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सम्पादकीय



Myths and Realities of Police Reforms in India

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Keyword

Arithmetic (a complicated calculation), Accountability, Transparency
Corrupt, Defective Police Act, 1861, Police Reforms.

Abstract

The Police is far from efficient, it is defective in training and organization, it is inadequately supervised, it is generally regarded as corrupt and oppressive and it has utterly failed to secure the confidence and cordial cooperation of the people'(A.H.L Fraser, chairman of the second Police Commission,1902). The words uttered by Fraser little more than a century ago holds good even today as not much has changed on the front of Police working and its image. The age old Police Act of 1861 is still applicable in our Police system. The term Police has assumed 'threatening feel' instead of friendly and soothing. The Challenges thrown to the Police, both by the society and those who are managing it, are not only large in number but also in size as well. The life is on fast track and looks for immediate answers to the problems faced, and for no reason anyone can take law in his own hand to find quick solutions to the problem. Therefore, onus on police for playing its role efficiently has increased over the years which necessities the need of reforms in the domain of police. This paper is an effort to find out the various attempts made to bring Police Reforms in India and the fate these met so far.

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Introduction

The Police have always been considered as the vital arm of the state, the acting arm through which state wield its power and authority. At the cutting edge level, it is the first point where society comes in contact with the state or vice versa when it comes to maintaining 'Public Order' which implies a harmonious state of society in which all activities conform to the established law. Among the state agencies, police, by the very nature of its role, are the most visible arm of the government¹ through which state express its power. In most simple way, it can be explained that it is through Police that state expresses and enforces its will. In the backdrop of this, the capacity and the capability of the Police to respond to a potential or real challenge to Public Order rapidly, efficiently, effectively, and in just and responsive manner, is of high significance. In fact, the functioning of Police in any state is the index of its respect for 'civil liberty' and 'rule of law'. In the developing countries like India, where democracies are flourishing more with their 'ails', the role of Police is wide open to critical appreciation so to say criticism which leave more often, the Police gasping for breath. The Police in such situations need to adopt more flexible, adaptable, accountable and transparent approach to shun its branded public image of being 'corrupt and non performing'. No Police can ever imagine to have all these above mentioned ingredients in the recipe of its problem solving curry, if it is not allowed to change its menu and the manner to serve by way of introducing changes through Reforms. Thus, timely Reforms in Police, if not the only answer, is certainly the potent tool to revolutionize the functioning and working of Police.

The efforts to reform Police have been sporadic and miniscule in proportion to their need. The lack of support from political elite, administrative set up and resistance from within the police force have been the main hurdle in police reforms and along with other added up reasons, the reforms have failed to catch the radar of lawmakers. On the priority scale of policy makers, the issue of Police Reforms has never been of importance as there is no political urgency or incentive for those who are affected by these reforms except for the public. Indifferent attempts of the policy makers towards any such effort may be the result of an impression that Police is a State Subject;

hence any attempt by the Union Government may jeopardize the otherwise sensitive Centre-State relations. Therefore, all efforts to usher in the reforms failed to materialize for one or the other reason till it was left to the two awakened citizens; former DGPs, Sh. Prakash Singh and Sh. N. K. Singh to launch friendly initiative through Public Interest Litigation for the much needed Police Reforms in India. The landmark judgment of Supreme Court containing seven point directives dated, 22nd September, 2006 gave a tremendous fillip to the attempts at reforming police and hopes were pinned on this decision of the Supreme Court, which laid down the time-bound compliance schedule to reform the police set up to pave the way for people's friendly police force.

The performance of Police in India leaves much to be desired and consequently reflects poorly on the credibility of the government. Police reforms, which are one of the most critical issues of governance, have remained a romantic tragedy ever since Independence. In fact, it is neither on the agenda of any of the governments; be it Union or State nor of the national or regional political parties rather the police have remained a neglected area in the context of reform². The matter is of serious concern looking at the alarming deterioration of major institutions which constitute the pillars of democratic polity, unabashed politicization of bureaucracy, nexus between the politicians, bureaucrats and criminals, criminalization of politics, and the security challenges facing the country³, thereby emphasizing on changed role of Police to face the millennium challenges, and thus calling for large scale reforms in police force. It may be wrong to perceive that no attempt or sporadic attempts have been made towards reforming the Police, but certainly it is right that these attempts in the direction of reforms have seen the tragic end every now and then.

Layout of the Paper

In this paper, the attempt has been made to examine the strange, unexpected and extreme pattern of handling Police Reforms in India in its most wavering form, along with the unlimited uncertainties

within the forced circumstances.

Why of Police Reforms?

The Police in developing countries like India has never enjoyed the good image which has been negative, and the performance has been dismal to say the least. There is nothing new about this image as has been stated earlier that "the Police force is far from efficient. It is defective in training and the organization inadequately supervised; is generally regarded as corrupt and oppressive and has failed to secure the confidence and cordial cooperation of the people⁴. It is more than a century when Frazer stated so but things have not changed much as far as image and performance of police is concerned; rather it has deteriorated further. We are no longer under the colonial rule and this fact makes the situation more grim as it is hard to digest that while in democratic framework we have not been able to address to this problem, even after more than six decades of our Independence. The carry forward of the Colonial Legacy has resulted in continuation of authoritarianism in police and the act and other statues governing the police, till other day, were 'Ruler oriented' than 'Rule Oriented'. These statues were no where near meeting the tripartite standards of good governance; accountability, transparency and equity. Police has image of being inactive at its best and at worse, they actively harass, oppress and brutalize⁵. One of the common charge against Police everywhere is non-registration of complaint as a pervasive/malpractice⁶. This bad situation can not be allowed to continue in perpetuity and hence there is immediate need for police reforms.

It is well understood that unless major systemic and legislative changes are effected with some sense of urgency, the very survival of the civilised society and democratic polity in the country is likely to be undermined.⁷

In any society the public needs an honest, efficient, effective police force that ensures the rule of law and an environment of safety and security through citizen-friendly efforts. The existing police systems have not only become redundant but have failed to provide a police set up that can effectively serve the people. The features of present

policing include brutality and torture, extra-judicial executions, a lack of due process, impunity, corruption, bias and discrimination and public fear, anger and resentment, which consequently results into a poor and negative image of the police force⁸. Public concern over these serious lacunae has provided impetus for reforms and need for bringing about varying degrees of modernization and transformation. Police reform is too important to neglect and too urgent to delay.⁹

Colonial Act & Mindset

In an organization, where basics are wrong, nothing can work right and so is the case with the police organization, which is based on an antiquated Legislation of 1861, which was enacted in the wake of the revolt of 1857¹⁰, essentially to subserve, uphold and promote the interests of the *Raj*. The design was tailored to suit the British imperial interests of subjugating the people. It was the revolt against British rule that necessitated the urgent need of an instrument to control the vast lands of the country and diverse people at an economical cost. Accordingly, a police force was designed that could develop a sense of fear of authority in the entire population and could serve as the first line of defense. This above referred Police Act completely ignored the basic principles of policing which include accountability to the citizens, beholden to judicial control and more significantly work for the prevention of crime by winning trust and cooperation of people they serve. In contrast, the colonial police shaped as an instrument of coercive power of the establishment¹¹ and is continuing its functioning, as if citizens do not wield any power over them even today.¹²

It was expected, with the dawn of Independence, that the new role, a new philosophy would be defined for the Police, that it would enforce the law of the land and would be accountable to the people through its transparent functioning but that was not to be, and the relationship that existed between the police and the foreign ruler before independence was allowed to continue with the only change that the foreign power was substituted by the political party in power¹³. Even today for Police in India, the *Raj* lives on as the

Police misbehaves and terrorizes the citizens and the lavish living style of the senior officers is still quite visible. The wide variance in application of rule of law continues and the class hierarchy even within the force is strictly maintained. This calls for a major transformation of organizational structure, management practices, supervision procedures, decentralization of power, creation of local accountability system, even a change in role and functions of the police in the society.¹⁴

On a number of occasions, the need has been felt and expressed for the enactment of a new Police Act, to replace the century old archaic legislation. Commissions after commissions starting from the National Police Commission (NPC), in their reports, submitted to the Central Government suggesting even the framework for a new Legislation. Some of these recommendations have become outdated and require a to be updated in the light of the emerging concerns of the recent times, but the fact that the Police Act needs recasting altogether and to be replaced with a modern, forward looking law is beyond any doubt.¹⁵

The Police in India is inefficient, irresponsible, insensitive and corrupt and the maladies now affect not only the cutting edge level, for long touted as the problematic core of the organization, but it has spread across the organizational ladder to the top, despite some shining examples of excellence and probity. The need for organizational and systemic reforms for this crucial institution of governance, urgent for decades, has now become emergent.¹⁶

Reforms of the police organization are crucial to the internal security of the country as well as to the administration of the criminal justice system. The fact that the popular perception of the police continues to be very negative only strengthens the need for police reforms.¹⁷

Rule of Law vs. Rule of Politics

The need for police reforms can also be understood from the David H. Bayley's remarks, "the rule of law in modern India, the frame upon which justice hangs, has been undermined by the rule of politics"¹⁸. The result of all this is to be seen in the declining standards of the

police and its growing alienation from the people. Professionalism is at discount. Officers spend a lot of time hobnobbing with politicians in an effort to be on their right side. The chain of command has become extremely weak. The control mechanisms are dysfunctional. People in general have little confidence in the police¹⁹. There is near unanimity among a cross-section of our opinion leaders, be they politicians, administrators, academics or members of the press, that the system is a rotten lot, and that the police will have to change radically in order to become people-friendly. The specific charges hurled by the common man are that the police are corrupt, brutal and insensitive to the poor. Perhaps the most damaging accusation is that the police are biased in favour of the majority community and do not protect the minorities when there is religious tension²⁰. Obviously, the pervasively deep rot necessitates comprehensive reforms at every level, incorporating every aspect of policing.²¹

A developing country needs a healthy criminal justice system and tragically, yet, the system appears to be disintegrating in India. The criminal justice system rests on four pillars – the police, prosecution, judiciary and the jails. All these must be strong and inspire the confidence of the people. Unfortunately, the functioning of all these in India leaves much to be desired. The prosecution is inefficient, the judiciary is sluggish and the jails have become dens of corruption and it is the failings of the police – its feudal character, archaic style, growing politicization and even links with the underworld – which are causing the greatest anxiety. It would be no exaggeration to say that police constitutes the central pillar of the structure, and its failure or even weakness could bring about a collapse of the criminal justice system.²²

Insulation from Politics

The Shah Commission in its Interim Report on Emergency (1975-77) had stated “the police was used and allowed themselves to be used for purposes some of which were, to say the least, questionable. Some police officers behaved as though they are not accountable at all to any public authority. The decision to arrest and release certain persons were entirely on political consideration, which were intended to be favourable to the ruling party. Employing the

police to the advantage of any political party is a sure source of subverting the rule of law. The Government must seriously consider the feasibility and the desirability of insulating the police from the politics of the country and employing it scrupulously on duties for which alone it is by law intended"²³. As such, there is a need to greatly reduce the frequency of wrongful and unethical directions to officers, either by the police leadership or by the political executive. There is a need for freeing the police from all-pervasive control of the political executive.²⁴

The social and economic changes are transforming India. Effective policing is a necessary condition for sustaining economic growth and social progress. In partnership with other sectors, the police need to evolve new models of criminal justice that are appropriate to 21st Century India. The need for police reforms also stems from the emerging challenges such as, terrorism/organized crime; white collar crime; urban policing and traffic; social tensions, etc²⁵. Cyber crime is one such emerging challenge and the main responsibility of detecting and investigating cyber crime in India will be of the Police, which is not trained and equipped to discharge it. It is largely an unexplored frontier for the Police in India as either the police person is unaware of or apathetic to this menace looming on our horizons. The threat is already at our doorsteps and is likely to become the biggest white-collar crime in the 21st Century.²⁶

In order to meet the emerging challenges, modernization and transformation of police is required. Police leaders will have to make criminal investigation more science-aided so as to bring down the incidence of the third degree methods during the interrogations. The need is to expand the facility of DNA testing. As far as communication is concerned, there is an emergent need for linking all the police stations through Polnet.²⁷

Large amount of occupational stress in Police also necessitates the need for reforms. Policing is widely recognized as more stressful than most other occupation. Policemen face strong job demands, besides being constantly under political and media scrutiny, many of the demand cannot be met adequately. There are many professional and legal strictures that circumscribe the policing response, which

can lead to frustration and this overlaid with job demands cause strain and stress in individual police officers.²⁸

Thus, as is evident from the foregoing discussion there exist a number of factors, which necessitates the need for police reforms in the country, which is vying for slot among the global ‘superpowers’.

Romance with Police Reforms

The emerging need for reforms in police as signified in previous pages does not mean that no love ever was lost between the Police and Reforms. Both the eras – before independence and after independence witnessed certain attempts gestures, at least, to engage the police with reforms but each time the romance between the two never flourished rather ended up tragically leaving much to be desired. In the table below (table 1) all such main efforts towards reforms have been discussed and assessed below:

Table 1: Prominent Attempts at Reforming Police in India

Police Reform Initiatives	Year (s)
First Police Commission (M. H. Court Commission)	1860
Indian Police Act	1861
The Second Police Commission (A. H. L. Fraser Commission)	1902-03
Working Group on Police Training Report (Prof. M. S. Gore)	1972
National Police Commission (Reports 1 to 8) Headed by Former Governor Sh. Dharam Vira	Constituted in 1977 Eight Reports between 1979- 1981
Julio Ribeiro Committee	1998-99 First Report October 1998 Second Report March 1999
Padmanabiah Committee	August 2000
Malimath Committee for the review and reform of the Criminal Justice System	2002
Police Act Drafting Committee (Headed by Sh. Soli Sorabjee)	2005-2006 Constituted in September 2005. Completed its six month term on 31 st January 2006.

SC Judgment in the Prakash Singh and Others Vs. Union of India	22 nd September 2006
Monitoring Committee	Constituted by Supreme court in may 2008
Supreme Court directions to four states Chief Secretaries to appear before it on the basis of report of monitoring committee	November 2010
Supreme Court Directions to amend Acts or made new Acts as per directions of the court and in compliance with the directions.	December 2010

Source: Compiled from various Sources

The village system of policing followed by the *darogha* system and return to the traditional method of village policing were some of the initial attempts by the British, to control crime and organize policing in India. Sir Charles Napier experimented with the Royal Irish Constabulary model of policing in Sind in 1843 and bits and pieces of this experiment were adopted in other parts of India. The Mutiny broke out in 1857, shocking the British and ushered in a period of reassessment. As a result, a Police Commission was appointed in 1860 to study exhaustively the police needs of the country and government²⁹. Objectives before the Commission of 1860 was to set up civil constabulary primarily to enable reduction of the strength of "Native Troops" in Army to the minimum required so that the rule is not threatened again, since, the native troops, had also participated in the 1857 revolt against British Empire. The question of economization also got clubbed with this need. The proposed constabulary was expected to be an economically viable substitute for the Military police, and less dangerous too. The role envisaged by British for the civil constabulary was to maintain internal tranquility, protect life and property, prevent and detect crime, to furnish guards for public properties and public installations like jails, treasuries, etc. and to perform a variety of civil duties.³⁰

In fact, the Police Act of 1861 flowed from the report of this First Police Commission. The Act paid greater attention to the structure of the force but, did not lay down any new standards of recruitment,

training and compensation. The Second Police Commission, known as the Fraser Commission, set up in 1902, also addressed some basic structural modalities, personal matters and more importantly the indianization of the higher echelons.³¹

On 15th August, 1947 India attained freedom, which brought along new dreams, new hopes and new promises for the people of the country. It was expected that the transition from colonial to a democratic era would by itself bring about transformation in the quality of governance in general and in the Police set up in particular. Somehow the new democratic environment could not furnish the system, which could match with the hopes and aspirations of the people of free India. The colonial system carried on with some changes around and the Police was no exception. Most of the attempts at Police Reforms were without significant achievements. We assess these attempts in the discussion to follow.

