role in causation of such stressful situations in one way or the other are not hard to find but are factually the minor and very well known common ones.

An officer or a subordinate officer ought to develop and have leadership quality in him for he is supposed to be performing the role of a leader in commanding the troops under him. A good leader can only be the one who himself knows in well defined terms his own role, who can exemplify before others for every thing he wants to see others doing, can act as a guide keeping the interest of the Organization first, followed by those whom he leads and last of all his own.

These qualities ought to be developed by repeated training of the S.Os. and Officers level and at the same time intensively putting the modern trends of man-management techniques before them to be imbibed in dealing with the men in day-to-day life to get every man to perform to his maximum,-keeping the humane angle and other aspects in view.

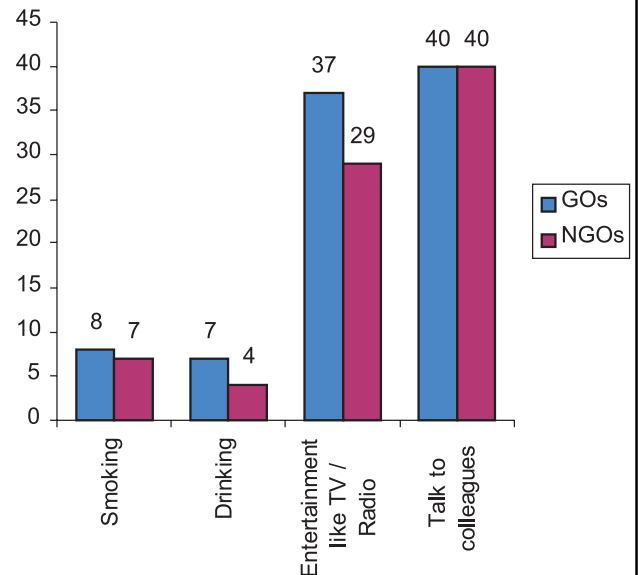
Which attribute of the leadership causes stress to you



Consequences of Stress in CRPF:-

1. Suicides
2. Killing of colleagues/ officers
3. Human rights violation of people.
4. Rough and brutal behaviour with the people.
5. Excessive drinking and smoking.
6. Low life expectancy.
7. Increased cases of indiscipline and insubordination.
8. Accidental fires.
9. Vehicle accidents.
10. Increased inefficiency.
11. Increase in cases of O.S.L.
12. Increase in number of discharge and voluntary retirement.
13. Increase in problems with spouse and family.

What do you do when you are in stress ?



Effects of Stress on CRPF Personnel

- 1. Increase in cases of indiscipline:** The most important and obvious effect of constant stress on the force personnel is manifested in increased cases of indiscipline. Constant stress makes the personnel more irritable, impatient and intolerant due to which indiscipline at the place of duty and in line is on the increase. The cases of misbehavior with public, seniors and even with their own colleagues is on the increase.
- 2. Increase in number of discharge and voluntary retirements:** Constant stress caused by frequent moves, low pay, low promotional prospects, no changes of career development, poor status, separation from family and constant fear and danger associated with the job is compelling more and more personnel to proceed on discharge or voluntary retirement so that they may lead peaceful settled life with their family members.
- 3. Increase in alcoholism and drug intake:** Alcohol consumption and drug intake provides temporary and momentary relief from stress. In the absence of other means to relieve stress the cases of alcoholism and drug addiction are on the increase. This is not only harmful to the health of personnel but also to the organization.
- 4. Increase in case of OSL:** Most often force personnel are not able to avail leave in time or they may not get leave at all. This makes them unable to fulfill their social and family commitments and makes them prone to overstay from leave. Besides increasing unnecessary administrative work it affects the leave plan of other personnel thereby creating a vicious circle into which more and more personnel are trapped.
- 5. Increased accidents including vehicle accidents:** The physical and behavioural effects of stress manifest in the form of insomnia, restlessness, fatigue, irritability, difficulty in concentrating and decision making and various physical and mental disorders. This makes the personnel more prone to commit mistakes resulting in accidents. That is why the case of accidental firing and vehicle accidents are on the increase.
- 6. Increased rate of suicide and suicidal tendencies:** When any individual is subjected to prolonged stress he starts feeling that there is no end to his problems. This generates suicidal tendencies in him. The one with weaker mind fail to cope with this continued stress and may commit suicide to relieve the sufferings for ever.
- 7. Incidents of firing:** Another aspect of taking extreme step like committing suicide is to kill own officers or colleagues. When the things cross the tolerance limits of a particular individual he may resort to killing his own officers or colleagues.
- 8. Increase in problems with spouse and family:** Irregular leave or no leave combined with other factors like poor pay, poor promotional prospects, lack of suitable accommodation prevents the force personnel to fulfill their social and family commitments. This generates various problems within the family.
- 9. Decreased efficiency and inability to complete the assigned task:** The combined effects of all the above factors have a detrimental effect on the overall efficiency of the force. Since the personnel are preoccupied with their own problems most of the time, they are unable to give their best to the organization.

Managing Stress

- Developing a healthy lifestyle
- Diet and Nutrition
- Changing Risky behaviours
- Emotions and Mood
- Reducing Stress in the work place

Think Differently

1. Manage your anger creatively and innovatively.
2. Make forgiveness your permanent attitude.
3. Learn to say “Thank-you” and “Sorry” instantly.
4. Learn to say “No” and accept “No”.
5. Compare yourself with yourself only.
6. Manage your time as you manage your money.
7. Change yourself before you change others.
8. Set your goals to conquer stress.
9. Accept some defeats in life.
10. If all else fails, lower your standard.

The best news for leadership is that inspite of overwhelming opinion that they are “insensitive” 67% GOs and 52% NGOs have full faith that Leadership can be definitely helpful in reducing the stress.

Means to overcome stress

At individual level

1. **Avoid isolation, take part in various activities:** Don't remain alone. Keep yourself busy by taking part in various activities of the unit because idle mind is the devil's workshop. If you don't keep yourself busy negative thoughts will enter your mind which will be the source of further stress.
2. **Communicate with colleagues, family members and friends:** Share your problem, feeling, experiences and ideas with others. Tell your problems and failures to other. This not only acts as a means to relieve tension but also helps in solving the problems by learning from the experiences of others.
3. **Keep away from alcohol and drugs:** Alcohol and drugs may relieve stress momentarily but continuous use will aggravate the situation. Besides taking physical and mental toll, it deteriorates the financial condition too.
4. **Regular exercise and games:** Regular exercise and games are most effective in relieving stress. Regular exercise and games make the body stronger and mind sturdier. Exercise keeps illness away while games provide recreation. During games stress is relieved and often minor conflicts in the office/duty place are resolved in the playground.
5. **Yoga, meditation:** Use of yoga and meditation as a potent reliever of stress is on the increase not only in India but in other countries as well. But this should be learnt and practiced under proper guidance.
6. **Balanced diet:** Balanced diet is a must for keeping the body and mind healthy. Once the mind and body are healthy one becomes less prone to stress.
7. **Avail leave regularly and relax with family members:** Failure to get leave is one of the most potential stressor for force personnel. Thus it is most important that one avails his leave in time. It is the duty of all commanders to ensure that their troops avail leave and that too in time as far as possible. This will give them time to relax from the tensions of service and constant fear and dangers of operational area. Since men are not able to keep family at most of the deployment places leave is the only time which they can spend with their family and fulfill their family and social commitments.
8. **Self education about the causes of stress and how to cope with them:** Making the men aware about the causes of stress and the means to relieve it is important because it will help them to take corrective steps in time.
9. **Psychological counseling in extreme cases:** There must be provision for providing psychological

Thus alcoholism and drug addiction are the cause rather the therapy of stress in the long run.

counselling to personnel who are not able to cope up with stress.