Major Attempts at Police Reforms

Some of the major attempts at Police reforms have been analyzed as under:

National Police Commission (1979-81)

The freedom brought along some radical changes in political, social and economic systems, which further necessitated comprehensive review of the existing system in the country. It was felt that a fresh examination is necessary of the role and performance of the Police both as a law enforcement agency and as an institution to protect rights of the citizens enshrined in the Constitution.³²

The bold step was taken by the Union Government of India by constituting the National Police Commission (NPC) in the year 1977 and the Commission was given wide terms of reference to view fresh certain areas relating to Police and Police Administration, which included the organisation, role, and functions of the police, police-public relations, political interference with police work, misuse of police power and police accountability and performance evaluation. The NPC produced eight reports between 1979 and 1981, setting out wide reaching recommendations for reforms. Its salient recommendations included setting up a State Security

Commission in every State; making the investigative functions of the police completely independent of any extraneous influences and separating it from its law and order functions; prescribing a procedure for the appointment of Police Chief and giving him a minimum statutory tenure; and formulating a new Police Act. The reports of the NPC along with their areas of main recommendations have been mentioned in the Table 2 below:

Table 2: National Police Commission's Reports

NPC Reports	Month & Year	Major Recommendations on
First Report	February 1979	Working and living conditions of the constabulary formed the focus of the first report. Its other recommendations were on Police Department's and Judicial inquiries and District Inquiry Authority's inquiries into complaints; etc.
Second Report	August 1979	The duties, powers and responsibilities of the Police was the focus. Other recommendations were on Criminal Justice Commission; Political Interference in Police Work; Chief of Police – appointment and tenure; Transfer and Suspension orders, etc.
Third Report	January 1980	Focus was on Weaker Sections/ disadvantaged groups; and Corruption. Its other important recommendations included on Officer postings; Guidelines for arrest; Guidelines for the use of handcuffs; Petty Cash, etc.
Fourth Report	June 1980	Focused on Criminal Investigation, trial in court and social legislation. Other recommendations included on Registration of FIR; Witness examination and statements; Compounding Offences; Communicating Arrest; Reducing mistreatment in custody, etc.
Fifth Report	November 1980	The method of Recruitment, code of conduct, behaviour and women police officers. Other areas included Control of the District Magistrate; Police Conduct; Victims of Crime; Transparency, etc.

Sixth Report	March 1981	Focus areas of this report were Police leadership, IPS training and handling of communal riots. Other important recommendations included on Promotion; Creation of Central India Police Service Cadres; Police Commissionerate system in major cities; Reservations; Separation of Investigation and Law and Order, etc.
Seventh Report	May 1981	Focused on organizational structure, performance appraisal and discipline and control. Its major recommendations were on Internal Management; Standards for Police Stations; Establishment of a Central Police Committee; and an All India Police Institute, etc.
Eighth Report	May 1981	Focus areas were Police accountability, future of policing and appended a Draft Police Act for replacing the century-old law of the British days. Other area covered included Withdrawal of protection from prosecution, etc.

Source: Compiled from various sources. ³³ & ³⁴

Ribeiro Committee (1998-1999)

The Ribeiro Committee was constituted by the Union Government in May, 1998 to comply with the directions of the Supreme Court arising out of a Public Interest Litigation, filed to get the recommendations of National Police Commission (1977) implemented. The Committee's terms of reference were to review action taken to implement the recommendations of the National Police Commission, the National Human Rights Commission and the Vohra Committee and to suggest ways and means to implement the pending recommendations and to make any other recommendations which it considered necessary. The Committee released two reports. The first report was released in October 1998, which dealt with Supreme Court's specific concerns. The second report more general in nature was released in March 1999. The recommendations covered a

wide range of issues such as creation of Police Performance and Accountability Commission with an advisory and recommendatory role³⁵; District Police Complaints Authority; Police Establishment Board; recruitments, transfers, tenures, promotions, rewards and punishments; selection of Director General of Police; investigations; replacing Police Law.³⁶

Padmanabhaiah Committee (2000)

The central government put together another committee in January 2000 to look at police reforms, commonly known as the Padmanabhaiah Committee. With wide terms of reference, the Committee was required to examine the challenges that the police would face in the next millennium; to envision a force that would be people friendly and yet able to effectively tackle problems of organized crime, militancy and terrorism; suggest ways to transform the police into a professional and competent force; identify mechanisms to insulate police from political interference; consider redressal of public grievances and of police grievances; devise ways of securing public trust and cooperation; and examine the need for 'federal crimes' and creation of a Federal Law Enforcement Agency. Some of the important recommendations of the Committee were: greater recruitment of Sub-Inspectors instead of Constables; retraining of existing constabulary; setting up of a Police Training Advisory Council at the centre and in each state; Police should adopt the philosophy of community policing; setting up of a Police Establishment Board; minimum tenure of two years, police personnel should be given a weekly off and compulsorily required to go on earned leave every year; Investigation should be separated from law and order work; police station should be equipped with 'investigation kits'; need to encourage specialisation in various aspects of policing; the entire concept of personal security needs a careful review and dismantling; certain offences having inter-state, national and inter-national repercussions should be declared "federal offences"; need for a special and a comprehensive law to fight terrorism; set up a District Police Complaints Authority; the Police Act of the British time should be replaced by a new Act; and setting up of a National Commission for Police Standards ³⁷& ³⁸ and also stated that there is a need for comprehensive reforms in Criminal Justice Administration.³⁹

Police Act Drafting Committee (2005-2006)

The Government of India set up another Committee in 2005, popularly known as the Police Act Drafting Committee under the Chairmanship of Sh. Soli Sorabjee. The Committee began sitting in September of the same year and submitted a Model Police Act to the Union Government in October, 2006. The Committee's terms of reference were to draft a new Police Act in light of the changing role and responsibilities of the police, as well as the challenges presented by the increased insurgency, militancy and naxalism in India. The terms of reference required the new Act to include measures to change the police attitude (including a working methodology to involve the community in policing) and reflect the community's expectations of a modern police service. When drafting the law, the Committee was also required to consider forensic methods of policing. The terms of reference also mandated that the new Police Act should address the issues of human rights, concerns for women, and people belonging to Scheduled castes and Scheduled tribes.⁴⁰

Prakash Singh and Others vs Union of India (2006-07)

On the basis of a Public Interest Litigation filed by the two former DGPs, Sh. Prakash Singh and Sh. N. K. Singh in the year 1996, the Court gave its ruling on 22nd September, 2006 that given the 'gravity of the problem' and 'total uncertainty as to when police reforms would be introduced,' it would issue 'appropriate directions for immediate compliance'. These directions were binding upon central and state governments and governments were initially required to report to the Court on steps taken to comply with the directions by the end of 2006. The majority of the states filed applications seeking more time. Some of these applications also sought review of the judgment. The court refused to review its directions and ruled that governments were required to comply with its directions by the end of March, 2007⁴¹. However, the petitioners further brought it to the notice of Supreme Court that the directions of the court was not seriously taken by many states as was reflected by their non-serious attitude which led to constitution of three members monitoring committee by the Supreme Court in May, 2008. The Committee was to examine New Police Legislations, affidavits submitted

by state governments and union territories, to apprise the Court of unnecessary objections raised by the States. The Committee submitted four reports between October, 2008 and December, 2009. The committee examined New Police acts in conformity with the directions and found that many states made deviations from the suggested guidelines by the court. Considering that it was not possible to visit all the states, the committee decided to visit only four states of India Maharashtra(west), Utter Pradesh(north), Karnataka(south), West Bengal(east); all these states were defaulters in the assessment of this committee. The monitoring committee in its report pointed out wide deviations made by these states while legislating their New Police Acts and as a result the Supreme court directed all the states to replace the Newly Legislated Police Acts or modify those according to the directions of the Court.

On the premise that systematic and organized Police reforms for the long run are needed and in the same direction the seven directives by the Supreme Court provide practical mechanisms to kick-start reforms and these seven directives were based on the recommendations of many commissions and committees on police reforms that were set up in India over the last more than six decades. The directives of the Supreme Court to the governments have been summarized in the Table 3 below:

Table 3: Supreme Court Directives of 22nd September, 2006 in Prakash Singh and Others Vs. Union of India and Others

S. No.	Directives
1.	Constitute a State Security Commission to (i) ensure that state governments does not exercise unwarranted influence or pressure on the police, (ii) lay down broad policy guidelines, and (iii) evaluate the performance of the state police
2.	Ensure that the Director General of Police is appointed through a merit based, transparent process and enjoys a minimum tenure of two years
3.	Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) also have a minimum tenure of two years

4.	Set up a Police Establishment Board, which will decide all transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers of officers above the rank of Deputy Superintendent of police
5.	Set up a National Security Commission at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organizations (CPO), who should also be given a minimum tenure of two years
6.	Set up independent Police Complaints Authorities at the state and district levels to look into public complaints against police officers in cases of serious misconduct, including custodial death, grievous hurt or rape in police custody
7.	Separate the investigation and law and order functions of the police

Source: Compiled from Commonwealth Human Rights Initiative (2008)⁴²

Earlier Efforts at State Level

In addition, there have been several attempts made at the State Level also to reform the Police. They included, The Bihar Police Commission (1958), The Kerala Police Reorganization Committee (1959); The West Bengal Police Commission (1960-61); The Punjab Police Commission (1961-62); The Delhi Police Commission (1968); The Tamil Nadu Police Commission (1971), etc. Most of these Commissions have pointed out to the political interference in the working of police towards unlawful ends. The recommendations of these Commissions were mainly concerned with details of the administrative set up, the strength of the police force in different wings of the system, pay and allowances of the police in different ranks, qualifications for recruitment to various ranks, the set-up for training centres, curricula for training and the like.⁴³

What make the Reforms Improbable?

Despite the fact that Reforms in Police are most required for changing the work culture and image of police, yet in all probabilities there

appears no congenial setting to begin with these reforms because the reforms arithmetic looks unpleasant to the government(at all the levels) and the Police as well. The reason responsible for making reforms exercise a difficult proposition are many; in the next part some of the important factors has been discussed.

Political Overtures

It is not difficult to deduce that political will is a pre-requisite for bringing about reforms. Wherever reforms in administration have been successfully carried out, it had sound political backing. The progressive legislations successfully pursued after Independence stands testimony to that. Unfortunately, it has been observed that there has been lack of political will for whatever reasons. The political elite in India to a large extent is comfortable with using (read misusing) Police for its own ends. The Executive misuse and abuse of the police has generally manifested in the form of frequent postings and transfers; recruitment procedure vitiated through political recommendations; influenced promotions; tampered investigations; unlawful directions to the police; and Intelligence apparatus exploited for political purposes⁴⁴. It is, therefore, extremely convenient for political class to show no will towards police reforms and as such there is hardly any urgency for the political class to go for police reforms. Governments over the years have manipulated the police force for self-gain. Police has been used to put down opposition, to cover up failures of the ruling party and protect friends. The political leadership is just not prepared to give functional autonomy to the police because it has found this wing of the administration a convenient tool to further its partisan objectives. As for the bureaucracy, control over the police is an intoxicant they have become addicted to and are just not willing to give that up⁴⁵. Both political and administrative leadership lacked vision on the Police reforms and allowed it to languish in wilderness.

Toll of Democracy

Whenever polity turned around and thought of reforming police, another sad aspect of our democracy came, to the surface and that

was failure of political parties to rise above their partisan stands. We saw National Police Commission under the stewardship of Sh. Dharam Vira appointed in the aftermath of the 'emergency excesses', in the mid-seventies, when the police force as a whole ended up sharing the blame, the wide-spread police unrest at the level of the Centre and in many States around the time lent it greater urgency⁴⁶, come out with excellent eight reports, but, these reports were seen from the politically tinted glasses and were mostly ignored. When Congress came back to power, it made no significant attempt at its implementation. The reason for ignoring the recommendations of the Commission was that it was appointed by Janta Government in the post-emergency highly charged era. Thus, NPC reports became a victim of politics with the change of Government at the Centre in 1980 and it is known fact that in democratic set up power keeps changing hands.

Police as a State Subject

The Police as a subject finds place in the Entry 2 of the List II – State List of the Seventh Schedule of the Constitution of India. The subject Public Order has been mentioned in the same List at Entry number 1. ⁴⁷ Thus, Police is a State subject, which suggest in a concealed manner that Union Government should refrain from interfering in the domain of States lest it may upset the sensitive Centre-State relations. This argument seems fallacious because there have been numerous cases of dismissal of legitimately elected State Governments and imposition of President's rule at the drop of the hat by the Union. It requires not much of the intellect to come to the conclusion that if Union would have willed, police reforms, even if it is a State subject, would not have been that difficult. Also given the political atmosphere of the time and the prevailing one-party dominant system, it was possible for the Union Government to undertake a leader's role in guiding and coordinating police reforms.⁴⁸ But somehow in blame game it remains pertinent that Police is a state subject.

Financial Constraints

It has also been suggested that India being a developing country,

there are so many vital issues competing for the scarce resources as far as allocation is concerned and as such Police or Policing can not occupy high level on the priority scale. Police reforms would also mean police modernization and that would have huge financial bearings on the budget. Police arms and technology has failed to match those of the criminals – one does not see that happening in many countries. Obsolete guns of the Police are no match for sophisticated rifles of AK series used by the criminals/terrorists. There is a dire need of overhauling and modernizing the arms and armoury as well as communication gadgets of Police force as per the latest techniques and technology but cost is standing in the way.

Organizational Culture and Mindset of Police

Over the years, Police has worked in an organizational environment where their negative attitude, oppressive behavior, unjust dealings and brutal use of force were considered their asset. The Police organization developed a culture which suited them as well as the ruler alike. Likewise, the Police Personnel has developed the mind set, where change from the present system to new system is considered obnoxious. For them, present set up is doing very well as they are used to it and more so it served their interest so well.

Concluding Observations & Suggestions

The police as the key institution of internal security, far from being democratized and responsive to the needs of the common man in the country, stand deinstitutionalized, discredited and delegitimized.⁴⁹

In the era of cooperative federalism, it is essential to have good relations between the Centre and States and there is a always a possibility that the national cause rather than parochial narrow interests would hold. Over-politicization of matters such as these of vital national interest, needs to be corrected. Focus on Vote banks and short-sighted approach would lead to disaster, rather is leading to disasters already.

The strength of a democratic society, the quality of life enjoyed by the citizens, inclusive of individual's safety and security of property,

are determined in a large measure by the ability of the police to discharge their duties efficiently. Police has become a difficult and complex endeavor. Though the main function of the police is prevention and detection of crime, the police have also to deal with a wide range of problems, which are not criminal in nature. The Police have to recognize that their role in society is broader than mere enforcement of criminal law. The police must proactively try to solve the problems rather than respond reactively to the consequences of the problem.⁵⁰

Once the public are educated about the difficulties of the Police in doing their legitimate work, they can become pressure points to bring about Police Reforms⁵¹. The deafening silence of masses on these issues will have to be converted into a persistent, vocal and even a shrill demand for a time-bound programme for legislative, systemic and structural reforms relating to the police aimed at upholding the rule of law and inculcating the primary requirements of public accountability, transparency and moral values in what is perceived by a common person as an exploitative arm and ugly face of the government.⁵² It is amazing that something as basic as this has remained unattended so far.⁵³

The National Human Rights Commission, in its Annual report 2000-2001, stated that: "Reform of the Police is of critical importance to the protection and promotion of human rights in the Country. The Commission urges the Central and State Governments to show the necessary political will to reform the police along the lines of the recommendations that have been made. Failure to do so is diminishing faith in the impartiality and integrity of the police and corroding the national polity". What is at stake is not only the vitality and credibility of the police but the very survival of the democratic structure and the success of the economic reforms. Mechanisms must be devised which safeguard the police from becoming a tool in the hands of unscrupulous politicians or oblige it to protect criminals. The Police should statutorily be made accountable to the people of the country and the laws of the land. The Police need to actually be facilitating the forces of socio-economic change and playing the role of protagonist rather than antagonist. The life, liberty and well

being of large masses of Indian population are inextricably linked with reforms in the police⁵⁴.

Unpleasant Arithmetic of Police Reforms

On 11th January, 2007, the Supreme Court considered the objections and concerns of the States and the Union to its judgment and while taking account of their objections and concerns said very firmly that the process of police reforms must commence immediately. What the Supreme Court says is law. Not complying with its directions amounts to disobedience and can mean being charged with contempt of court. On 9th April, 2007, the Court set yet another date (30th April, 2007) to look at applications for extension/modification. On 23rd, August 2007, the Court dismissed all review petitions by the State and the Central Government, as it did not find any merit in them leaving it to the States to implement the Court's order. Many States have made statements that they support the spirit of reform behind the Court's directives. However, States have made the following arguments against immediate implementation of the directives, particularly in the current form. The need for setting up a State Security Commission has been questioned; setting up a State Security Commission with binding powers is likely to undermine the power of a constitutionally established state over the state police which will lead to the creation of a parallel body, which is not accountable to the people of the state and would infringe the rights of the state; a fixed two-year tenure for the DGP, irrespective of their superannuation date, will block opportunities for other eligible senior officers, who will be demoralized, further the directive take away the right of the government to transfer police officers to meet administrative exigencies; the involvement of UPSC is neither practical nor necessary; short tenure does not impact on efficient functioning as fixed tenure is not guarantee of good performance; a Police Establishment Board would run contrary to the democratic functions of the government and result in creation of a separate power centre, comprising bureaucrats who are not answerable to the people, while also duplicating existing systems; there are already so many bodies like NHRC, Minorities Commission, CVC, to deal with complaints about police, creating new State and District Complaints

authorities would only duplicate the work of existing agencies and would be a financial burden; creation of Complaints authorities would demoralize police. However, in the light of fresh directions of Supreme Court (2010) after the submission of monitoring committee report, most of the States have either recently passed new legislations or have commenced work to draft new police legislation.⁵⁵ & ⁵⁶.

Police reforms are the needs of the times and should not be compromised by the states and the union government for their political or other interests. It is said that charity begins at home so each state or each level will have to get into the mode of initiating and implementing the reforms keeping in view the principle that 'charity does not like Arithmetic', 'selfishness worships it'. The stakeholders will have to disapprove of their selfishness by the way of commitment to enforce these reforms in all honesty and at the earliest.⁵⁷

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Need To Strengthen Police Forces for Peace, Democracy & Development

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Keyword

Functional Democracy, Beleaguered, Institution, Political Interference, Unsupportive Leadership, Poor Image, NPC, Skills, Equipments.

Abstract

Police plays significant role to maintain rule of law, the foundation of healthy and functional democracy and to sustain growth and development of nation, but it is today the most beleaguered institution owing to political interference, poor work culture, unsupportive leadership and a poor image as corrupt and unhelpful institution. Magnitude and complexity of problems demands a holistic approach on political, capacity building, people and management front to address the issues and challenges before the police. In the absence of impartial law enforcement, there can be no justice and equality, the essential ingredients of democracy.

Reforming the grass root police administration, effective system of redressal of grievances of police personnel, implementation of National Police Commission recommendations in true spirit, good governance and modernizing the police forces by equipping them with necessary skills is essential to make the police reliable and effective institution for peace, democracy and development of Nation.

Introduction

Peaceful and congenial security environment is pre-requisite not only for growth and development of a nation, but also for

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mental and spiritual growth of its citizenry. Police ensures peace and security by restoring rule of law and proper maintenance of law and order. It provides a sense of security by protecting life and property of people. Though India witnessed marginal improvement in its external security environment in recent past, yet internal security which mainly is the domain of Police forces continued to deteriorate in view of Maoist Naxalite terrorism, organized crime, religious and ethnic secessionism, unstable regional security environment and powerful Mafias¹. In order to counter this menace, police forces need to be professionalized and modernized. However, the police administration suffers from weaknesses in organizational structure, poor work culture, political interference, ineffective training, lack of accountability, poor infrastructure² and poor image of police as corrupt and unhelpful. Autonomous, efficient and accountable police force is needed not only for just and orderly society so vital to restore rule of law, but also for India's long term objective to become major economic and political power by 2020.

Unstable regional security environment has been a cause of concern for India ever since Independence. China has been subjecting India to ever increasing diplomatic and military pressure in recent past³. Similarly hostility towards India has always remained a key objective of Pakistan's security policies⁴. This troubled relationship with its neighbour has implications for India's internal security. Apart from it, Maoist or left extremism is posing a serious threat to the security of Indian State. The total number of naxals in the country is pegged at 2 Lakh. Their movement has spread to areas under 2000 police stations in 222 districts across India⁵. The Naxal leader Koteswar Rao claimed that they would overthrow the Indian State before 2050⁶. Also various ethnic and sub ethnic groups are creating violence in various parts of North East. Similarly, Home grown jihadis, powerful land Mafia and Cyber Crimes are posing a serious threat to the internal security of India. Therefore competent, efficient and professional police forces are needed to counter the menace of these threats. In the post-independence period various factors have demoralized the Indian police forces and crippled their capacity to restore the rule of law and to create peaceful and congenial environment for safety and security of the citizens. The complexity

and magnitude of problems demand a holistic approach to address the problems and to make the police an instrument to promote peace, democracy and development. These problems have to be tackled on political, security, people and management fronts.

Political Front

Political leadership has to show more courage to counter this threat perception and better awareness of strategic environment, and has to equip the nation with modern and professional police forces. But political class backed by the civil services has not allowed the police to be an autonomous institution. It has maintained control over the police force for political purpose. "The Independence and efficacy of police administration was systematically chipped away to ensure political bosses held sway"⁷. The mass transfer of police officers at the time of change of incumbent state governments bear testimony to this fact. The system of finding the right person for the right job is missing because there is no institutionalized system of recruitment, posting and transfer⁸. These matters are left to whims and fancies of politicians. Consequently, politicians have used transfers and postings as a weapon to brow beat the honest police officers while rewarding the pliable ones. The treatment of top police officers in the states suggest that politics is never far from the surface when dealing with security⁹. Far from professionalizing the police forces, they seem to be made according to political compulsions. Politicians strong hold over police forces has affected the capacity of leadership to exercise control over subordinate police hierarchy. In such a scenario it is difficult to enforce the accountability of police. It is also difficult for the police itself to maintain *esprit de corps*.

Political pressure and partisan law enforcement has been accepted as administrative norm. Under such circumstances even honest and law abiding police officers are forced to align themselves with party in power. It has seriously eroded the capacity of police forces to conduct independent and fair investigation of crimes and criminals. Consequently, impartial law enforcement has become a casualty¹⁰. No one can rely on their impartiality in dealing with large scale communal and caste riots or political disturbances.¹¹ It was demonstrated by its inability and bias to protect minorities,

women and underprivileged during communal riots. It has resulted into discrimination & denial of fundamental right to life & liberty to them which is *raison-detre-of-democracy*. It was also severely indicted by justice Srikrishna Commission constituted to enquire into Mumbai riots, nor can it be trusted to play a neutral role to ensure free and fair elections, so vital for healthy and smooth functioning of democratic system in India. Partisan and corrupt law enforcement machinery and the country's clogged judicial system have failed to provide ready justice to the common man¹³. Consequently justice and equality, the essence of democracy are the victims. As autonomous, impartial and competent police forces are essential for good governance as also for healthy and functional democracy. Therefore, there is urgent need to reform the existing police system and make it capable of countering the threats staring the nation in face. But political will and vision and bureaucratic commitment to reform has been sadly lacking. This is evident from the fact that National police commission (NPC) report submitted thirty two years ago, is gathering dust and yet to be implemented. In the Chief Minister's conference on internal security held in 2010, it was disclosed that 22 state have not yet enacted a new police act; 19 States have yet to set up a police complaint authorities, 24 states have not yet established state security commission.¹⁴

Reforms till date have been rudimentary at best, efforts conservative. They only tinker with existing processes¹⁵. Also the credentials of politicians to reform and modernize the police forces are hardly convincing. In the current Lok Sabha, criminal cases are pending against 153 MPs., 74 of them facing serious charges such as murder and robbery¹⁶. Similar picture prevails in state assemblies. In the recently concluded elections to five state assemblies of viz. Uttar Pradesh, Punjab, Goa, Uttrakhand and Manipur thirty five percent or 252 of the 690 MLAs have criminal background, which is a rise of eight percent from 2007.¹⁷ Therefore, good governance is a pre-requisite for successful functioning of police forces. As such, they should demonstrate necessary will and commitment to bring about good governance. The present anti-defection law fails in checking the entry of criminals in the holy precincts of parliament and state legislature. It should be provided with more teeth to block the entry

of persons with criminal background to the legislative bodies at any level. As only man of integrity can be hoped to give necessary direction and bring about change to get the police rid of partial and partisan influence and make it autonomous and secular institution. Similarly, archaic and complex procedures have made our justice system slow, inaccessible and in reality unaffordable¹⁸. As such, there is urgent need to increase the number of judges, to strengthen infrastructure and to change criminal law for ensuring speedy trial of cases.

In order to free the police forces from political influence, the basic issue of loss of morale due to unjust and untimely transfer needs to be addressed before speaking of other reforms¹⁹. The Second Administrative Reforms Commission (ARC) has recommended to constitute State Police Establishment Committee to deal with all matters of postings, transfer, promotion and also grievances related to establishment matters of all gazetted officers up to the rank of Deputy Inspector General of Police and District Police establishment Committee to deal with establishment matters of non-gazetted police officers²⁰.

The essence of democracy is equality, justice and rule of law. Rule of law is cardinal principle of democracy. In its absence there will be chaos and anarchy and will of the mighty shall prevail. Police can restore rule of law by independent and impartial law enforcement as per the settled principles of law of land. To achieve this objective, it is also essential to see that police performs its duty lawfully, diligently and efficiently. Second Administrative Reforms Commission has recommended to constitute State Performance and Accountability Commission to frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with laws and identify performance indicators to evaluate the functioning of police service²¹.

Capacity Building Front

According to the federal scheme of distribution of subjects, law and order is State subject. Hence, state police force has a vital role to play to maintain law & order. But there are various constraints to

perform this role effectively. It faces various problems like low pay, lack of infrastructure, politicization, poor image of police among people, outdated weaponry and appalling living conditions are blots on Indian law enforcement²². State police forces face several security challenges from organised mafia, terrorist groups, cyber crimes, adulteraters, smugglers, bookies and in the form of sophisticated and lethal devices used by terrorists and criminals to commit crimes. Only independent, well-equipped and accountable police force can tackle these threats. Hence, there is an urgent need to reform and modernize the police forces. These reforms to be meaningful have to start at the grassroot level. Constabulary constitutes 87% strength of total police workforce²³, but it does not take pride in their uniform because of low salary, poor work conditions, heavy workload. Little chances of promotion and mechanical application of mind tend to demoralize and demotivate policemen²⁴. Their educational qualification and training module do not equip them to fulfil their duties and responsibilities. Degenerated political environment and lack of support of senior officers have further complicated this situation. Consequently, their efficiency and effectiveness is progressively declining since independence²⁵. To reform this system would require to upgrade the skills and training equipping them with modern weapons and communication system, housing and schooling for their kids ample chance to improve their educational qualification, promotion prospects, salary commensurate with their duties and responsibilities and reduction of their workload by outsourcing non core functions, so that they can focus on prime duty of policing.

Further, the top police officials are discontented about their work environment and career prospects. The Management of the IPS Cadre by both the States and Ministry of Home Affairs (MHA) has left a lot to be desired²⁶. The top police officers are not satisfied with conditions of service due to tough postings, disturbed environment and leadership crisis. There was shortage of 630 IPS officers as on January 1, 2010. Many IPS officers have resigned after the implementation of sixth pay commission for better prospects in private sector²⁷. Other factors prompting officers to resign include stagnation, late promotion, arbitrary cadre allotment, long field

postings, arbitrary and abrupt transfers, disparity with other All India Services and lack of motivation. Therefore, there is an urgent need to address these issues and bring necessary change with changing times and environment²⁸.

Training is investment in Human resources.²⁹ It has significant potential to improve the efficiency & effectiveness of police forces. Unfortunately, India does not have a single world class institution for teaching, investigation, forensics, intelligence or tactical skills³⁰. Training of lower police personnel should be on a need-to-know basis without the intricate laws, procedures, manuals and drills. Refresher courses should be organized from time to time to apprise them of the latest development in their relevant areas and techniques³¹. Second ARC has recommended that the states should earmark a fixed percentage of the police budget for training purposes, common training programme for police, public prosecutors and magistrates. Its aim should be to bring attitudinal change and to introduce a mechanism to assess the impact of training programmes on trainees³².

Public Perception

People's cooperation is vital input to assist the police in the maintenance of law & order and detection and investigation of crimes. The Supreme Court of India has dealt with, at length, on the fundamental duties of the citizens, as provided in Article 51 of Constitution to promote harmony, to safeguard public property and to abjure violence. People will extend their wholehearted cooperation only if they see police as impartial, efficient, secular and people friendly institution. But it has not been able to elicit the required cooperation of people. Its reason is mainly because police is not able to move with society. There is perceptible lack of communication between people and police. Though more educated and capable persons are joining the police forces yet, they do not have access to criminals as used to be in good old days. Judiciary, media and civil society organization have played a significant role to highlight the issues of human rights violations and thereby fixing the accountability of police. They are also exerting pressure on political

system for modernization of police forces. But political compulsions overweigh the need for professional & autonomous police forces. Political willingness, police leadership and people's participation in policing can help restore the faith of people in police system. Political system should evolve necessary consensus for police reforms. It should demonstrate vision and will for modernization of police forces. Also they should maintain parity between police and other services by making their conditions of service attractive, timely promotion, judicious allotment of cadres and providing conducive environment for them to perform their duties and responsibilities. They should adopt pluralistic and inclusive approach in the formulation of public policies and distribution of natural resources to solve various regional, racial and societal problems having implications for the safety and security of nation. Similarly, top police leadership should promote the culture based on integrity, trust, respect and support to the honest police officers particularly at lower level of hierarchy³⁴, since it is as much important to protect the honest as punishing the guilty. It has the potential to transform the police department from a micro-managed, high-control, autocratic environment to a place of high involvement, empowerment and rapid response to citizens³⁵. In the same way, people's participation in policing can strengthen the capacity of police forces to perform effectively their duties and responsibilities, but also to regain public trust and confidence in the police.

Management Front

What is needed urgently is the optimal utilization of police resources and assiduous application of time and energy, which alone can bring dividends while handling intricate problems like terrorism³⁶. Training programmes should be redesigned to acquire greater professionalism in changed scenario and inculcate core values, traits and desired behavior. There must be effective coordination of policies and operations between central and state agencies responsible for matters relating to internal security. Ministry of Home Affairs should maintain essential contact with State Governments for this purpose. Also there must be timely sharing of intelligence inputs between central and state agencies. In this respect the establishment of

proposed National Counter Terrorism Centre (NCTC) is a welcome step. Psychological programmes should be arranged for counselling of the police personnel involved in counter-insurgency operations and for boosting their morale and motivation.

India cannot progress as a society if its social, foundations are weakened by suspicion and schism.³⁷ Autonomous, impartial and secular police forces are needed as much for democracy as for development. In the absence of peaceful and congenial security environment, the valuable investment, essential for economic development in the post globalised era, would fritter away. India's rise to the status of the most populous, democratic, pluralistic, secular, industrialized country as the third largest market and GDP in the world in the next three decades will not be resistance and obstacle free³⁸. Therefore, there is urgent need to adopt holistic approach to address the issues and problems facing Indian Police. Effective mechanism for redressal of grievances of police, implementation of National Police Commission (NPC) report in its true spirit, reform in investigation and prosecution machinery to provide fair and speedy justice to people is essential to restore the faith of people in the police as a reliable and effective instrument for safety and security, but also for peace, democracy and development of our largest democracy striving to be a major economic and political power in the current century. ■

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Human Rights Approach to Prison Management: Issues & Challenges

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Key words

Human Rights, Prison Management, Human Rights Jurisprudence, Criminal Justice System, Prison Policies, Prison Staff, Prisoners' Rights.

Abstract

The expanding horizons of human rights discourse in India now include focused discussions on many gray areas of human rights violations, which until recently received scant attention. Human rights approach to prison management is one such gray area, which despite several court judgments of far reaching significance, and concerted efforts made by the NHRC and SHRCs, did not get the deserved attention or required response as a matter of follow up action.

Prisons constitute a critical area of human rights. The sentence of imprisonment not only implies deprivation of freedom which is the most basic of all human rights but also imposes restrictions on the life and personal liberty of the individual involved. Once a person is incarcerated and his/her life is regulated by the State, he/she is endangered to suffer human rights abuses. Apart from the stigma associated with imprisonment, there is a general attitude of prisoners not being considered fit for the same protection as other members of society. As the poor and people from marginalized sections of the society are often over-represented in prison population, with little advocacy to protect

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their human rights, they are particularly vulnerable to maltreatment. The present paper discusses human rights framework for better protection of human rights in the prison setting and examines critically issues and challenges faced by the prison authorities in effective implementation of human rights approach to prison management.

Introduction

The role and functioning of prisons in the country have been a matter of intense debate and scrutiny at various official and non-official forums for several decades now. Though imprisonment has been the oldest and most universal mode of dealing with offenders who endanger peace and tranquility in society, never before in its history, prison administration has been subjected to such a questioning as at present. It is neither thought to be effective in achieving its criticism proclaimed goal of reformation and rehabilitation of offenders nor capable to cope with the newly-emerging forms of criminality, which are much more disruptive than traditionally known crimes. What is much more disturbing is that the prison, today, is increasingly perceived as a potential source of corruption, dehumanization and hardening of criminal tendencies among persons coming within its jurisdiction¹.