10. Think differently : To manage stress the best method is to control anger and frustration and think constructively and positively. Contribute your best to the organization to change the system for better working environment.

At organisation level

- 1. Sensitive leadership and command :** The seniors must be sensitive and respectful towards juniors problems and effort be made to help them. If at certain time administratively it is not feasible to help out the men than counselling should be done and one should sympathise with the persons in stress.
- 2. Career Planning:** Men should get opportunities for career planning by subjecting them to in-service courses which may be useful in improving their efficiency and impart skills which will be useful for them in normal life. They should be given counselling for career planning within the organization.
- 3. Better promotional avenues:** Promotion is the main motivating and morale-boosting in any organization. Promotion policy should be reviewed in such a manner that there is scope for promotion atleast once in every five years.
- 4. Transfer policy:** Transfer policy should be streamlined for rationalizing transfers. There should be no out of turn transfers. There should be need based transfers below the rank of Commandant. This will remove uncertainty and generate a feeling of belongingness.
- 5. Better move planning:** There should be no panic moves. The field formations should be given reasonable time to plan and execute their moves.

There should be no enroute deviations due to lack of planning at Sector or Directorate level.

- 6. No ad-hocism:** There should not be ad-hocism in administration as far as possible. And *chalta hai* attitude should be avoided.
- 7. Better Accommodation:** Lack of proper accommodation is also the main cause of stress among the force personnel. There should be proper accommodation at the place of deployment. The situation is aggravated by lack of proper accommodation at the unit HQ/Group Centres. If accommodation is provided at unit HQ/Group Centers where one can settle his family, it may solve many problems of the force personnel.
- 8. Reduce paperwork:** Most of the time and efforts are wasted in preparing unnecessary reports and return. The time wasted in preparing these reports/returns can be utilized in doing some useful productive work and operations. This will give a feeling of achievement and boost the morale of the personnel.
- 9. Better Recreational Facilities and Proper Rest:** The troops are overworked and adequate recreational facilities are lacking. The principal of eight-hours work a day should be strictly implemented and recreational facilities should be improved to relieve stress.
- 10. Bringing Back Dignity to the Ranks:** The ranks are so diluted that even very senior officers may be insulted or maltreated by his superior. So the dignity of job is missing. Senior officers are required to do petty jobs which can be done even by a constable. This generates a feeling of uselessness among the personnel and is a major source of stress.
- 11. Counselling:** The organization should take services of expert counsellor on regular basis to counsel men in coping with the stress. The officers may be trained in counseling and interpersonal skill.



Key Words :

Criminal Investigation Department,

Fake encounters,

Justice system in the county,

Police leaders,

Private defence,

Magisterial enquiry,

Gangsters,

Intra-gang warfare,

Misconduct.

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FAKE ENCOUNTERS ARE SYMPTOMS OF A SYSTEMIC MALAISE

Sankar Sen, IPS*

Gujarat Police again finds itself in the thick of an unsavoury and deplorable controversy. Report submitted by the Criminal Investigation Department of Gujarat Police to the Supreme Court, uncovers the cold-blooded killing of three persons, namely Sohrabuddin Sheikh, his wife Kausar Bi and one Tulshiram Prajapati, an alleged informer of the police. The CID report says that Sohrabudjiin,, Kausar Bi and possibly Tulshiram Prajapati were intercepted from a bus by the anti-terrorist wing of the Gujarat Police (ATS) and subsequently killed. In this operation special task force (STF) of Rajasthan Police was also involved.

The State CID staff had arrested three senior officers, namely D.G. Vanzara, R.K. Pandiyan and M.N. Dinesh of Rajasthan Police. Both Vanzara and Pandiyan have been placed under suspension. The police version that Sohrabuddin was a Laskar-e-Toiba operative and planning to launch an attack on the Chief Minister Narendra Modi is

obviously afterthought. The fact, however, remains that Sohrabuddin had criminal antecedents and a number of criminal cases had been registered against him. He was not an innocent soul. The same is also true of Tulshiram Prajapati, another victim, who was probably operating as an informer of the police but had to done away with because he knew too much.

Fake encounters staged by the police officers resulting in the killing of even criminals is illegal and has very rightly landed the senior police officers in a sea of trouble. It is however a fact that, false encounters are at times staged by police officers because there is pressure by the political masters to show quick results by means of fair or foul. The public, particularly the educated middle class, also do not mind if the police take the laws in their own hands and become executioners, specially with regard to the dreaded criminals. They love tough action against the criminals who are escaping conviction and getting away scot-free because of malfunctioning of the criminal

Fake Encounters are Symptoms of
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justice system. Police dilemma is compounded by the slow-moving criminal justice system in the county, Trials drag on interminably for years and the outcome remains uncertain, particularly, in respect of criminals enjoying money and muscle power. Hence, the pressure on the police for short-cut and extra-legal methods. Very often there is connivance of the political bosses and support of the public. This explains the reasons why the police officers who blinded the criminals in Bhagalpur did not lose public support. The fact of the matter is that encounters are not the problem but the symptoms of a collapsing system of justice and shrill public demand of quick and extra-legal solutions pose problems.

But the hard fact to be borne in mind is that encounters are counter-productive and encourage contempt for law within the police. The practice of policing to break law in the name of law enforcement is unacceptable and intolerable in a democratic society governed by the rule of law. It is objectionable because it is arbitrary as a process and random in effect.

The National Police Commission in its report (Fifth Report of the National

Police Commission) strongly recommended that false encounters are to be sternly discouraged by the police leaders as this is not a remedy for the situation. Answer is to strengthen the law and legal processes. Unfortunately, some senior police leaders instead of resisting pressures emanating from the political masters very often bend backwards to curry favour with them. I still recollect that as a senior officer in-charge of Criminal Investigation Department of Orissa police I was berated by a Minister for not mastering "*all the tricks*" of police tradecraft. But by succumbing to illegal directions the police officers may land themselves in deeper morass. And this has precisely happened in this case. Vanzara was the apple of the eye of the political masters, and particularly the Chief Minister, and earned kudos as an encounter specialist. He has now been dumped because the political establishment in Gujarat wants to present an untarnished image before the Supreme Court. Like Cardinal Wolsey, Vanzara will have to rue his unthinking and unquestioning loyalty to the king.