The concept of human rights arises from the inherent dignity and work of the individual and invokes all such inalienable rights and freedoms that he/she is entitled to as a member of society. During incarceration, these rights may be restricted or curtailed but can not be denied or taken away. The ideology propounded by the Universal Declaration of Human Rights (UDHR), adopted by the United Nations in 1948, serves a springboard for a global action to uphold human rights in different spheres. The ideology propounded by the UDHR has been well concretized in the International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights. Among the provisions which have a direct bearing on criminal justice, of which prison administration is a major organ, are those relating to the right to life, liberty and security of person, the right to equality before and equal protection of law, right to be presumed innocent until proven guilty, right of not to be subjected to any cruel, inhuman or degrading treatment or punishment, and right to an effective remedy for any unlawful violation².

The management of prisons in India is regulated by the Prisons Act, 1894 and the Prison Manuals / Regulations enacted by various States. Prison being the 'State' subject under Entry-4 in the Seventh Schedule the Constitution of India, States have all the responsibility / competence to bring any change in the prison laws and to address any issue which has a bearing upon prison management on universally acceptable principles. Broadly, the prisons in India are governed by the following framework:

- The Constitution of India, 1950
- The Indian Penal Code, 1860
- The Prisons Act, 1894
- The Prisoners Act, 1900
- The Identification of Prisoners Act, 1920
- The Transfer of Prisoners Act, 1950
- The Representation of People's Act, 1951
- The Prisoners (Attendance in Courts) Act, 1955
- The Probation of Offenders Act, 1958
- The Code of Criminal Procedure, 1973
- The Mental Health Act, 1987
- The Protection of Human Rights Act, 1993
- The Juvenile Justice (Care & Protection of Child~ Act, 2006
- The Repatriation of Prisoners Act, 2003
- The Model Prison Manual for Superintendence and anagement of Prisons in India (2003)
- The Right to Information Act, 2005.

Human Rights Approach to Prison Management

Human rights are commonly understood as those rights which are inherent to the human being. Every human being is entitled to

enjoy his or her human rights without distinction of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human rights are legally guaranteed by human rights law. This protects individuals and groups against actions which interfere with fundamental freedoms and human dignity. They are expressed in treaties, customary International Law, bodies of principles and other sources of law. Human rights law places an obligation on States to act in a particular way and prohibits States from engaging in specified activities. However, the law does not establish human rights since they are inherent entitlements, which come to every person as a consequence of being human. Treaties and other sources of law generally serve to formally protect the rights of individuals and groups from actions or abandonment of actions by Governments, which interfere with the enjoyment of human rights.

Important Characteristics of Human Rights

- Respect for the dignity and worth of each person
- Universality - they are applied equally without discrimination to anyone
- Human rights are indivisible and inalienable. They cannot be taken away except in specific situations. However, the right to liberty can be restricted if a person is found guilty of a crime by a court of law.
- Human rights are interrelated and interdependent. The violation of one right will often affect several other rights³.

Section 2 (1) (d), of the Protection of Human Rights Act (PHRA), 1993 defines, human rights¹ as the rights related to life, liberty, equality and dignity of the individual guaranteed by the Constitution or International Covenants and enforcement by Courts in India. Human rights approach prison management essentially advocates that day-to-day prison administration shall be based on dignity and equality of all stakeholders.

The human rights approach to prison management draws its

normative framework from the following sources:

- International human rights standards and norms relating to prisoner's rights
- Legal framework regarding prison management
- Recommendations made by various Commissions/Committees on prison reforms
- Human rights jurisprudence emerged through Supreme Court and High Courts Judgments relating to prisoner's rights and prison reforms
- Recommendations of NHRC/SHRCs for better protection of human rights in prison management

The beauty of human rights approach to prison management is that it ensures participation of all stakeholders-prisoners, families and children of prisoners, prison visitors (official and non-official) and prison officials. Essentially, the human rights approach consists of:

- Participation of all stakeholders (mentioned above)
- Prisoners are owners of human rights
- Human rights education for prisoners and the prison officers.

What is Human Rights Education?

Provisions on human rights education have been, incorporated into many international instruments and documents, including the Universal Declaration of Human Rights, 1948 (Art. 26); the International Convention on the Elimination of All forms of Racial Discrimination, 1965 (Art. 7); the International Covenant on Economic, Social and Cultural Rights, 1966 (Art. 13); the Convention against Torture and Other Cruel, Inhuman or Degrading, Treatment or Punishment, 1984 (Art. 10); the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Art. 10); the Convention on the Rights of the Child, 1989 (Art. 29); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (Art. 33);

the Convention on the Rights of Persons with Disabilities, 2006 (Art. 4 and 8); the Vienna Declaration and Programme of Action (Part I, para. 33-34 and Part 11, paras. 78-82); the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2001 Declaration, paras. 95-97 and Programme of Action, paras. 129-139); the Outcome Document of the Durban Review Conference, 2009 (paras. 22 and 107); and the 2005 World Summit Outcome (para. 131).

In accordance with these instruments, which provide elements of a definition of human rights education as agreed upon by the international community, human rights education can be defined as any learning, education, training and information efforts aimed at building a universal culture of human rights, including:

- The strengthening of respect for human rights and fundamental freedoms;
- The full development of the human personality and the sense of its dignity;
- The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and minorities;
- The enabling of all persons to participate effectively in a free and democratic society governed by the rule of law;
- The building and maintenance of peace;
- The promotion of people-centered sustainable development and social justice.

Human rights education encompasses:

- **Knowledge and skills** - learning about human rights and mechanisms, as well as acquiring skills to apply them in a practical way in daily life;
- **Values, attitudes and behaviour** - developing values and reinforcing attitudes and behaviour which uphold human rights;

- **Action** - taking action to defend and promote human rights.

Principles for human rights education activities

Educational activities within the World Programme shall :

- Promote the interdependence, interrelatedness, indivisibility and universality of human rights, including civil, political, economic, social and cultural rights and the right to development;
- Foster respect for and appreciation of differences, and opposition to discrimination on the basis of race, sex, language, religion, political or other opinion, national, ethnic or social origin, physical or mental condition, sexual orientation and other biases;
- Encourage analysis of chronic and emerging human rights problems (including poverty, violent conflicts and discrimination), also in view of rapidly changing developments in the political, social, economic, technological and ecological fields, which would lead to effective responses and solutions consistent with human rights standards;
- Empower communities and individuals to identify their human rights needs and to claim them effectively;
- Develop the capacity of duty-bearers (in particular, governmental officials), who have an obligation to respect, protect and fulfill the human rights of those under their jurisdiction, to meet such obligation;
- Build on the human rights principles embedded within the different cultural contexts and take into account historical and social developments in each country;
- Foster knowledge and skills to use local, national, regional and international human rights instruments and mechanisms for the protection of human rights;
- Make use of participatory pedagogies that include knowledge, critical analysis and skills for action furthering human rights;

- Foster teaching and learning environments free from want and fear that encourage participation, enjoyment of human rights and the full development of the human personality;
- Be relevant to the daily life of the learners, engaging them in a dialogue about ways and means of transforming human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions.

Human Rights Based Strategy

To ensure effective implementation of human rights framework in prison management, it is required that capacity building of rights holders- prisoners and their families and duty bearers i.e. prison management (cutting edge functionaries and senior officers) should be strengthened by the Government, academic Institutions and civil society organizations. This aside, legal and policy advocacy, human rights and media campaigns shall also be intensified. Indeed, human rights strategy emphasizes non-discrimination, accountability, participation, empowerment and clear links to international human rights standards. Using human rights laws and existing policy framework we may achieve human dignity for all-prisoners, their families, children of prisoners, prison officials and the community.

It is now commonly understood that States have three levels of obligation in relation to human rights: the obligations "to respect", "to protect" and "to fulfill". The obligation to respect requires the State to refrain from any measure that may deprive individuals of the enjoyment of their rights or their ability to satisfy those rights by their efforts. This type of obligation is often associated with civil and political rights (e.g. refraining from committing torture, in-human and degrading treatment or punishment to prison inmates) but it applies to economic, social and cultural rights as propounded by the Supreme Court in catena of cases during last 30 years.

The **obligation to protect** requires the State to prevent violations of human rights by prison authorities.

The obligation to protect is normally taken to be a central function

of states, which have to prevent irreparable harm from being inflicted upon prison inmates. This requires state: (a) to prevent violations of rights by prison officials; (b) to avoid and eliminate incentives to violate rights by prison officers; (c) to provide access to legal aid when violations have occurred, in order to prevent further deprivations.

The obligation to fulfill requires the state to take measures to ensure that people under its jurisdiction can satisfy basic needs (as recognized in human rights instruments) that they cannot secure by their own efforts. Although this is the key State obligation in relation to economic, social and cultural rights, the duty to fulfill also arises in respect to civil and political rights. In the context of prison, the authorities must ensure that prisoners are provided health, hygiene and correctional programmes as prescribed in the human right normative framework. A violation of a human right therefore occurs when a State's acts, or failure to act, do not conform with that State's obligation to respect, protect or fulfill recognized human rights of persons under its jurisdiction. To assess a given State's behaviour in practice, however, it is necessary to determine in addition what specific conduct is required of the state in relation to each right. This will depend on the terms of the state's human rights obligations, as well as their interpretation and application; and this in turn should take into account the object and purpose of each obligation and the facts of each case. The term "violation" should only be used formally when a legal obligation exists. The use of this tripartite typology is a practical analytical tool to better understand the complexities of real situations. They are guidelines that assist us to approach the complex interconnections and interdependencies of the duties that must be complied with in order to achieve protection of human rights. In this regard, it is crucial to keep in mind that other obligations must be considered as well, at all three levels, such as the duty to establish norms, procedures and institutional machinery essential to the realization of rights; and the duty to comply with human rights principles such as non-discrimination, transparency, participation and accountability⁴.

Human Rights Jurisprudence for better prison management

Significantly, the human rights embodied in the United Nations Instruments⁵ is wholly in tune with the spirit behind the Fundamental Rights and Directive Principles of State Policy as provided in the Constitution of India. Human Rights of prisoners have been interpreted within the framework of the fundamental rights as laid down in the Constitution of India. Over the past 30 years, the Supreme Court of India has reiterated the principle "imprisonment do not spell farewell to fundamental rights"⁶. Thus, the Court has cordially declared that for a prisoner the fundamental rights are enforceable reality, though restricted by the fact of imprisonment. This aspect has repeatedly been emphasized by the apex court and has led to the articulation of three basic principles for the prison administration to follow:

- A person in custody does not become a non-person;
- An incarcerated individual is entitled to enjoy all human rights within the limitation of imprisonment; and
- An offender is sent to prison as punishment and not for punishment i.e. the prison administration has no authority to aggravate his/her suffering incidental to confinement.

In recent years, the advocacy for the protection of human rights of persons in prison custody has stirred the court to intervene in all such areas where the prison management is likely to exercise its power arbitrarily or indiscriminately.

Discarding its erstwhile "hands-off" doctrine towards prisons in favour of a judicial intervention when the rights of prisoners are found in jeopardy, the Supreme Court has issued a number of directives to the prison administration. Accordingly, the court has held that prisoners must be allowed to read and write, exercise and recreation, meditation and chant, creative comforts like protection from extreme cold and heat, freedom from indignities like compulsory nudity, forced sodomy and other unbearable vulgarity, movement within the prison campus subject to requirements

of discipline and security, the minimum joy or self-expression to acquire skills and techniques and all other fundamental rights as tailored to the limitation of imprisonment.

According to the Supreme Court, while physical assaults are to be totally eliminated, even pushing the prisoners into a solitary cell, denial of necessary facility, transferring prisoners to a distant prison, allotment of degrading labour, assigning him/her to desperate or tough gang, etc. must satisfy Article 21, 11 and 19 of the Constitution. The young inmates must be separated and freed from exploitation by adults. Any harsh isolation from society for long or lengthy cellular detention can be inflicted only in consistent with fair procedure. Subject to discipline and security, prisoners must be given their right to meet his fellowment fellow women, interviews, visits and confidential communication with lawyers nominated by the competent authorities.

In a comprehensive judgment delivered in the case of Rama Murthy vs. State of Karnataka (7) on December 1996, the Supreme Court observed that there were nine major problems that affected the prison system in India and required immediate attention. These include: overcrowding, delay in trial, torture and ill-treatment, neglect of health hygiene, insubstantial food and inadequate clothing, prison vices, deficiency in communication, streamlining of jail visits and management of open air prisons. While issuing show cause notices to central and state governments on the relevant points, the Court has emphasized, *interalia* the need to consider the enactment of a new prison law on the lines suggested by the National Human Rights Commission, and the formulation of a new Model Jail Manual for the country as whole. A reference has also been made to the recommendations of the All India Committee on Jail Reforms (1980-83) commonly known as Mulla Committee, in regard to the systems of remission, parole and per-mature release, facilities for health and hygiene, food and clothing and streamlining of the jail visits.

The Supreme Court further observed that "A sound prison system is a crying need of our time". The Court emphasized that the cases of Charles Sobraj⁸ and Sunil Batra⁹ should be considered as "beacon

lights in so far as management of jails and rights of prisoners are concerned." Broadly, the following rights of prisoners have been recognized under the various Indian laws governing¹⁰ Supreme Court and High Court rulings as well as those recommended by Expert Committees. According to a publication of the Commonwealth Human Rights Initiative¹¹, each category lists the corresponding duties of the prison staff and other Officers of the Criminal Justice System.

- Right to be lodged appropriately based on Proper Classification¹²
- Special Right of Young Prisoners to be segregated from adult prisoners¹³
- Rights of Women Prisoners¹⁴
- Right to Healthy Environment and timely medical services¹⁵
- Right to bail¹⁶
- Right to speedy trial¹⁷
- Right to free legal services¹⁸
- Right to have interviews with one's lawyer¹⁹
- Right against being detained for more than the period of sentence imposed by the Court²⁰
- Right to protection against being forced into sexual activities²¹
- Right against arbitrary use of handcuffs and fetters²²
- Right against torture, cruel and degrading punishment²³
- Right not to be punished with solitary confinement for a prison offence²⁴
- Right against arbitrary prison punishment²⁵
- Right to air grievances to effective remedy²⁶
- Right to evoke the writ Habeas Corpus against prison authorities for excesses²⁷

- Right to be compensated for violation of human rights²⁸
- Right to visit and access by family members of prisoners²⁹
- Right to write letters to family and friends =r: letters, Jgazines³⁰ etc.
- Right to Reformative Programmes³¹
- Right in the Context of enjoyment of Prisoners ": wages³²
- Right to information about prisons rules³³

Besides, Supreme Court and High Courts rulings on pnsoners rights, the problems of prison administration in India have been examined by expert bodies since Independence. Their reports contain extensive recommendation for streamlining prison management. As early as 1951, Dr.W.C. Reckless was invited by the Government of India under the UN Technical Assistance Programme to prepare a plan for the reorganization of prison system on modern lines. The All India Jail Manual Committee, 1957-59, formulated a Model Prison Manual which was circulated among the State Governments as a guide for revising their respective prison manuals. Subsequently, the All India Committee on Jail Reforms 1980- 83 (commonly known as Mulla Committee) presented detailed blueprint for the restructuring of prison administration in a progressive manner. Among its major recommendations, this Committee proposed a draft of a national policy and an outline of consolidated law on prisons in the country. However, the performance has yet to match the intent, as a result of which the cleavage between the objectives and the achievements has increased over the years, especially in the wake of a heightened advocacy for the protection of human rights in prisons and the judicial activism to see it happening³⁴.

It is noteworthy to mention that during last 25 years various committees such as Kapoor Committee (1986)³⁵, National Expert Committee on Women Prisoners (1987)³⁶, All India Model Prison Manual Committee (2000)³⁷ Parliamentary Committee on Empowerment of Women 2001-02,³⁸ All India Committee on Reforms in Criminal Justice (2003)³⁹ (commonly known as Malimath

Committee), All India Committee on National Draft Policy on Prison Reforms and Corrections (2007)⁴⁰ and Committee on Draft Policy on Criminal Justice reforms⁴¹ headed by Dr. Madhav Menon were constituted by the Government of India to improve human rights situation, to the extent as are conducive to the reformation and rehabilitation of prisoners in the changing scenario.