But blaming trigger-happy police officers alone will not suffice. To deal with the problems of fake encounters some systemic



Abstract :

Fake encounters staged by the police officers resulting in the killing of even criminals is illegal and has very rightly landed the senior police officers in a sea of trouble. It is however a fact that, false encounters are at times staged by police officers because there is pressure by the political masters to show quick results by means of fair or foul. The public, particularly the educated



middle class, also do not mind if the police take the laws in their own hands and become executioners, specially with regard to the dreaded criminals. But the hard fact to be borne in mind is that encounters are counter-productive and encourage contempt for law within the police. The practice of policing to break law in the name of law enforcement is unacceptable and intolerable in a democratic society governed by the rule of law.

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changes are necessary. The National Human Rights Commission on receiving complaints of false encounters from Andhra Pradesh Civil Liberty Committee (APCLC) held public hearings in Hyderabad and recorded evidence. The Chairman of NHRC in a letter to the Chief Ministers asked them to issue directions to all police stations through the Directors General of Police on procedures to be followed where death has been caused in encounters with the police. The Commission was of the view that right of private defence should not be manipulated to justify fake encounters. In the procedure outlined by the NHRC it was laid down that in the case of an encounter involving the police, immediate steps should be taken to investigate the case and to ascertain how the offence was committed and by whom. If the police officers belonging to the same police station are members of the encounter party whose action resulted in deaths, such cases should be handed over for investigation to some other independent investigating agency such as the state CID. A Magisterial enquiry should also be ordered in such cases of death. The next-of-kin of the deceased much be associated in such an enquiry. No out-of-turn promotion and

gallantry awards should be bestowed on the officers soon after the occurrence. Unfortunately, the procedure outlined by the Commission remains on paper and has not been acted upon by the state governments.

Encounter Specialists

In many state police forces, there are “*encounter specialists*” who become favourites of the political masters and police bosses. They very often, turn into cold-blooded liquidationists and extortionists who enrich themselves by dubious means. However, when the crunch comes, they are left to fend for themselves and their patrons unceremoniously dump them. This is the lesson that many police officers have not yet learned. Violating the rule of law is not sound law enforcement and is not desirable even from the limited police point of view. There are cases where the encounter specialists help the gangsters in their intra-gang warfare. Empirical research on organised crime in Bombay done by the Bureau of Police Research and Development reveals how Daud Ibrahim got several of his rivaJs eliminated through the agency of the police by tipping them in advance. Police response in many of the cases was for elimination and not arrest.

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Again, in every police outfit there are some violence-prone officers who figure again and again in cases of misuse and abuse of force. Very little empirical research has been done in India regarding these, violence-prone, aggressive officers. In USA, the Christopher Commission looked into the use of force by Los Angeles Police after the Rodney King incident and could pin point after going through records a number of officers against whom there were repeated allegations of misuse of force. There should be no hesitation on the part of police leaders to discipline and weed out these black sheep. It has also been found that some police officers are more likely to resort to violence and excesses when there are other officers to provide physical and psychological reinforcements.

There is demand from many quarters, and even by the Central Government, to transfer the case to the CBI. The Supreme Court in my opinion has correctly directed the State CID to carry on the investigation. Already some upright officers of the CID have courageously and tenaciously uncovered many dark details of the case and there is no reason as to why they will not be able to carry it to a logical conclusion, particularly when CID investigation is being closely

monitored by the Supreme Court. During my incumbency as the Director General of the National Human Rights Commission (NHRC) I had seen that in many cases lapses and misconduct; of, the police unearthed by the investigation team of the NHRC were subsequently reconfirmed during state CID's investigation. IG CID of Gujarat Police, who is heading the investigation, will have to pick up some upright and competent officers and the Supreme Court will have to maintain a strict watch to fend off extraneous pressures and interference.

Shocking police aberrations in Gujarat also underscore the importance of police reforms now directed by the Supreme Court. There should be institutions like State Security Commissions to insulate the police from political, pressures and oversee its functioning in an apolitical and non-partisan manner. There should also be State and District Police Complaint Authorities headed by judges to enquire into serious complaints against the police. Most of the state governments are opposing the Supreme Court's directives, as they do not want to dilute their unbridled control over the police. It is not surprising that Gujarat and Rajasthan are the two prominent states opposing tooth and nail structural reforms in the police directed by the Supreme Court.



PUBLIC RATING OF CORRUPTION*

Syed Umarhathab⁺

Key Words :

Public Rating,

Corruption,

Corrupt,

Transparency,

Perception,

Index,

Vigilance,

Illiterates.

Introduction

Corruption is a global phenomenon capable of paralyzing a country's development and diverting its precious resources from the public needs of the entire Nation. It is one of the crimes that have been a problem for any society in this world. Corruption affects the general morality of the society. It creates a black market immune from formal government control. Indeed, it generates the "Black Money" that purchases the decision-making power of public officials. The result can be a criminalization of the entire political and bureaucratic system that further restricts the government's ability to enact well-intentioned and much-needed reform. While every nation tolerates a certain amount of corruption, the level of this abuse varies wildly across the globe. In general, the least corrupt nations are almost always the most developed. India, the second most populous Nation and fourth largest economy in the world, is also one of the most corrupt. Corruption is not our exclusive monopoly nor is it a new

phenomenon afflicting our administration. Long ago Edward Gibbon wrote "Corruption is the most infallible syndrome of constitutional liberty". We had a corrupt administration even when we did not have constitutional liberty. Our Administration was corrupt during the Colonial days and earlier and continues to explode in India. Corruption shall be experienced by anybody in any form from birth to the death. Corruption simply be defined as "illegitimate use of public sources for the private gain". An event of corruption falls under three main categories namely Bribery, Nepotisms (favouring the known persons or groups), and Misappropriation of the government properties. As far as corruption in government is concerned, various factors have been responsible for the widespread corruption among government servants.

According to a report by Online Edition of India's National Newspaper, "The Hindu", Oct 21, 2004, India is among the 55 most corrupt countries with CPI score of

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2.8. This is one arena where India is ranked among the “best” in the world, but for wrong reasons. The Corruption Perception Index (CPI) scores of Transparency International only provides the business community’s “perception” of the level of corruption in a country. For the common man, the situation is probably much worse, said the Chairman of Transparency International India, R.H Tahiliani. The kind of corruption the ordinary person faces in India is something that is not even recognized in the developed countries. Though the Corruption Perception Index does not give the complete picture, it provides a reasonable idea of the level of corruption in the country. Bribery in Government procurement-related contracts and other activities cost Indian taxpayers a whopping \$7,000 million, according to the report. The report is compiled on the basis of 15 surveys conducted by 12 independent institutions including the World Bank, the World Economic Forum and Columbia University. It grades countries on corruption on a scale of 0 to 10 - the cleanest being 10 and the most corrupt being 0. Although according a report of The Transparency International which has found India at 74th rank amongst 163 countries surveyed in the year 2006 with CPI score of 3.3, India has moved a little from its position from 55th in 2004 to 74th in 2006 but still it

is in the dark list as well the CPI is rated only by the business community and it becomes necessary for understanding the public idea on corruption. The current study has been conducted only among the general public to understand the public rating of the government department with an objective to understand their response and perception.