Further, to improve human rights based governance in Indian prisons the National Human Rights Commission⁴² had issued several guidelines and written letters to various authorities, including the judiciary, the prison departments and the state Governments to ensure that the right of prisoners are respected. The Commission has also recommended the payment of interim compensation by the State Government to the prisoners/next of kin for violation of their human rights during incarceration period. Regarding human rights education for prison officials, the National Human Rights Commission and the Bureau of Police Research and Development (BPR&D), Ministry of Home Affairs, Government of India have sponsored seminars/workshops and research studies to the universities, NGOs and Prison Officers Training Institutes.

The Impact of Human Rights Jurisprudence in Improving Prison Conditions

The Judicial activism in prison related matters had a limited impact, since the court could generally provide relief in individual cases, the overall governance of prisons remained more or the less unaffected. This is not surprising in view of the nature of the prison regime. The prison bureaucracy is most resistant to change and view outside interventions as unnecessary interference. Mulla Committee (1983, p.279) commented on the apprehensions:

"The humanistic approach in the treatment of offenders being emphasized by the courts through their judgment seems to have generated an unfounded apprehension of security and personal risk among them. Staff has taken all such healthy directions in the wrong perspective and has interpreted them as leading to unbridled laxity in prison discipline. "

Since emergency period (1975) the Judiciary and Civil Society Organisations have advocated prison reforms, however, they could not show cascading effect on the ground level. The prison officials dislike bleeding heart liberal attitude of the judiciary, Human Rights Commissions and other Statutory Commissions because it has opened the floodgate of prison litigations, many of which, they say, are based on false and frivolous ground. To explain their view point, they say that offenders charged for organized and political crime, etc. often forward false and malicious complaints against prison staff in order to brow-beat and demoralize them. Some prisoners, they say, are interested in lax administration so that they may violate the rules of prison discipline, extract privileges, acquire a dominant position on other inmates, smuggle contraband and arrange for frequent visits to outside hospitals. In order to achieve these objectives, they want to demoralize the prison staff by making false, baseless and malicious allegations. Notwithstanding the indifferent or hostile attitude of the majority of the prison officials in regard to court mandated prison reforms, there are few amongst them who see a silver lining in the judicial and quasi-judicial interventions in prison management.

Judicial intervention in certain cases has been welcomed by the progressive prison managers who have long recognized the need for change, but have lacked the courage to prod the legislature and other institutions to do their duty. Judicial activism, they argue, can help accomplish the reforms that many prison officials are waiting to accomplish. Their more important argument is that under judicial threat of court action, the legislators and top level prison management might accelerate appropriate remedial measures for prison reforms.

Academics in criminology and correctional administration, social workers and human rights activists engage in the field have widely welcomed activist intervention of the judiciary in the murky business of prison administration. They feel that the judicial intervention has at least been able to create the possibility and appearance of inmates rights. They perceive three net gains⁴³ as follow:

- ◀ The transformation of prisoners from non-persons to a jural

entity;

- ◀ Prison officials are nervously beginning to accept that absolute power over the lives of inmates is threatened; and
- ◀ Prison litigations have forced a small opening in a system surely in need ventilation.

There is a widespread awareness among the enlightened circles that despite court ordered reforms and the monumental work done by various expert committees at the national and state levels, prison administration has been neglected for long. The rulings of the apex court have increased the gap between the cherished principles and actual practices. Governed by the archaic laws, out-moded structure and obsolete methods and apparatuses, the prison administration find itself unable to cop with the changed and changing demands of the society in transition. It is, therefore, high time that a major thrust is provided towards thorough restructuring of the Indian prison system.

The Ethical Basis of Prison Management

Ethic, also known as moral philosophy, is a branch of philosophy which seeks to address questions about morality; that is about concepts like good and bad, right and wrong, justice, virtue, etc. Major branches of ethics include Meta ethics, applied ethics, moral psychology, and descriptive ethics (44). In the prison context ethics is a set of practices and philosophy to guide member of prison service to act in a manner consistent with the values and standards prescribed by international human rights law and Constitutional provisions as interpreted by the Supreme Court in many path breaking judgments prisoners rights and prison reforms as well as reiterated by various expert committees on Prison reforms, and to actively internalize and enforce these norms, standards and values.

It is an established fact that prison management need to operate within an ethical framework. Without a strong ethical context, the situation where one group of people is given considerable power over another can easily become an abuse of power. The ethical

context is not just a matter of the behavior of the individual staff towards prisoners. A sense of the ethical basis of imprisonment needs to pervade the management process from top to down. An emphasis by the prison authorities on correct processes, a demand for operational efficiency, or pressure to meet management targets without a prior consideration of ethical imperatives can lead to great inhumanity. A concentration by the prison authorities or technical processes and procedures will lead staff to forget that a prison is not the same as a factory which produces motor cars or washing machines. The Management of prisons is primarily about the management of human beings, both staff and prisoners. This means that there are issues which goes beyond effectiveness and efficiency. When making decisions about the treatment of human beings there is a fundamental consideration; the first question which must always be asked is "Is what we are doing right"⁴⁵.

Prof. Amartya Sen, in his famous book *The Idea of Justice*⁴⁶ has presented a theory of justice in a broad sense. It advocates that how we can proceed to address questions of enhancing justice and removing injustice, rather than to offer resolutions of questions about the nature of perfect justice. The central theme of Sen's argument, in his theory of justice, is that a theory of justice that can serve as a basis of practical reasoning must include ways of judging how to reduce injustice and advance justice, rather than aiming only at the *Charter Barter of Perfectly Justice Societies*-an exercise that is such a dominant feature of many theories of justice in political philosophy today. In understanding the contract between an arrangement - focused and a realization of focused view of justice is useful to invoke an old distinction from the Sanskrit literature on ethics and jurisprudence. Consider two different words - *Niti* and *nyaya* - both of which stand for justice in Classic Sanskrit. Among the principal uses of the term, '*Niti*' are organizational proprietary and behavioral correctness. In contrast with '*Niti*', the term '*nyaya*' stands for a comprehensive concept of realized justice. In that line of vision, the role of institutions, rules and organization, important as they are, have to be assessed in the broader, and more inclusive perspective of '*nyaya*' which is inescapably linked with the word that actually emerges, not just the institutions or rules we happen to have.

In context of prison administration, the prison managers shall implement human rights and ethical standards through transparency and community participation. It is a well known fact that obscurity that covers the institution of prison makes it a fertile breeding ground for human rights violation. Barring a few institutions, prison conditions are appalling in the country. Most of these afflictions result not from any malfeasance of the prison staff but from the collective neglect of the whole system⁴⁷. Those who can deliver goods do not know how to do that. Those who know have no means to remedy the ills. There is lack of effective communication. Those who communicate lack perseverance. There is no linkage, no monitoring, no deadlines, no evaluation and therefore no result. A classic example of this is the Performance Audit Report of the management of Prisons in Maharashtra, published by the Comptroller and Auditor General⁴⁸ covering period, 2003-08. The report revealed that there was short receipt of central funds due to non-utilization of funds by the State in time; provisions of financial codes were not adhered to in the maintenance of cash books; a large number of posts of security staff were lying vacant; modern security equipments were not installed in the prisons; there was over-crowding in the prisons; large number of works relating to improvement to prison infrastructure were not completed; inspections of the prisons was not carried out regularly by the IGP; the internal audit of 42 units was pending for periods ranging up to 35 years, and Model Prison Manual, 2003 furnished by the Government of India to the State Government for adoption in December 2003, was not accepted as of August, 2008.

Reforms in Prison Policies: Contemporary Scenario

Dr. W.C. Reckless's report on prison Administration in India' submitted to the Govt. of India in 1952 marked a turning point in the history of prison reforms in post-independence period. In pursuance of the recommendations of Dr. Reckless, a conference of I.G. Prisons of various States was conveyed in Bombay at the instance of Govt. of India in 1952. This conference provided an excellent forum for exchange of views to evolve prison correctional policies based on reformation & rehabilitation of prisoners. As a result of I.G. Prisons Conference, the Ministry of Home Affairs, Govt.

of India, appointed an All India Jail Manual Committee in 1957 with I.G. prisons, correctional administrators and social scientists. The Committee submitted a comprehensive report in 1959 along with a "Model Prison Manual" containing elaborate standards and guidelines on the subject. It has also recommended that Acts relating to prison be revised.

All India Committee on Jail Reforms, 1980-83 has analysed in detail the basic problems confronting the system and identified areas of concerted action. The Supreme Court in *Ramamurthy Vs. State of Karnataka*,⁴⁹ besides others, has specifically directed the Central Govt. to enact a new Prisons Act to replace the century old Prison Act, 189 and also prepare a new all India Jail Manual as a concrete²⁰ plan for prison restructuring. Accordingly, Bureau of Police Research & Development (BPR & D), Ministry Home Affairs, Govt. of India⁵⁰ has prepared a Model Prison Manual in 2003 and appealed to States & UTs for its adoption to promote:

- Basic uniformity in the legal framework in the administration of prisons all over the country; and
- To lay down the framework for custody and treatment of prisoners.

In this context, the National Human Rights Commission has also been engaged, since its inception in 1993, in building a national consensus for the rationalization of prison legislation as the starting point towards a thorough restructuring of the prison system in consonance with its cherished goal. With the assistance of a core group of leading prison administrators and experts, an outline of the proposed was prepared and circulated among the Chief Ministers for consideration. Besides taking into account the suggestions emanating from national forum the provisions of the relevant United Nations instruments, especially the Standard Minimum Rules for the Treatment of Prisoners have also been drawn up to the extent consistent with the indigenous milieu. The State Governments have been requested to move their respective legislatures to pass a resolution for a Central law and the subject as required under the Constitution⁵¹.

The Ministry of Home Affairs, Govt. of India has devised a draft National Policy on Prison Reforms & Correctional Administration in 2007 and the same has been circulated to all States / UTs for comments in order to evolve national consensus. The draft policy document contains various recommendations for structuring the prison management in the country in the light of Supreme Court rulings & recommendations made by expert committees constituted so far on prison reforms. In crux, the National Prison Policy highlights that:

- (a) Nobody is born as a criminal; it is the circumstances, societal constraints, inherited environment and at times accidents, which makes him a criminal. So it is a societal concern and there needs to be total overhaul in our strategy in dealing with the prisoners. The *mantra* of the day should be "Reclaiming of these offenders rather than Punishment".
- (b) "prisons shall endeavor to reform, reclaim, re-assimilate and rehabilitate the offenders in the social milieu by providing appropriate correctional treatment.
- (c) The resource constraints with the State Governments limit the scope of expansion in prison capacity beyond some reasonably manageable level. This logically brings us to the subject of thinking of 'alternatives to imprisonment' in our sentencing policy.
- (d) The atmosphere of prisons should be surcharged with positive values and the inmates should be exposed to a wholesome environment with appropriate opportunities to reform themselves.
- (e) The State recognizes that a prisoner loses his right to liberty but still maintains his right to be treated as a human being and as person. His human dignity shall be maintained and all basic amenities should be made available to him. Whereas his movement is restricted, he has freedom of life and all other fundamental rights as laid down in the Constitution of India.
- (f) The endeavor shall be to address the root cause of the crime, i.e. poverty, unemployment, lack of education and

employability skills rather than imparting of punishment only. Therefore, the focus shall be on correctional administration and imparting of values, education, vocational skills & training to help them live with honour by having gainful employment and rehabilitation on release.

- (g) The young children, especially of the women convicts, shall be treated with dignity and all the facilities for their proper upbringing & education shall be made available to them by the State.
- (h) Effort should be reform the criminal minds rather than punishing alone. This could be achieved by involving the criminal minds and keeping them busy in education, work, physical exercises and instilling good values through counseling, meditation, yoga etc.
- (i) The number of under trials and convicts shall be kept at minimum by recourse to a number of legal measures such as fast track courts, Lok Adalats and even through appropriate judicial interventions.
- (j) The prisons shall be modernized and technologically upgraded so as to make them safer, more secure, efficient, livable and transparent in their functioning.
- (k) Impetus needs to be given to the concept of OPEN prisons which are supposedly provide a much more humane treatment to the inmates for their transformation and correction

Academia & field practitioners in criminology & correction administration consider this as a positive move to evolve a national policy on prisons, however, they strongly feel that wide consultations with other stakeholders (other than Govt.) would have made the draft policy paper more inclusive and participative in nature. It is noteworthy to mention that Ministry of Home Affairs, Government of India had issued several Advisories to All State Governments/UTs during 2009-2011 to take effective measures for human rights based governance, however, their implementation by the State Governments is not available in the public domain (A Compendium

of Advisories on Prison Administration is available at http://www.mha.nic.in/iuniquepage.asp?ld_Pk=229).

Over a period of time, the Government of India has taken various measures to reduce undertrial population in prisons. Indeed, overcrowding creates fertile ground for human rights violations in various ways and therefore poses major challenges to the prison managers in observance of human rights in prison setting. It is important to mention that Government of India during last few decades has initiated following measures to de-congest prisons:

- **Legislative measures**
- **Developing alternative to imprisonment.**
- **Expediting trial process.**
- **Infrastructure-creation of additional infrastructure and upgradation of existing prisons.**
- **Promoting good practices to manage prison establishments.**
- **Optimum use of available capacity - Maximizing the capacity utilisation.**

Despite the court rulings on several aspects of prison administration, including the human rights of prisoners and initiatives taken by Bureau of Police Research & Development (BPR&D) & Regional Institutes of Correctional Administration (RICAs) National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs), academic institutions and civil society organisations (CSOs) to sensitize prison staff on Human rights issues, prisons are still effectively far away from public visibility and accountability, and the predictable abuses continue to take place⁵².

Specific Areas of Human Rights in Prisons: Issues

Of various aspects of prison administration, living conditions of inmates have been subjected to severe criticism by courts, expert committees, advocacy groups and other interested in the maintenance of minimum standard of human dignity in prisons. The criticism has been leveled on account of insufficient

accommodation, indiscriminate handling of different categories of offenders, unhygienic conditions, sub-standard food, inadequate water supply; inadequate medical care, lack of properly devised correctional activities and vocational training, atrocities on young, women prisoners and maltreatment with the poor prisoners (specially prisoners belonging SC/ST categories) etc.

Within the overall framework of the administration of prisons and management of prisoners in the context of human rights, there is a definite need for further differentiating the approach towards certain categories of prisoners. Among such categories, women prisoners, young offenders and mentally ill on confinement & older prisoners have to be dealt in view of their specific correctional needs and rehabilitative requirements. The expert committees (including Mulla Committee) constituted from time to time on prison reforms and the National Human Rights Commission, have proposed a set of special provisions and safeguards for these categories. Broadly, the following recommendations were made by various expert committees to streamline prison administration from human rights perspective:

- Replacement of dilapidated prisons
- Over-crowding
- Diversification of education programme;
- Improvement of living conditions;
- Provisions for medical and psychiatric services
- Vocational training and gainful employment
- Improvement in the conditions of women prisoners
- Segregation of prisoners
- Provisions for free legal aid
- Speedy trial including humane and dignified treatment with the prisoners
- Human Resource Management of Prison Staff Recruitment,

training and career advancement.

In compliance with the court rulings and recommendations of expert committees and the National Human Rights Commission, the Government of India released a fund to the tune of Rs.125.24 crore during 1987-2000. However, conditions of prisoners did not improve as per expectations nor was there any significant change in the general conditions of prisons or in the attitude of jail authorities. Due to paucity of funds with the State Governments and keeping in view the awful conditions of the prisons in the States, the Kapoor Committ (1986)⁵³ especially, emphasized the need to provide Central assistance to the States under the scheme called the "Modernization of Prisons" for improving the conditions of the prisons, prisoners and prison personnel.

Considering the appalling conditions of the prisons in the States, paucity of the funds with the State Governments and the dire need for improving the conditions of prisons, prisoners and prison staff, a much larger investment in this sector was required.⁵⁴ Based on the assessment conducted by the Bureau of Police Research and Development (BPR&D), the Central Government in 2002-03 launched a non-plan scheme of Modernization of Prison Administration with a total outlay of Rs.1800 crore. The scheme involved the contribution from Central as well as the State Governments on the cost sharing basis of 75:25 and was proposed to be implemented over a period of five years for 2002-03 to 2006-07. Under this scheme, financial assistance was given to State Governments for undertaking the following items of work:

- Construction of additional jails to reduce overcrowding;
- Improvement in sanitation and water supply; and
- Living accommodation for prison staff.