Limitations of the Study

- The study was conducted only among the person living in Chennai and the results shall reflect only the views of the people living in Chennai.
- The study was conducted only among the public who can read and understand English.
- The study never had an even distribution of samples.

Methodology

The part of methodology comprises of the topics - Objectives; Subject of the study includes area of the study, sample, sample size, sampling techniques, and data collection, tool used, data analysis used in the study.

Objectives

- ◆ To understand the public ranking of the corrupt department.



Abstract :

India still retaining its title of being in the big league of the most corrupt countries, corruption is one of the crimes that have, had, have been a problem for any society in this world; it affects the general morality of society. Corruption is generally be defined as “the use of public office for private gain”. Contrary to popular perception, corruption was quite rampant even in pre-independent India when the



controls and shortages caused by the Second World War resulted in huge illegal profits for bureaucrats and forced the colonial government to pass the Prevention of Corruption Act in 1947. The kind of corruption the ordinary person faces in India is something that is not even recognized in the developed countries. International organization like the Transparency International conducts regular study on the situation of corruption in all countries and scores their



- ♦ To understand the public participation and attitude towards bribery.
- ♦ To check the awareness among the public with reference to the office of “Vigilance and Anti-Corruption”

Subject and Area of the study

The Current study was conducted among the free floating public in the city of Chennai.

Sample : Samples were selected from people living in Chennai.

Sample Size : A total of 257 samples were collected from the public out of which response of only 203 samples were found to be valid. Of these, 3 samples were randomly picked for the analysis.

Sampling Technique : The sampling technique adopted in the study was Purposive Sampling which is one form of Probability Sampling Technique.

Data collection : The data of the respondents were collected through questionnaire designed and framed for it among the public in the city of Chennai.

Tool Used

A questionnaire was designed in accordance with the objectives; it had both open and close ended

questions. It was framed by the researcher in consultation with experts and researchers. The questionnaire was finalized after the pilot study with 40 samples.

Data Analysis

The data collected were coded, summarized and presented in the form of tables and figures.

Result and Discussion

The present study is an attempt to understand the public stand on the issue of corruption.

Table 1 shows details of the variables viz - Age, Gender, Marital Status, Family Type, Fathers Occupation and Occupation of the Respondents.

Age

The majority of the respondents are from the age group 21-25 years which comprises of 28% of the total samples, least being from the age group of the 51-55 years with $\pm 2\%$. Highest participants being from the age group of 21-25 years was because this aged population was ready to participate as well interested in the research.

Gender

About 76% of the respondents were male and 24% of the

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Table 1. Total Number of Samples is 200 and Variables.

Variables	Number of Respondents	Percentage (%)
Age(in years)		
< 20	17	8.5
21-25	56	28.0
26-30	36	18.0
31-35	31	15.5
36-40	32	16.0
41-45	12	6.0
46-50	5	2.5
51-55	4	2.0
>55	7	3.5
Gender		
Male	152	76
Female	48	24
Marital Status		
Single/Unmarried	81	40.5
Married	119	59.5
Family Type		
Joint	113	56.5
Nuclear	87	43.5
Occupation		
Government	10	5.0
Students	50	25.0
Teaching Professional	28	14.0
Business	40	20.0
Self Employed	29	14.5
Private Office	43	21.5
Major Branch of Study		
< 12th Standard	20	10.0
Arts	71	35.5
Science	38	19.0
Management	53	26.5
Technical	13	6.5
Law	5	2.5
Father Occupation		
Business	76	38.0
Government Staff	46	23.0
Private Office	33	16.5
Retired Person	17	8.5
Self Employed	16	8.0
Teachers	12	6.0

Corruption Perception Index (CPI). This Corruption Perception Index does not give the complete picture; it only provides a reasonable idea of the level of corruption in the country. The current study an is attempt to expose the public thinking on the issues of corruption Public have been given a chance to rank the government departments according to their knowledge and choice. The study also have checked the public awareness on the Office of Vigilance and Anti-Corruption.

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respondents were female of which one third were students. Researcher being male found it difficult to approach the female respondents; as such females responded very less.

Marital Status

Of the total respondents 59.5% were married and 40.5% were single.

Family Type

Of the total respondents 56.5% were living in the joint family system and 43.5% were from nuclear family system.

Occupation

One fourth of the respondents were students and least being the government staff with 5% of the total respondents,

second highest samples being represented from the business community with 20% of the total respondents.

Major Branch of Study

A majority 35.5% of the respondents were from the Arts background (includes economics, history, criminology, sociology, social work, political science and anthropology) and least being from the Law with only 2.5% of the respondents and study includes a population of 10% who are literate studied upto higher secondary school and are able to read and understand English.

Father's Occupation

A majority of the 38 % of the respondents' father's occupation was business and least being 6% with teaching professional.

Table 2. Top Ranked Five Departments - Respondents.

Rank	1	2	3	4	5	Total	Rank
Department							
Police	63	36	31	22	23	175	1
Regional Transport Office	38	42	24	18	18	140	2
Revenue	19	21	30	19	18	107	3
Public Work Department	16	11	15	18	24	84	4
Register Office	13	16	19	14	13	74	5
Central Excise & Customs	12	5	11	17	14	60	6
Government Hospital	9	16	15	19	16	75	7
Tax	9	15	17	14	14	69	8
Judiciary	9	6	6	15	14	50	9
Academic Institution	7	14	12	10	9	52	10
Chennai Metropolitan Development Authority	5	4	3	9	14	35	11
EB	—	9	8	15	7	39	12
Public Distribution System	—	5	9	10	16	40	13
Total	200	200	200	200	200	Total	1000



Table 2 gives details of the departments and public ranking of the departments.

All the selected respondents were able to rank atleast top 5 corrupt departments but on the same event just 32% of the respondents were able to rate all the 13 departments and around 23% of the respondents were able to rate upto 10 departments. Rest 45% of the respondents left rating of departments from 5 to 10. This is why researcher has decided to take up top 5 five departments for discussion. From the table we can infer that departments ranked by the respondents are due to their public contact with the departments, through hearsay information, through the news media, through personal experience or by father's occupation.

Table 2 second column gives details on the department that has been ranked number 1 by the respondents. We can infer from the above figure that Police Department has been ranked number one by 31.5 % and least ranked department being the Chennai Metropolitan Development Authority (CMDA) by 2.5 % of the respondents. Two departments namely Public Distribution System (PDS) and Electricity Board

(EB) were not at all ranked as number one department by any of the respondents. Second top ranked department was Regional Transport Office by 19% of the respondents.

It is common man's belief that police is the most corrupt; these personnel are those whom people come across often as well; this corrupt population can never be left unpaid because of their power of authority. On the other hand the two departments of the given thirteen departments not rated number 1 by any of the respondents namely PDS. It may be due to the reason either less open corruption or otherwise I shall give the credit to those who smuggle the rice bags without public knowledge. EB was not ranked number 1; it may due to the less level of in the department or less frequent contact by people.