While launching this scheme, Ministry of Home Affairs envisaged that "The scheme would definitely help in improving the physical condition in prison as creation of additional accommodation would help in reducing overcrowding. Repairs, renovation and water and sanitation works will help in improving the living condition of

prisoners, the construction of staff quarters for prison personnel will boost the morale of the prison staff which will thereby help them in performing their duty more efficiently⁵⁵.

The implementation of this scheme was assessed by the Department-Related Parliamentary Standing Committee on Home Affairs in 2009⁵⁶. The Committee noted that some States like Chhatisgarh, Haryana, Gujarat, Jammu & Kashmir, Manipur, Tamilnadu and Andhra Pradesh have performed better, while the States of Bihar, Goa, Himachal Pradesh, Jharkhand and Kerala have performed badly. Besides, evaluating this scheme, the Committee has made various progressive recommendations for augmenting prison infrastructure suitable for realization of human rights in prison setting. The Committee observed that "It is considered opinion of the Committee that the conditions in an average Indian Prison are awful, which present a very depressing picture. Being overcrowded, unhygienic and gloomy, these incarceration centers are presumed to be places far from being any kind of correctional centre. They often breed hardened criminals who practically become a menace to the society. A mindless adherence to centuries old jail manuals leaves very little scope for any innovative approach in the matter of dealing with people who end up in prisons for various reasons and under various circumstances. With revolutionary changes taking place in every field around us, it is high time that our mindset towards prisoners also undergoes a change, that a prison should truly reflect the spirit of correction and reformation by treating the inmates as human beings (Para 4.10.2)".

More recently, the All India Conference of Director General/ Inspectors General of Prisons held on 17th March, 2012 at Bangalore by the Bureau of Police Research and Development, New Delhi has passed the following resolutions to streamline the prison governance:

1. Perspectiv plan for five years on prisons should be prepared by all the states and properly project their requirements to the Central Government while seeking financial assistance.

2. The higher judiciary should be approached to sensitize the lower courts and prosecuting agencies to resort to the provision of Probation of Offenders Act and the effective implementation of 'Plea Bargaining', Sec. 436A Cr.P.C to reduce the problem of over-crowding in prisons.
3. Efforts should be made to strengthen various alternatives to imprisonment rather than sending offenders involved in petty offences to prisons.
4. Model Prison Manual prepared and circulated by the BPR&D should be used as reference guide by all the states to keep pace with the contemporary developments.
5. All Sub-Jails should be brought under the administrative control of prison department in all the states and the Heads of Prison Departments should be empowered to maintain them in terms of infrastructure and manpower.
6. The Government of India may initiate second phase of Modernization Scheme as soon as possible so that the state governments may develop their infrastructure to the desired extent.
7. All the states should prepare status report on their Probation Service and move a proposal to their respective Government to bring Probation Services under the administrative control of the prison department.
8. All prisons should be linked with their respective courts through video conferencing to expedite trial and to reduce the burden of escorting the under trial population in prisons.
9. As far as possible uniformity in rank structure of the Prison Officers should be brought in all states of the Country.
10. The states should undertake efforts to bring parity in pay scales with the uniformed services and encourage the staff with rewards in recognition of their contributions.
11. All the Heads of Department should work for the creation of

All India Service for Prison and Correctional Services.

12. Proper accommodation for prison personnel has to be provided. Accommodation should be provided to all Prison Staff including personnel.
13. Training programmes for officers in the country need to be re-evaluated to ensure that the curriculum suits the needs of the modern prison and correctional administration.
14. Prison training institutes should enter in to MoU with various universities and colleges for making training more focused, meaningful and purposeful.
15. All the states may review all issues concerned, work out the modifications/adaption required for the state and implement Modern Prison Manual.
16. Heads of Prison Departments should take lead in augmenting prison officer training and also attend courses like vertical interaction course⁵⁷.

Prison Staff: Facilitators for Realization of Prisoners Rights

Several court rulings and media reports have already highlighted the situation, however, many revelations and writings on the subject do not go deep into the prison malaises and hardly report on why human rights abuses take place in prison? This is an area on which very less authentic literature is available. With this view in mind we will examine critically the role of prison staff in creating an enabling environment in the prisons.

The protection of human rights of prisoners and inculcating a culture of human rights in prison setting on the quality, caliber and competence of the staff engage in the care, management and treatment of prisoners. Prison staff carry act out of the most difficult tasks of a civilized society. Prisons are part of criminal justice system. The international instruments stress that the best security is in the establishing, by all the prison staff, of good working relationship with prisoners. Hence, the manner in which they are treated depends primarily on the attitude, capacity, competence and

motivation of the middle and cutting edge prison staff. The international instruments have, laid down the framework & mechanisms for the development and growth of prisoners and the prison personnel. Unfortunately, the rights of prison staff who actually implement the human rights of the prisoners, have not been recognized after 64 years of independence and the policy of the British Raj of running the prison in as cheap a manner as possible still continues. Thus, effectiveness and utility of correctional Institution largely depend upon the satisfaction and pride that prevail in the service. Only content prison staff will be able to implement correctional policies in the right spirit. Better service conditions will produce better personnel and better personnel will develop better Institution. This impels/forces us to say that prison staff too have rights.⁵⁸

An assessment of the working and service conditions of prison staff shows that the conditions in which the lower echelons of the prison staff lived are in some cases worse than those of the prisoners. This is an important factor contributing to the poor functioning of prisons, apathy of the prison staff towards the plight of prisoners, corruption and all over deprivation of prisoners of their basic amenities. Such sub-standard conditions of service produce a culture of frustration and dehumanization in the service which often spills over and gets translated into aggression on prisoners. Thus, the conditions of work create an environment that discourages initiative, leadership qualities and an enlightened rights based approach⁵⁹.

Challenges

Under the existing legal framework, all types of offenders are huddled together in overcrowded and congested prisons, with no scope for their individualized study, diagnosis and handling for the purpose of correctional treatment. There is no system for scientific classification of prisoners which may take into account not only the nature of crime and length of sentence but also the personnel profile of the individual offender and the circumstances in which crime was committed. Living conditions in prisons breeds indiscipline, degeneration and devaluation of human dignity. The internal management is largely run by a minority of clever, crafty

and hardened prisoners (known as convict Watchmen, Supervisors etc.) at the cost of the majority of those who land in prisons under various kinds of situational compulsions. While labour is mandatory for those sentenced to rigorous imprisonment, the therapeutic aspects of correctional treatment such as educational training and behavior modification are only superficial. There is hardly any linkage between prison programmes and community based resources to provide for necessary social and economic supports for the rehabilitation offender. There is no transparent and standard policy for recruitment, training and human resource management and the mechanism for research and evaluation and monitoring of the programme planning. How do we expect our prisons to be respectful to the prisoners rights when the conditions of confinement amount to infliction of cruel, in- human or degrading treatment or punishment.

Another impediment for creating and enabling environment prisons relates to the quality of leadership at management level. It is noteworthy to mention that the Jail Officers at the management level, Directors General/Inspectors General/Deputy Inspectors General majority of whom are on deputation from the police service, consider this as punishment posting and are generally too demoralized to contribute significantly to the building up of the department. Most of them are merely time servers. The supervisory level (the Superintendents/Dy. Supdt. and Asstt. Supdt. Jailors etc.), consisting of staff belonging to the prison services, too is demoralized because of poor service conditions, lack of career opportunities and public esteem. At the grassroots level (Head Warders/Warders etc.) the department has people who remain inside the prison walls, interacting with prisoners most of the time. This factor combined with their pathetic service conditions, has the effect of dehumanizing them. Some of them develop vested interest and join hands with the criminals.

This aside, most the prisons are having the problem of under staffing. This would result in pressure on the staff already posted leading to deterioration in the quality of facilities for the inmates⁶⁰. The ground realities of Indian prisons require a thorough restructuring of the system. This include rationalizing policies for staff recruitments,

deployment and development, working and service conditions and adequate training which could cater effectively to the requirements of both custody and correction.

Essentially, litigation alone cannot solve the problems of prisons or of prisoners rights, and judicial intervention alone can not effectively make prison environment conducive to human rights. The duty is cast upon the prison management at all levels for the strengthening the prisoners rights campaign begun by the judiciary and human rights commission. The top brass in the prison administration must welcome court rulings and not dilute the court orders aimed at bolstering the human rights climate in prisons.

The way Forward

The task of protecting human rights that prisoners are entitled to and of implementing progressive ruling of the Supreme Court and High Courts and recommendations made by various commissions and committees on prison reforms, including radical reforms suggested by the National Human Rights Commission call for a thorough restructuring and reorganization of prisons in India. To address human rights issues in prison setting requires two fold strategy:

- Devise actionable strategy for addressing the human rights violations in prison; and
- Inculcating a culture of human rights through rights based approach to prison management.

These two essential elements need radical reforms in prison administration, development of coherent strategy to tackle specific human rights issues in prisons through accountability and transparency in the routine matters of prison administration, widespread public debates and mounting pressures from human rights activists, (including human rights commissions and other statutory commissions such as women's commissions and child rights commissions etc.), judiciary, investigative journalists and forward looking criminologists and correctional social workers. Also there is an urgent need to develop the framework and tools in consultation with key stakeholders for monitoring, evaluation and

impact assessment of human rights modules delivered by prison training institutions⁶¹.

Also, social audit of "Modernization of Prisons" scheme launched by the Central Government in 2002-03, (under a non-plan scheme) should be conducted by independent researchers, so that an impact of this scheme could be evaluated in addressing specific areas of human rights such as accommodation, diet, clothing, bedding and medical care, education, work and vocational training programmes, parole and pre-mature release, including remission, legal aid, gender and caste specific discrimination, human resources management and policies regarding recruitment, training and career advancement in prison setting. Finally, there is a strong need to develop and strengthen interface between prisons and the community, including local self bodies and *panchayati raj* institutions so that prisons are accepted as social development issue and included in their development plans and budget outlays.

The present accent on the protecting of human rights of persons in custody has aggravated the need to restructure the prison and sharpen its role in the context of social and community development⁶². In this regard, the following recommendation of the All India Committee on Jail Reforms, 1980-83 (Mulla Committee), deserves attention:

"Programmes for reformation and rehabilitation of offenders, for making them useful citizens, must find a place in our national plans. These programmes should be included in the plans for the same reasons for which educational and social welfare programmes have been so included. No greater justification need to be adduced in support of our recommendation than the fact that prisons in a Welfare State like ours are not merely agencies of law enforcement but are welfare institutions providing correctional programmes for the offenders and social defence programmes for the welfare of the society as a whole. " ■

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 - a) Release such person on a personal bond with or without surety; or
 - b) Release of such person on bail instead of personal bond; or
 - c) Continue detention of such person (in cases pertaining to (2) & (3). The Court is required to record reasons in writing. This section further prescribes the detention of an undertrial beyond the maximum period of punishment prescribed for the offence he!she is alleged to have committed. (This provision is not applicable to persons who are accused of an offence which attracts death sentence as are of the punishment). This is noteworthy to maintain that Section 436 A was inserted in the Cr.Pc by the Code of Criminal Procedure (Amendment) 2005 vide Act 25.9.2005, wef. June 23, 2006. Please also refer Supreme Court rulings in Motiram & others vs. State of Madhya Pradesh AIR 1978 SC 1594; Hussairanan Khatoon & others vs. Home Secretary, Bihar, Patna , AIR 1979 SC 1360; Supreme Court Legal Aid Committee vs. Union of India & others, 1994(3) Crime 644(SC); Common cause vs. Union of India & others (1996) 4SCC33.
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 - Analysis and study of prison statistics and problems of general nature affecting prison administration;
 - Assimilation on and dissemination of relevant information to the States in the field of Correctional Administration;
 - Co-ordination of research studies conducted by RICAs and other academic/ Research Institutions in Correctional Administration and to frame guidelines for conduct of research studies/surveys in consultation with State Governments;
 - To review training programmes keeping in the view the changing social conditions, introduction of new scientific techniques and other related aspects;
 - To prepare uniform Training Module including Courses, Syllabi for providing training at various levels to prison staff in the field of correctional administration;

- Publication of report, newsletter, bulletin and prepare of Audio visual aids etc. in the field of Correctional Administration; and
 - To set up an Advisory Committee to guide the work relating to Correctional Administration.
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State Jail Industry Board and Sustainable Economic Rehabilitation of Prison Inmates

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Key words

Jail Reforms, Jail Industry Board, PPP, Section 25 Company

Abstract

Reformation and Rehabilitation of prison inmates is a major activity pursued by governments to make inmates value contributing citizens of the society. Rehabilitation programs come in many hues. Some jails pursue skill development or entrepreneurial training, while others resort to production of appropriate products and services. Our analysis of rehabilitation projects pursued across several jails in India indicate these are limited in scope and mostly non-scalable. We propose a state level Jail industry Board to manage and grow sustainable rehabilitation intervention program. We also present the legal and administrative options that may be pursued for creating the same.

Introduction

'Rehabilitation' refers to 're-enabling' or 'making fit again' (from the Latin word 'rehabilitate'). Reformation and rehabilitation of jail inmates is a principle laid down in the UN Standard Minimum Rules, 1955, and is the corner-stone of the correctional policy of the Government of India. Rehabilitation regimes comprise a number of different types of intervention. Most fundamental purpose is to actively engage prisoners and equip prisoners with life and work skills. There are number of benefits from inmates working inside

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prisons: from reduced recidivism, reduced depression and violence in prisons, ease of assimilation for inmate as a productive citizen on release, increased availability of trained manpower for industrial growth, and importantly reduced costs for public exchequer. With targeted economic rehabilitation programs, offenders would have an opportunity and formal mechanisms to lend themselves as valuable citizenry. Well-executed economic rehabilitation can facilitate transformation of individuals and hence improve reforms of offenders. Researchers agree that employment at jails results into many positive developments. First, by keeping the inmates in productive work, it reduces the tensions within the jails. Second, it equips inmates to learn new work habits and routines and earn better wages. Finally, research studies indicate the rate of recidivism is lower for inmates with some skill exposure benefits (Enterprise Prison Institute, 2002, Wang, 2010)

Rehabilitation programs in Indian Jails

There are 1,393 jails in India and in it reside nearly 3.6 Lakh inmates as per National Crime Records Bureau (NCRB); 2010. Most Jails in India offer skill development, work, entrepreneurship and empowerment programmes to the inmates (Roy, 1989, Manaworker, 2006). Many jails across the country have pursued different rehabilitation programs, few major ones are summarized here. Tihar Jail has been considered as a pioneer in the economic rehabilitation program in India. It has nearly 12,000 inmates. Tihar Jail Factory produces and markets products under the brand TJ's. It involves various activities namely: Carpentry, Weaving, Tailoring & Baking School. Some products manufactured cater to the state government requirements, while products like bread and pickles manufactured are sold in the market through the TJ outlets in and around Delhi. The approximate earnings of the Jail factory is Rs 10 to 15 crore. The Tihar Jail has also entered into PPP (public private partnership) agreements with DEIEM India and Century Pvt Ltd which train the inmates on the products manufactured by them in Tihar jail and then absorb them into their respective organizations at the end of the term.

A BPO Centre has been established at Central Prison, Cherlapalli, Andhra Pradesh under PPP model with the Assistance of M/s Radiant Info Systems Limited. The unit employs about 200 educated convicts who handle back office operations like data entry, and process and transmit information. Central prisons at Cherlapalli and Warangal have established Incense sticks and Ice Candy Stick manufacturing units under PPP model. A cashew nut peeling unit is established by Olam Agro Industries at Central Prison, Visakhapatnam.

Inmates in the 35 central prisons across the state of Maharashtra manufacture some 70 products. All the jails in total recorded a turnover of Rs. 35 crore and profit of Rs. 9.44 crore in 1995. But today revenue has fallen down to Rs. 9.15 crore (Aug, 2011).

In the Bangalore Central Jail, the main production activities are Carpentry, Weaving, Tailoring, Smithy (Almirahs & steel furniture), Printing Press & Bakery. Open air inmates at Devanahalli, near Bangalore have been involved in medicinal plants cultivation. This project is in partnership with Himalaya Drugs Co. Recently, the Central Jail at Parappana Agrahara has initiated a program to bake breads, cakes not only for internal consumption but also to market them in Bangalore city.

Gujarat's Lajpore Jail has tied with local commerce bodies and corporate houses to train inmates in diamond polishing, artificial zari-making and sari weaving. These activities are carried out under PPP model. The old Surat Jail and Sabarmati Central Jail in Ahmedabad have *pakora* centres. Snacks are sold at cheaper than market rates. Profits accruing from sale of *pakor*as are used to pay prisoner's labour charges. It also contributes to their jail welfare fund. The snacks centre of the Surat jail has a turnover of RS.60 lakh a year.

The Dasna Jail in Uttar Pradesh has adopted a unique model for economic rehabilitation. It runs a co-operative society in the jail with inmates as members. Currently, the co-operative society has 40 inmates as members. Out of these inmates, one inmate is Secretary & the Jail Superintendent is the chief patron. The initiative is being funded on the basis of collective cooperation of all the members of the society.

The Prisons Department, Government of Kerala, has pursued some interesting approaches to engage prisoners for economic activities. Sensing the opportunities for packaged food, Kerala jails have been producing *Chapattis*, traditional snacks like Chips, etc. Its open prisons increased revenues from Rs 2.18 crore in 2009-2010 to Rs 2.68 crore in 2010-11. It is expected to cross Rs 3.5 crore by March this year and most likely to become a whopping Rs 5 crore by the end of 2012.

As seen from the experiences of several jails, the economic rehabilitation models can serve two large national goals: facilitation and sustained intervention. Facilitation includes empowerment, employment, skill development or entrepreneurship development and training. On the other hand, sustained intervention seeks to create scalable, sustainable businesses that can only provide opportunities to inmates through training and on-the job learning, but also create economic returns to make significant savings in the overall management of jails and prisoners. Training and in-house entrepreneurship development programs may be less costly, low risk, but their long term impact would be difficult to estimate. Localised, jail specific measures like weaving or tailoring may be - effective in creating very few entrepreneurs, but their economic sustainability and scalability across jails remains questionable. Agricultural and other related activities may be helpful in creating resources and crops for own consumption, thus cost savings, but their sustainability as free and solid economic enterprises remains questionable. Despite the increase in the rehabilitation programs there are many challenges to sustain them:

- Many of these programs are at best limited to a prison. No uniform model used by jails across states and within States leading to considerable time and efforts lost on re-engineering of the experiments to make them profitable.
- State level apparatus to sustain the business and a comprehensive model to direct and address the issues of sustainability, scalability and profitability of the jail produce is missing.

- Scalability and sustainability of the valuable efforts are lost the moment the officers leave or get transferred. Superlative training programs die natural death and economic activities dither as the experienced officer leaves. Moreover, learning and improvisation of programs and projects get affected.
- Operational challenges such as pricing the goods, work force to produce and sell the product, maintaining quality, challenges in increasing the customer base and lack of branding and marketing of the products pose major challenges to the overall success of the Jail factory.
- Prison department's internal structure and engagements with other government's agencies lacks "formalized structure" required to provide bureaucratic legitimacy and longevity.
- A Jail Superintendent is required to manage the jail and inmates therein. It is unlikely that he would have the expertise and knowledge to run a jail factory. This has been based on experiments rather than the use of standardised model.
- A large number of products manufactured are either left unsold or sold at a price lesser than the cost, indicating the incorrect selection of products or markets that could be explored taking into consideration the model of engagement for each of the products and benefits derived from the same. Many prison factory experiments are turning red because of inadequate assessment in selection of the products to be produced and distributed by the jail.

Considering the immense pressure on the exchequer to develop infrastructure, and well-being of the prisoners, there is a need to create sustainable organizational forms that can run cost-effective and efficient prison rehabilitation program. In line with Institute of Correctional Administration, Chandigarh's report on National Policy on Prison in 2006, to make a prison administration run on economic criterion of making itself sustainable, efficient, cost-effective and dynamic, appropriate state-level apparatus is required. State level organizational forms can not only bring in required scale advantages but they can also ensure the education and work programs remain

more useful to both inmates and society.

State Jail Industry Board

To ensure the sustained intervention, there is an emerging need for the states to uniformly develop and co-ordinate jail industries through the formation of a Jail Industry board (JIB). Unlike the Jail Boards in other countries, which are only state entities with no local jail authority (See, Washington Jail Board), we are suggesting a state level authority with oversight capacity. District and all prisons would be working with the state level Jail Board to identify products that not only meet internal demand (hence reduce the exchequer cost), but also generate additional revenues. Based on our analysis of prisons factories of AP, Karnataka and other states, we suggest viable products may be identified based on following criteria. (Refer Table 1)

Table 1: Product suitability for State level jail Board

Dairy	67
Indian snacks	89
Medicinal Plants	90
Steel Furniture (including Almirah)	78
Candles/incense sticks	96
Chapathis	90
Horticulture	86

Score based on variables including shelf-life, distribution requirements, whether demand is continuous or sporadic, skill requirement, possibilities of branding, cost of production, incumbent competition, etc.

- **Shelf Life of Products:** The length of time the food, beverages or any perishable item is given before it is considered unsuitable for sale, use or consumption. Eg: Milk, Bakery and Horticulture
- **Intermediate Goods:** Intermediate goods could be semi-finished goods which can be used as an input in the production of other goods. In other words this sale could also be termed as business to business selling (B2B). Finished goods are fit to be sold to the direct consumer (B2C).Eg: Medicinal Plants which

could be cultivated for pharmaceutical companies.

- **Continuous Demand for the product:** Products for which a market exists, those products where government is also a consumer and there is a regular demand. For example: Milk, Bakery products, horticulture, medicinal plants, chapattis are generic and routine products for which there is a regular demand.
- **Skill Requirement of Inmates:** The level of skill required for the production would vary from each product. For example: Almirahs, bakery products, candle making and incense sticks would require some amount of training.
- **Product Acceptance in the market:** The manufacture of those products for which there is a market with less competition and the market is open to the sale of the prison products. Eg: Candle making, medicinal plants are niche products having less competition but a considerable demand.
- **Products Amenable for branding:** Products that can be branded or co-branded depending upon the model and level of engagement. Eg: Candle/Incense sticks, traditional snacks could be branded / co-branded.
- **Socially Appealing Products:** Products that have social acceptance and could be placed in the market considering the location and the sentiment of the population. Eg: Incense sticks, traditional snacks could be produced easily to sell in the open market for its regular demand and its regional feel.
- **Cost of Production:** Considering the production of those products for which the cost of production in terms of material, machines and other costs are low considering the location. Eg: Chips making in Kerala could be an inexpensive exercise considering the procurement of raw material and any jail having a large area /piece of land could invest on medicinal plants.
- **Distribution of Products:** The channels through which the product is available for consumption by the consumer. Depending upon the perishable nature of the product the,

distribution channel is selected. For Eg: Products like milk and bakery products can only be distributed and sold to the immediate/local consumer whereas products like Almirah, and candles and incense sticks could have a wide distribution.

Operations within the prisons are supported by sales to state agencies and local governments. Thousands of offenders gain work experience and training as they produce high quality, competitively priced products, which translates into enormous benefits for taxpayers, the inmates and the government. The Jail Industries Board is volunteer member board whose goal is to help government establish and maintain inmate work programs. The outcomes of setting up a board are evident as:

- Jail operational costs are reduced through jail industries.
- All levels of government and investors could financially benefit from industry operations that provides products at reduced costs.
- The inmates develop awareness and employable skills.

A combination of vocational training and jail industries employment is a good policy that can assist in ensuring a successful strategy for jails and the government. To elaborate on the concept of the Jail Industry Board, certain objectives and models have to be stated for consideration. The objective of the State jail industry board would be:

- Effectively manage the correctional and rehabilitation program.
- Facilitate the smooth functioning of the jail industries
- Create an institution and a formal structure for sustaining and developing the jail industries
- Create awareness in the market regarding the jail industries and effective marketing /branding of the products.

The Jail Industries Board may consist of the following members:

- Chairman
- Board of Directors

- Secretary
- One official elected by the National Commission on Prisons to advise and guide the jail industries program.
- Two representative from District and other Jails in the State
- Representatives from the industry
- Representatives from industry associations
- Representatives from NGOs for the training and skill development.

The Chairman and Secretary could be the higher officials from the Prison and Police department of the State. Operational aspects can be managed by employing people in administration, finance, training, technical requirements, etc.

State level Jail Industry Board: What is the best organizational model?

The structure could be such that there would be participation of the government, private entities and non-profitable organisations that would engage in the decision making and implementation of various processes and systems, to encourage the jail industries. There are various engagement models that could be pursued to achieve the objective and based on the criteria and the feature of each model the product could be selected (Refer Table2 and Table3).

Table 2: Comparison between various economic rehabilitation models pursued

Profitability	High	Moderate	Moderate	Non Profit
Risk	High	High	Moderate	Low
Stakeholder interest	Private company	Inmates	Govt	Inmates
Scalability	High	Limited	High	Limited
Legal challenges	Moderate	High	Low	Low
Incorporation Cost	Low	Moderate	High	Low
Benefit to inmates	High	High	Moderate	High

Charter	Activities	Appropriate framework institutional
Skill development/ Re skilling	Carpentry, weaving, tailoring, candles, bakery	PPP, NGO
Empowerment	Tailoring, bakery, diary, clothing, woollen blankets.	Sec 25 Company, NGO, Co-op
Low cost of training	Carpentry, weaving, tailoring, diary, horticulture	Sec 25 Company
Sustainability	Furniture, printing, carpentry, tailoring	PPP, Sec 25 Company
Entrepreneur Opportunity	Carpentry, bakery, Indian snacks, clothing, bakery, Medicinal plants	PPP, NGO , Co-op, Sec 25 company
Set Aside procurement	Diary, horticulture, Chapatis	Sec 25 Company, PPP
Branding	Steel furniture, bakery, candles, diary, snacks	PPP, Sec 25 Company

The argument relating to the constitution of the Jail board would be whether to form a PPP or a Sec 25 Company.

Section 25 Company, by definition, are those companies which are formed for the sole purpose of promoting commerce, art, science, religion, charity or any other useful objective and have been granted a license by the central government recognizing them as such. Such companies should intend to apply its profits, if any or other incomes only in promoting its objects and must also prohibit payment of dividend to its members. Thus there are three criteria for determining whether a particular company is section 25 company or not: 1) Its objects should be only to promote commerce, art, science, religion, charity or any other useful objective. 2) It should intend to apply its profits or other incomes only in promoting its objectives; and 3) Central government should have granted a license

to such a company recognizing them as such.

Advantages of a Section 25 company:

- The tax benefit to the private investors based on representation.
- A Sec 25 company can increase the number of directors without seeking the approval of the Central Government.
- The shares and other interest of any member in the Company shall be a movable property and can be transferable in the manner provided by the Articles, which is otherwise not easily possible in other business forms. Therefore, it is easier to become or leave the membership of the Company or otherwise it is easier to transfer the ownership.

Disadvantages of a Section 25 company:

- A Section 25 company has to ensure that its profits are not distributed as dividend among its members.
- The government has a major decision making role to play which minimises the involvement of the private companies.
- The companies thus formed provide limited scope for production of commodities and concentrates only on specific products that promote their objective.

PPP (Public Private Partnership): This model involves the jail industries board registering as a company comprising of both public and private in its structure. This model aims at the increasing support of private partners to promote and enhance the market for the products. Such partnerships are characterized by the sharing of investment, risk, responsibility and reward between the partners. Thus the companies become accountable for the direct growth and development of these industries.

Advantages of PPP

- The main advantage of a PPP is the creation of value for money which is a collection of several factors such as risk sharing,

performance measures and incentives for growth.

- The PPP would encourage the involvement of both public and private decision making for the betterment of the jail industries.
- At the same time the investor's interest in these industries would increase considering the return on investment.
- Fast, efficient and cost effective delivery of products.
- Cross transfer of public and private sector skills, knowledge and expertise.

Disadvantages of PPP

- There is a risk that the private sector party will either go bankrupt, or make very large profits. Both outcomes can create political problems for the government, causing it to intervene.
- Work culture difference or the differences between the functioning of the public or government agency and private sector firm can lead to problems
- Mismanagement is always a potential threat to programs which are jointly undertaken by the public and private sector.

Conclusion

Economic rehabilitation of inmates is a costly affair, and continued draining of resources and efforts through re-engineering non-scalable experiments at various jails is not justifiable. There is a need to create state level Jail Industries Board (JIB) to bring both productive and allocative efficiency into the operation. State level intervention with right products and services that can offer profitable and sustainable benefits are required. While several models exist for creating such an administrative unit, PPP model outweigh the disadvantages. The PPP model could prove to be a successful model with good governance, structured framework, sound economic policy and mutual support. The state level

Jail Industries Board will encourage the linkage between jail industries and training to improve skill sets and employment. ■

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After-Care and Follow-up Services for the Released Offenders in Correctional Settings

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Key word

After Care, Released Offenders, Correction, Penalization, Decriminalization, Integrated Correctional Programmes, Recidivism Environmental Pulls and Pressures.

The growing acceptance of the view that rehabilitation of the offenders is so much a responsibility of the penal system as that of society at large, has given rise to decriminalization, depenalization, deinstitutionalization and diversion techniques in modern corrections work. The more significant has been the hue and cry for community based corrections, The contemporary corrections ferment makes one thing clear that traditional methods of correction, particularly of the institutional variety have been singularly unsuccessful in achieving their professed aims and purposes, The general underlying premise for the new direction in corrections is that crime and delinquency are symptoms of failures and disorganization of the community as well as that of individual offenders. The task of corrections, therefore, includes building or rebuilding solid ties between the offender and community, integrating or reintegrating the offender into community life, restoring family ties, obtaining employment and education, securing in the larger sense a place for the offender in the routine functioning of the society,

Introduction

The correction-oriented philosophy of punishment, as eulogized and accepted in modern times, takes into account and attempts

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to ward off all those evilsome consequences of imprisonment that demoralize the incarcerated offenders into the institutional settings on the one hand, and seriously threaten their prospects of rehabilitation in the community on the other. It is with this purpose in mind, the theorists in corrections repeatedly emphasize that corrections tasks remain incomplete, if the efforts to correct the offender begin and end with what is done to him within the institutional confines, be it a prison or juvenile correctional facility. The idea is simply to tell the correctional workers that offenders exposed to reformative or rehabilitative experiences in the institutional premises need help and guidance even after their release. This is considered essential in view of the high incidence of recidivism even amongst those who have successfully completed their term of institutional incarceration. Many such persons when released, often come across certain insurmountable environmental pulls and pressures and willy-nilly succumb to a life of crime once again. When this happens the entire correctional efforts put within the institution fall into disrepute. The critics of the correctional process then get an opportunity to rejoice at this failure and find a convenient excuse to decry all that corrections philosophy entails or endeavors to accomplish.

The idea of community based corrections stems from the belief that offenders must learn to cope with and adjust to the real world, not the artificial milieu of an isolated institution. This belief is based on the empirical evidence that goes on to demonstrate that though prisons and juvenile correctional institutions do succeed in punishing, yet they have never been able to deter. They protect the community no doubt, but that protection is only temporary. They do relieve the community of responsibility by removing the offender, but they make successful reintegration of the ex-offenders into community less likely. They surely change the committed offenders, but the change is more likely to be negative than positive.

The new demand for community based corrections has made after-care and follow-up of ex-offenders as one of the most important parts of the total strategy of integrated correctional programmes and services. Penologists and correctional workers now stand fully convinced of the fact that the efforts of the prisons and juvenile

correctional institutions are bound to prove fruitless, if the difficult transition of the released offender into community is not helped and guided by a humane and efficient system of after-care that takes over the responsibility, and continue to make efforts till the purpose of the offender's rehabilitation is fully achieved.

The current diagnosis of the correctional malaises shows, amongst other things, its deep concern for the prevailing neglect of the concept of 'aftercare'. It has indeed become common place now to hear that one of the very important reasons for the poor performance of the correctional outcome is largely due to its callous unconcern for the fate of its ex-clients. There is so much of disillusionment on this count that we run the risk of assuming that after-care is a forgotten concept in contemporary corrections practice. Presently, after-care is something like correctional charity devoid of any definite commitment to responsibility. It is more loudly preached than practiced. What-ever little has been done looks more haphazard and less organized. The result it that the programmes and polices of after-care are increasingly subjected to an amazing variety of complaints and allegations both by its lay and informed critics. The semantic confusion of the concept of after-care is as great as are its policy deficiencies and programme limitations.

The purpose of the present article is to elaborate upon the concept of after-care in corrections, both in its idealistic and realistic terms and also to examine the more evident short-comings of the programmes and policies of after-care as prevalent in India. The intention, to be praise, is to offer a few guidelines for action to be taken in regard to the designing of programmes of aftercare more suitable to our indigenous conditions and more in accordance with the limitation of resources. The recourse to western material is purely for the purpose of augmenting the analytical quality of the discussed contained.