Table 2 third column gives details the department that has been ranked Number 2 by the respondents. We can infer from the figure that Regional Transport Office (RTO) has been ranked top among second ranked departments by 21 % and least ranked department being the CMDA by 2 % of the respondents. Two departments

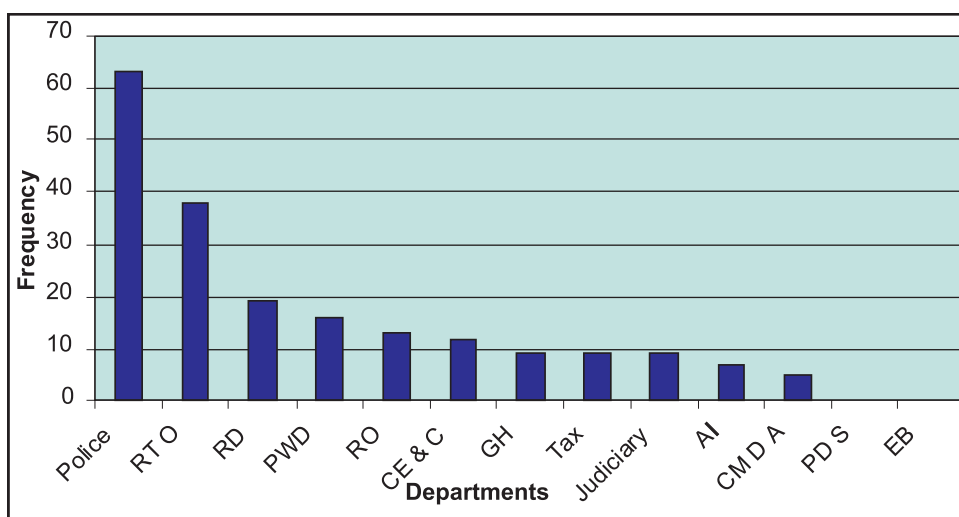


Figure 1 - Departments Ranked Number 1 by the Respondents.

Public rating of corruption

namely EB and PDS which were not ranked as number one department has been ranked number 2 by 4.5 % and 2.5 % respectively by the respondents.

The top among the second ranked department was RTO. It is not a shocking response because anybody for that matter who had been to Regional Transport Office to take up a driving license would recognize that

department has been ranked top again among third ranked departments by 15.5%, second top rated was close against the number one with 15% and Revenue Department (RD) and least ranked department being the with CMDA with 1.5% of the respondents. Here it's interesting to note that there is close responses which were not much found with the department ranking in number one and two.

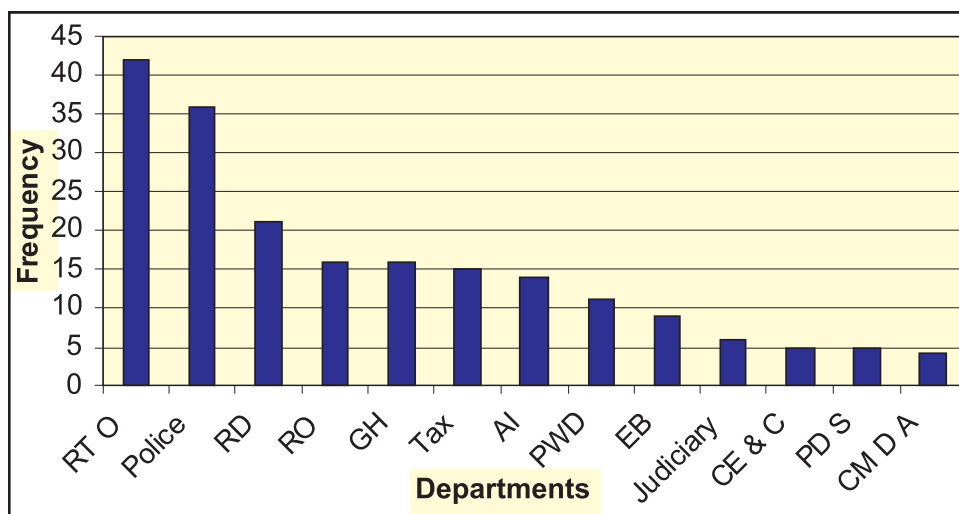


Figure 2. Departments Ranked Number 2 by the Respondents.

no work goes unpaid in this office. Second top being police by 18% of the respondents may be due to those ranked RTO the number 1 should have given their second priority to the police. Last four among second ranked departments are CMDA, PDS, Central Excise and Customs (CE&C) and Judiciary which were coded by 2%, 2.5%, 2.5%, and 3% respectively. This may be because people have less frequent contact with these departments as well. I believe these departments ranked second by respondents are due to their personal experience.

Table 2 fourth column gives details of the department that has been ranked Number 3. We can infer from the above figures given therein that police

Police at top and RTO at third place is not an unusual rating but RD in second is little unusual because even not rated well in first and second top ranked department RD has been ranked second top, may be due to those option included in it namely Collectorate, Thasildar's office and office of the Corporation of Chennai where public contact are very high, Register Office (RO) been rated fourth is one more considerable department taken into account because registering land and marriages can happen only with minimum money due to its setup. Least rated departments being CMDA, Judiciary, EB and PDS coded by 1.5%, 3%, 4%, and 4.5% respondents respectively. These departments are ranked least by respondents who are not sure of or less experienced with these departments.

Public rating of corruption

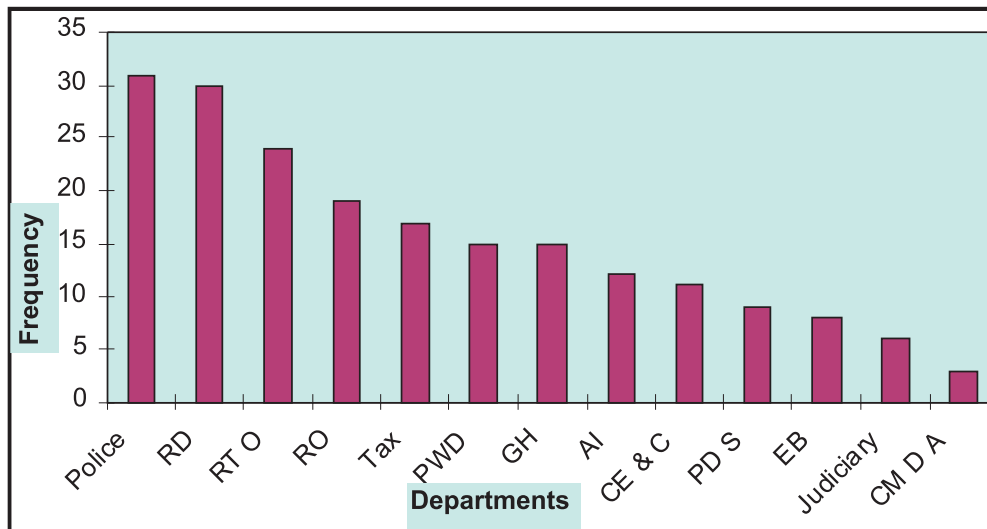


Figure 3. Departments Ranked Number 3 by the Respondents.

Table 2 fifth column gives details of the department that has been ranked Number 4. We can infer from the above figures given therein that police department has been again ranked top among fourth ranked departments by 11 %, second top rated departments were RD and Government Hospital (GH) by 9.5%, closely followed by third top rated departments which are RTO and Public Works Departments (PWD) by 9% and the least rated department being the CMDA by 4.5% of the respondents.

Here it is again interesting to note that there is very close responses which were not much found with the department ranking in number one and two.

Police at top, RD in the second and RTO at third place is not an unusual rate but GH sharing second place with RD is unusual because even not rated well in first, second and third top, ranked departments GH has been ranked second top, may be due to the personal experience of the

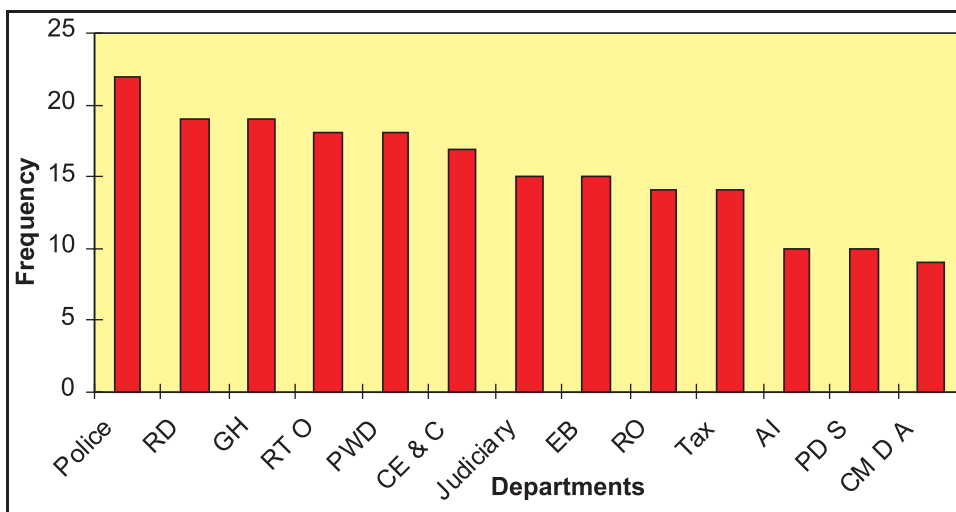


Figure 4. Departments Ranked Number 4 by the Respondents.

Public rating of corruption

respondents, fathers occupation or by hearsay information because the news media would portray the nuisance, low staff strength, non availability of doctors and improper disposal of waste in GH. Even top rated PWD is sharing third place with RTO; this rate should have been by those who had engineering and management background because of their industrial knowledge.

Table 2 sixth column gives details of the department that has been ranked Number 5. We can infer from the above figures given therein 5 that Public Works Department has been rated top among fifth ranked departments by 12%, closely second top rated departments was Police Department by 11.5% and the least rated department being the Electricity Board by 3.5% of the respondents. Here it is again interesting to note that there

be rated one was not rated rather, PWD has been rated top although police has been rated second with very close margin. Fifth top rated departments are very much convincing because all departments have been ranked number one, two, three and four by the respondents. EB appearing for the second time in the least rated departments may be due to less contact with department.

Table 3. Bribed -Responses

Responses	Yes	No
Total 200	127	73

From Table 3 we can infer that about 63.5 % of the respondents have bribed and 36.5% have not bribed. This solid percentage of the respondents have bribed

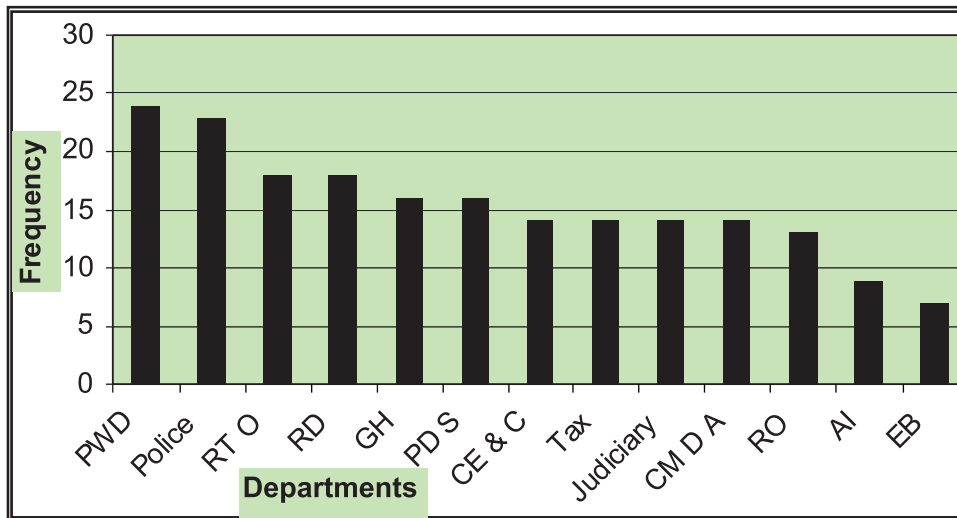


Figure 5. Departments Ranked Number 5 by the Respondents.

is very close responses with reference to third top rated departments which are Regional transport Office and Revenue department by 9 % of the respondents respectively and fifth top rated department which are Central Excise and Customs (CE&C), Tax Department and CMDA by 7% of the respondents respectively.

Here there is close rating by the public because of several reasons those department that were expected to

for various reasons that are to be discussed with the following figure. About 18.5% of the respondents who have not bribed were students.

Figure number 6 portray reasons for bribing, top list is Work Done which was coded by 24.40% of the respondents. 18.11% of the respondents coded Forced, third top priority was given to Speed Up by 16.53% of the respondents, fourth reason of Immediate Action was coded

Public rating of corruption

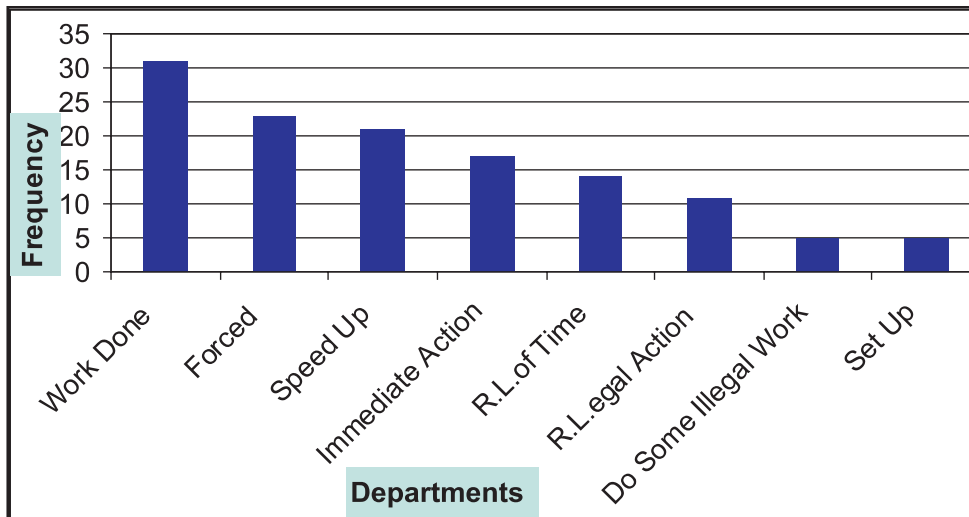


Figure 6. Respondents Reasons for Bribing.

by 13.38% of the respondents, fifth reason for bribing was given to Reduce Loss of Time by 11.02% of the respondents, sixth reason coded by 8.66 % of the respondents as to Reduce Legal Action and finally seventh and eighth priority was given to Do Some Illegal Work and Set Up by 3.93 % of the respondents respectively.

The reason given by majority of the respondent's show that any work with government departments could complete only with something paid for the work. Although tracing the history of corruption the reason for corruption was only to do some illegal work, now the reasons for corruption stand elite with government staff doing their legitimate work. Forced and Set Up are two reasons for which every Indian should be worried, for doing a legitimate work government staffs are targeting at some money, best example shall be the Register Office where anybody registering land should pay some percentage of value of the land. The third being Speed Up which show that government office don't compile with time factor which should be taken serious for consideration. The two reasons on which we shall be happy are Reduce Legal Action and Do Some Illegal work.

Table 4. Officers being bribed - Respondents.

Responses	Yes	No
Total 200	155	45

A majority 77.5% of the respondents have seen officers being bribed and rest 22.5 % of the respondents never came across such instances. A question was asked to respondents, who responded to seeing an officer being offered a bribe whether they have made a complaint about the instance to be discussed with the following table.

Table 5. Complaint Made - Respondents.

Responses	Yes	No
Total 155	20	135

Of those respondents seeing an officer being bribed only 12.9% of them have complained the matter to the authorities, rest 87.09% of respondents were asked to reason for not complaining which will be discussed with figure number 7.



Table 6. Action taken against the Respondents' Complaint.

Responses	Yes	No
Total 20	5	15

Out of 12.9% of the respondents' complaint only 25% i.e., only 5 complaints were taken for consideration against which action was taken and 75% of the complainants ended up No Action.

Figure 7 gives details on the respondent's reasons for not reporting after having seen an officer being bribed. The top reason for not reporting was No Action Will be Taken was felt by 22.22% of the respondents. 18.51% of the respondents coded Don't know whom to complain,

last reason was given Police will Act on their Own by 1.48 % of the respondents.

Table 7. Awareness of office "Directorate of Vigilance and Anti Corruption".

Responses	Yes	No
Total 200	95	105

From Table 7 we can infer that about 52.5% of the respondents were not aware of the office of Directorate of Vigilance and Anti Corruption and 47.5% were aware of the office. It is sad to note that literate people living in the capital city of the Tamil Nadu are not aware of the departments that are expected to be known to this population. If this is the

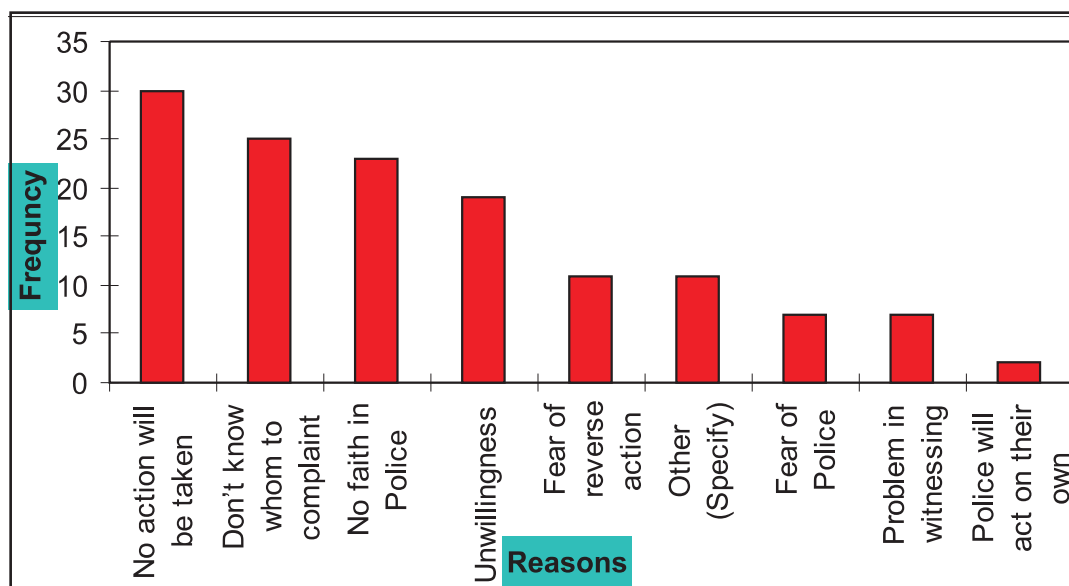


Figure 7. Resons for not Complaining - Respondents.

third top priority was given to No faith in Police by 17.03% of the respondents, fourth reason of Unwillingness was coded by 14.07% of the respondents, fifth reason was given to Fear of Reverse Action by 8.14%, seventh and eighth reason coded by 5.18% of the respondents as Fear of Police and Problem in Witnessing respectively. Finally

case in capital city, it is hard to think about those living in villages as Well was the illiterate.

Table 8. Contact Address - Respondents.

Response	Yes	No
Total 95	19	76

The majority of 80% of the respondents were not aware of the office address of the Directorate of Vigilance and Anti Corruption and only 20% of the respondents were aware of the office address.

Table 9. Contact Number - Respondents.

Response	Yes	No
Total 19	6	13

Of the 20% who responded that they knew the address of the Office of Directorate of Vigilance and Anti Corruption, only 6 respondents had the contact number of the office.

Table 10. Vigilance in Government Departments.

Response	Yes	No
Total 200	66	134

The majority of 67% of the respondents were not aware of the office of vigilance in all the Government Departments and only 33% of the respondents were aware of the office.

Major Findings

- ❖ Around 45% of the respondents were unable to rate all thirteen departments.
- ❖ Among the respondents, students were able to rank departments something between 7 and 10.
- ❖ As age is higher, higher the rating which directly means that public at large came across all the departments as they are aged.
- ❖ When considering 5 top ranked departments and top 5 responses people have experienced corruption personally or through news media or through hearsay or from their father's occupational experience.
- ❖ Reasons for bribing given by the respondents show

that even legitimate work in government requires something to be paid.

- ❖ Public in considerable rate have experienced and participated in bribing officers.
- ❖ Public in considerable rate have seen officer is being bribed in public places from which we can infer the inactiveness of the Office of the Vigilance and Anti-Corruption.
- ❖ Most of the public are not in a position to complain the corruption cases that they have come across which shows that public have no hope in complaining.
- ❖ Authorities in charge of Vigilance are not serious on the complaints made.
- ❖ Among the public, awareness on vigilance is definitely not upto the mark.
- ❖ Even literates are not aware of the department of vigilance in all the government departments as well as the Office of Directorate of Vigilance and Anti-Corruption.
- ❖ Respondents who responded that they were aware of the Office Directorate of Vigilance and Anti-Corruption did not have any contact number of the office.

Conclusion and Suggestion

The common man is fast losing faith in the government and its department works. Lack of transparency is the given reason, writes A. Ravindra in "The New Indian Express" dated December 14, 2003. "The Statesman" in its January 12, 2004 edition notes that the issue of official corruption in India is becoming like the weather over English Channel. Everybody talks about it, but apparently nobody can do anything about it. Corruption has assumed serious proportion over the last several years. It pervades even those segments of public services that were by and large immune from its

earlier senior officials of the central executives, member of judiciary, senior armed forces personnel and directors of the public / banker sector.

Avijit Pathak in "Deccan Herald", dated November 27, 2003, writes, "What do we give to our Children? Make the children encounter true stories of honesty, dedication and selfless services in this corrupt world." N. Vittal reports in "The New Indian Express" dated November 31st 2003, "Who is afraid of corruption? Why wont graft flourish in a country famous for its Judicial delays and poor conviction rate, the Law Commission in its 153rd report had made suggestions about speeding up the process of disposal of cases. Even CBI special court have jointed the list of normal courts. "The Hindustan Times", in its July 23 2003, " edition writes may "It be unrealistic to expect a corruption free country. The Netherlands, according to the CPI, with the score 9 out 10 is by and large a corruption free country. But there too, Prince Bernhard, the queen's father, was accused of taking 1 million \$ as bribe. Hong Kong was once notorious for corruption. But this came down after the establishment of a power -independent commission against corruption. Australia, since British convicts kicked off a white settlement 213 year ago, was once a country of convicts and crimes. It has now wiped off its black marks. Several European countries after centuries of war and sufferings evolved a society largely corruption free. If they can curb corruption, why not India build a society that will not tolerate corruption."

Corruption is anti-poor, anti-national, anti-economic development and shall create inequality in income and raise poverty. One of the best examples is our own country. Out of a population of greater than one billion in India, 26 percent live below poverty line. Any welfare policies addressing the needs of the poor are greatly hampered by the corruption that permeates the bureaucratic apparatus involved in such redistribution. Thanks to Indian government for drafting a bill on Right to Information and passing it on. Will 'Right

to Information Act' do the role of creating the transparency in government atleast to the least possible and make the country less corrupt? Finally, I conclude quoting the words of our former President of India, Dr. A.P.J. Abdul Kalam, when a student asked the President during 150th years celebration of the University of Bombay, who and how to combat corruption he replied "I can't; you can't; but we can. Tell your father, mother, brothers, sisters, neighbors and friends not to corrupt as well as not to get corrupted".

Suggestions

For Government

- ❖ Vigilance officers should inspect their department without the tip on inspection to find the actual situation in the government offices and act accordingly for better results.
- ❖ Both Central and State ministers should visit their respective departmental offices (at all level) without tip of his/her visit to the office to ensure the quality and performance of the government offices.
- ❖ Government should conduct major research on corrupt departments among the public and from the results find the problems of the departments and solve the issues.
- ❖ Government offices should definitely hold the address with the contact number of the Office of Directorate of Vigilance and Anti- Corruption as well as the Office of the Vigilance.

For Academicians

- ❖ All the social science faculties should update on the issues and recent trends in corruption and discuss it effect in the classes so that our younger generation becomes good citizens which is the need of the hour.
- ❖ Involve students interested in social issues to study corruption and find some remedial measures.

For Public

- ❖ Public should ensure that they do not corrupt officers and their staff.
- ❖ They should be bold enough to complain and stand by it.
- ❖ Public should spend some time for their legitimate work rather than bribing the officer for getting the things done immediately.

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

R. C Arora, IPS

The concept of All India Prison Duty Meet has been borrowed from the All India Police Duty Meet, which is being held since 1953, with a view to providing an opportunity to the prison personnel all over the country to exhibit their professional skills. The spirit of competition acts as strong motivation to pursue excellence in their professional jobs.

In order to provide a platform at the National level for the prison officers to show their talents and to promote the spirit of comradeship among the prison officers all over the Country, BPR&D successfully organized the Second All India Prison Duty Meet, in collaboration with the Directorate of Prisons, Gujarat State at Ahmedabad from 12-14 May, 2007. The Meet was inaugurated by the Hon'ble Chief Minister of Gujarat State and valedictory address was given by the Hon'ble Home Minister of State (Home), Government of Gujarat. Sh. R. K. Divakar, Director General of Prisons, Madhya Pradesh also addressed the participants. Sh. R. C. Arora, Director (R&D) and Dr. B. V. Trivedi, Assistant Director of BPR&D represented the BPR&D to facilitate smooth conduct of the entire Meet.

Eight major States of the country, namely, Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and the host state of Gujarat, have participated in this Meet with as many as around 194 prison officers (both G.O.s and N.G.Os).

The Meet included following eight events: (i) Essay; (ii) Quiz; (iii) Problem Solving; (iv) Unarmed Combat; (v) First Aid and Health Care; (vi) Finding of Hidden Prisoners; (vii) Volley Ball; and (viii) 100 Meter Race competition.

During the three-days Meet, all the participants had an opportunity to interact with each other with their professional enthusiasm and sportsman spirit on various operation problems which they are facing in managing their prisons. This will not only prepare the Prison Department to meet challenges of organizational and infrastructural support for such national event but also to

enable them sensitize their public problem in general and stakeholders in particular for the infrastructural issues relating to prison management.

While discussing the upgradation of prison infrastructure under the Centrally sponsored Modernization Scheme to meet the problem of overcrowding in their prisons during this Meet, it was unanimously felt that the BPR&D should provide model site plans of different kind of prisons to all States as vital instrument to construct their prisons. It would lead quickly to meet the correctional goal which would also accelerate the utilization of funds by the State Governments, under this Centrally sponsored Modernization Scheme.

In quiz competition, Madhya Pradesh had fielded two of their NGO's instead of the prescribed composition of one NGO and one GO under the rule. In response to the protest lodged by Andhra Pradesh, the jury of Appeal had unanimously decided to disqualify the MP team.

During conduct of various events in this Meet following suggestions were made:-

(i) The rules regarding composition of team for three events, namely, (i) Quiz; (ii) Problem Solving; and (iii) First Aid Competition and Hidden Prisoner should be revised to allow freedom to the participating States for nominating any of their prison personnel irrespective of rank. (iv) The rules should be revised for opening and closing ceremony in the sports track suit instead of working uniform. (v) The logistics arrangements required to be made for this important national Meet, the contribution from Government of India, Ministry of Home Affairs should be raised from existing Rs. 4,50,000/- (Rupees Four lakhs to Rs. 9,00,000/- (Rupees Nine Lakhs) lakhs.

The meeting of the Central Co-ordination Committee of the All India Prison Duty Meet will be convened shortly to discuss the feedback received from the participant of this meet held at Ahmedabad to make it more effective and transparent even by making necessary amendments in the existing rule of this meet wherever needed.