The Concept of After-care

After-care refers to many developmental efforts to assist the products of institutionalization, whether they be mental patients, juvenile offenders or adult felons upon their release to the

community. In such a scheme, after-care is interpreted broadly to include programmes and services for all those persons who are physically, mentally or socially handicapped and who sometimes or the other have undergone a certain period of care and training in any people- changing institutions. The object of such programmes and services is to complete the process of rehabilitation of individual and to prevent the possibility of relapse into a life of criminality again. In figurative terms, the programmes which follow the period of offenders institutional commitment is something like released prisons convalescence. Model Prison Manual described it as "the bridge which can carry him from the artificial and restricted environment of institutional custody from doubts and difficulties and from hesitations and handicaps to an onward journey of resettlement and rehabilitation in the free community."

After-care is a continuation of the reformatory and rehabilitative endeavors for the help, service, guidance, counseling, support and protection of those persons who are released from adult or juvenile correctional institutions. The main aim of the after-care services, therefore, is to reconstruct and restore such persons to a social position of self-respect and also to enable them in settling down as law-abiding citizens in the community. In essence, after-care is a forward step in the direction of complete rehabilitation for the once institutionalized individuals. As a form of post-release assistance, it is closely interlined with the institutional training and treatment. It is a process of facilitating the transition from correctional institutions to the community.

In view of its undeniable importance, after-care has been accepted as an essential component of the modern correctional process. Ideally any well-designed after-care programme or service in corrections should aim at achieving the followings:

1. Prevention of the possibility of relapse into a life of dependence or custodial care for persons who have undergone a certain period of care and training within an adult or juvenile correctional institution.
2. Suitable provision of help, guidance and supervision of such

persons in fulfilling the societal obligations incumbent upon them a prescribed or desirable condition for their release.

3. Completion of the process of rehabilitation in the community by improving their personality strengths and by the removal of any stigma that may be attached on account of their previous institutional incarceration.

Rationale of After-Care and Follow-up Services for the Released Offenders

Juvenile and adult correctional experts agree that the successful rehabilitation of the institutionalized offenders depends upon the availability of the quality of post-institutional services. These services are necessary for resolving those problems and difficulties which ex-offenders face on their return to the community. The kinds of difficulties which meet a liberated convict on his return to society are neither few nor trifling. Consequent upon their release from penal or correctional institutions ex-offenders find themselves into a reentry crisis. They find their old world changed much to their discomfiture. They soon discover that many new problems have arisen making their reintegration difficult into the family fold, into former friend circle, into neighborhood conditions and into the general conditions prevalent in the community. Many such critical problems of adjustment look to them simply insurmountable. They desperately need help, encouragement and direction in resolving these strange problems confronting their peaceful existence in the community but when nothing seems to be in offing, their dream of home coming shatters into pieces. The result is more bitterness and more hatred towards society in general. This sets the stage for the enactment of criminal behaviour-this time with greater frustration and with still greater ferocity. They find no way but to a life of crime again. The circle thus gets completed: "Crime, incarceration and release, and fresh crime and incarceration again." The following description of a prisoner's re-entry crisis by **Karl Manninger** perhaps makes out a best case for the need and significance of after-care services in corrections:

"He enters a world utterly unlike the one he has been living in

and also unlike the one he has been living in and also unlike the one he has left some years before. In the new world, aside from few uneasy relatives and uncertain friends, he is surrounded by hostility, suspicion, distrust and dislike. He is a marked man-an ex-convict. Complex social and economic situations that proved too much for him before he went to prison have grown no simpler".

The adverse social and economic circumstances that confront the ex-convicts clearly call for an organized system of after-care and follow-up not as a matter of charity but as a matter of unavoidable correctional responsibility. The fulfilment of this responsibility is perfectly in keeping with the well-defined tasks of corrections that include building or rebuilding solid ties between the offender and the community, integrating or re-integrating the offender into community life, restoring family ties, obtaining employment and education and securing, in the larger sense, a place for the offender in the routine functioning of the society". An effective correctional system, remarked Martin-a renowned British penologist, "must aim for the reintegration of prisoners into society. In the last resort this is because there is a moral argument for aftercare. It is simply that no man is so guilty, nor is society so blameless, that it is justified in condemning anyone to a lifetime punishment, legal or social. Society must be protected, but this not done by refusing help to those who need it for more than most of their fellow citizen."

Prisons and jails may need to be reconditioned so as to provide arrangements to suit different classes of prisoners. Separate correctional institutions may be provided for female convicts. It should also be possible to develop open and close farm workshop prisons, agricultural colonies, and work camps at important work projects. The provision for Borstals, both open and closed, will also need to be expanded. It will be necessary to bring about greater uniformity in legislation applicable to first offenders and others charged more than once for minor offences. The appointment of probation officers and the release of prisoners on parole should remove a great deal of congestion from correctional institutions, reduce the cost of prison administration, and enable many prisoners

to live as normal citizens after they have served their sentences. The work of private agencies like Prisoners' Aid Societies and District Probation and after-care associations has suffered on account of limited resources. It is desirable to entrust after-care work to probation officers, and a beginning may be made by organising after-care departments in central prisons and first grade district jails to deal with problems relating to work and employment, housing, health and family relationship. New developments in the administration and programmes of correctional institutions require the guidance and advice of experienced personnel working together in a central organisation. Such an organisation can assist programmes in the States, undertake experimental work and pilot projects, and function as a centre of information and publicity on all matters relating to correctional administration.

Development of Reformation and Rehabilitation related Prison Policies in India

- ◀ In 1835 Lord Macaulay appointed a Prison Discipline Committee and that started working on 2nd January, 1835. In 1838, committee submitted their report. The committee recommended more rigorous treatment of prisoners and rejected all notions of reforming criminals lodged in the prison.
- ◀ Sir John Lawrence, again examined the conditions of India Prisons in 1864 and this second commission of enquiry also did not dwell upon the concept of reformation and welfare of prisoners. However the commission made some specific recommendations in respect of accommodation, diet, clothing, bedding, medical care of prisoners only to the extent that there were incidental to discipline and management of prisons and prisoners.
- ◀ A conference of experts was held in 1877 to inquire into the prison administration in detail. The conference resolved that the Prison Law should be enacted which could secure uniformity of system. A draft prison bill was actually prepared

but finally postponed due to unfavourable circumstances.

- ◀ The fourth Jail Commission was appointed by Lord Dufferin in 1888 to inquire into the prison administration and the outcome was the Prison Act, 1894.
- ◀ In 1919-20 All India Jail Committee was the major landmark in the history of Prison reforms in India and is appropriately called the corner stone of modern prison reforms in the country. For the first time, in the history of prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration.
- ◀ The Constitutional changes brought about by the Government of India Act of 1935, which resulted into the transfer of the subject of prisons to the control of provincial governments, further reduced the possibilities of uniform implementation of the recommendations of the Indian Jails Committee 1919-20 in the country.
- ◀ However, the period 1937-47 was important in the history of Indian prisons. Apart from appointment of some committees and enactment of some Acts, the first Jail Training School in India was established at Lucknow in 1940.
- ◀ Dr. W.C. Reckless, a United Nations expert on Correctional Work visited India during 1951-52 to study prison administration in the country. In his report he emphasized on the Corrections.
- ◀ In 1957, All India Jail Manual Committee was appointed.
 - ◀ In 1961 Central Bureau of Correctional Services was set up and in 1971 was renamed as National Institute of Social Defence.
 - ◀ In 1972, the Ministry of Home Affairs appointed a Working Group on Prisons.
 - ◀ In 1978, the seventh Finance Commission dealt with the

financial aspects of prison administration. A norm of Rs. 3 per head for diet and Rs.1 per prisoners for other items such as medicine, clothing etc per day was set up.

- ◀ The Government of India convened a Conference of Chief Secretaries of all the States and Union territories on April 9, 1979. The recommendations like development of education, training and work in prisons, setting state board of visitors etc, were made.
- ◀ All India Committee on Jail Reforms under the chairmanship of Mr. Justice A.N. Mulla was constituted in 1980 and it submitted its report in 1983. Total 658 recommendations were made regarding each and every aspect of Prison, including the reformation and rehabilitation of Prisoners and also to form National Policy on Prisons.

The role of Bureau of Police Research and Development, Ministry of Home Affairs is remarkable and the Bureau is organizing so many training programmes and research project countrywide. Out of 10 research studies conducted by the Bureau, only one is focused on the "Impact of Vocational Training on Reformation and Rehabilitation of Prisoners in Madhya Pradesh and Chattishgarh." The Bureau also prepared Model Jail Manual and Draft National Policy on Prison Reforms and Correctional Administration in 2007.

The Crisis of Offenders' Aid Organizations

The genesis of the failure of our present and old offenders' Aid Organizations lies in the following problems and difficulties:

- ◀ Frustration, discouragement, lack of public appreciation constant financial troubles.
- ◀ Marked inadequacy of the resources placed at the disposal of the Prisoners' Aid organizations.
- ◀ Lack of cooperation from the concerned governmental departments.
- ◀ Woeful inadequacy of grants-in-aid.

- ◀ Shortage of dedicated workers.
- ◀ Loss of public credibility of such organizations in the incidence of crime and delinquency.
- ◀ Peoples, unpreparedness to accept ex-offenders as citizens worthy of trust, confidence and help.
- ◀ Majority of the functionaries of such organizations do not understand the gravity of their commitments. As a results, they do not take their job assignments seriously.

After-care problems of the Institutions and their Ex-inmates

Some of the major problems that thwart the after-care of follow-up work of the custodial-cum-corrective institutions in the country are as follow-

- ◀ Systematic follow-up of all released inmates, as a matter of routine does not exist in the majority of such institutions.
- ◀ Contact is not maintained with ex-inmates, and the institutions, on their own, normally do not take any initiative in establishing any link with the ex-inmates even by the medium of the post card.
- ◀ Institutions have hardly paid any attention to the post-institutional problems of their ex-inmates which confront them in their adjustment to a new pattern of life in the outside world.
- ◀ There is a virtual absence of any guidance and counselling services in such institutions in order to prepare the inmates for their re-entry to the life in the open community.
- ◀ Once the inmates in such institutions crosses the institutional boundaries he or she automatically becomes a subject of non-concern for the institutional machinery.
- ◀ The situation of under-staffing and over-crowding in many such institutions renders them completely incapable

of providing any after-care or Follow-up Service. The responsibility is well beyond their resources.

- ◀ No record of ex-inmates is maintained in all these institutions and simply do not know what happens to the inmates after their release from the institutions, in such a situation, do not know the problems that ex-inmates have to encounter on their discharge in the absence of any after-care or follow-up service.
- ◀ The meagre help that the inmates receive by the institutions at the time of their discharge is of no tangible value for them.

Prospects for the Future

The problems that confront the after-care and follow-up services meant to be provided to the released offenders from penal or correctional institutions, speak in volumes of a tragic story that repeatedly tells the shocking state of affairs, in which once-institutionalized offenders are allowed to drift in. Why does this happen is an easy question to answer.

Our attention, so far, has been only towards the institutional services and as a consequence to that post- institutional services have been sadly neglected. The devastating dearth of after-care services has been further caused by our complete ignorance of the nature of problems that released offenders face soon after their discharge from the institutions. What happens to all of them, we really do not know. There is no significant research on the subject. Prof. M.S. Gore's Report on After-care Programmes is the only worthwhile authentic document that people rush to consult. But most of Prof. Gore's recommendations have gone unattended and uncared for. The Problems in the field of after-care are enormous, but are not insurmountable by any standard. It is possible that over a period of time something can be done to solve them. For the consideration of those who are concerned and/or in the position to remedy the situation, following suggestions may be worthy trying:

- ◀ The number of after-care institutions and organizations should be in commensurate with the number of custodial care and corrective institutions (one for each).
- ◀ After-care be made an integral part of institutional rehabilitation. In fact, the planning for after-care must begin the very day the inmate enters the institution.
- ◀ After-care associations which exist in a "moribund state" should be revitalized and liberal financial aid be given to them by the government, in order to enable them to work effectively in rehabilitating ex-offenders in the community.
- ◀ Voluntary social workers in the field of social defense be offered deserved encouragement and recognition not only from the people they serve, but also from the officials of the concerned governmental departments.
- ◀ It should be the policy of the government to hire, carefully and selectively, some of the ex-inmates of penal and correctional institutions, for jobs they are qualified on account of education, training and temperament. The case of such persons should be decided on their individual merits and on the basis of competitive examining procedures.
- ◀ Efforts can be made to establish a National Association for the Care and Resettlement of Offenders as has been done in England. This Association was born in 1966 out of the ashes of the National Association of Discharged Prisoners' Aid Societies.
- ◀ Development of after-care into a service with its own identity, drive, experimentation and expansion.
- ◀ Amalgamation of all after-care services, institutions and organizations into one centralized department financed from public funds. This department should have close liaison with the prisons and juvenile correctional institutions.

Some other measures for the After -Care and Rehabilitation Programmes

1. Productive use of the time and energies of prisoners

It is essential to keep prisoners occupied for, as the saying goes "An idle mind is the devils workshop". Work, both physical and mental, will keep the prisoners alert, active and act as a safeguard against their slipping into depression.

Literacy classes would involve both the literates and the illiterates (as teachers and taught respectively). They would sharpen the mental faculties of prisoners and boost their confidence levels.

Vocational training serves the twin purposes of productive use of the energies of prisoners and of facilitating their rehabilitation in the long run. Besides the traditional trades such as tailoring, knitting, carpentry, jute articles etc. new trades would be identified, keeping in view the abilities of prisoners. In view of the increasing use of computers in today's world, the educated among the prisoners can be imparted computer skills.

2. Improvement in the physical, mental & spiritual health of prisoners

A holistic approach covering the physical, mental and spiritual facets is necessary in order to improve the health and general well being of prisoners. Physical training drill on a regular basis, as well as outdoor games would help keep prisoners physically active. The drill and games would be devised for different groups of prisoners, keeping their potential and limitations in mind. Literacy classes would sharpen the mental facilities of prisoners. All efforts shall be made to encourage educational pursuits of prisoners.

Prisoners in general and those serving long sentences in particular run the risk of developing a negative brooding attitude. This is in the interest of neither the prisoners themselves nor of the society at large. While it is necessary for them to realise the mistakes of the past and resolve not to repeat them in future, they must learn to develop a positive, forward looking approach. With this end in

view, sessions in ethics and moral values shall be incorporated in the schedule.

3. A comprehensive rehabilitation programme for prisoners to ensure their successful integration into the mainstream of society

One of the biggest problems faced by prisoners on their release from jail is that of rehabilitation. The vocational training programmes are an integral part of the rehabilitation scheme. New vocations (such as computer operator) shall be identified in keeping with the changing times, and the related skills will be imparted to prisoners with an aptitude for that. Rehabilitation package has to be tailor made for each individual prisoner taking into account his aptitude, past experience, period to be spent in jail, etc. Hence, it is proposed to constitute a Rehabilitation Committee which will provide the blue print for a comprehensive rehabilitation programme.

4. Involvement of N.G.O.'s wherever feasible to supplement governmental efforts

In view of the shortage of financial and manpower resources, it is necessary to involve identified N.G.Os in different spheres such as health, vocational training, literacy, rehabilitation programme, etc. Involvement of N.G.Os would also be one way of keeping the prisoners in some kind of contact with the rest of society.

Evaluation of the Rehabilitation Programmes

The offence specific programs require evaluation in the following format:

1. Process evaluation

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

2. Outcome or impact evaluation

This form of evaluation demonstrates the effectiveness of offence-specific programs in reducing offending behaviour. The quality

and quantity performance measures include data about: (1) how much was done (2) how well it was done (3) how much efforts was required and (4) what were the results. This form of evaluation can be assisted by external research and evaluation organizations.

3. Program standards and accreditation

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

Some Specific Recommendations

- Education system in the jails should be streamlined and strengthened, especially elementary education system as it is the best method of making a person empowered and the rehabilitation of the prisoner.
- Computer training is also an important area which is very helpful for the prisoners in this computer age, for earning bread and butter after their release from jail.
- More emphasis is required for imparting higher education and we must create an environment for motivating the prisoners for higher educations.
- Relevant traders must be encouraged in vocational training keeping in mind various activities and areas of operation. Involvement of NGO's and corporate sectors in providing vocational training to the prisoners can give a fruitful outcome of these vocational trainings.
- There should be a uniform wages system in the prisons all over India and prisoners should be treated alike in all the jails irrespective of the states. The follow-up of the reformation and rehabilitation of the prisoners should be under the control of a separate unit of the prison department which, can run some after-care programmes with the help of the social welfare department of the state.

- The feeling of group increases the sense of belongingness and also to make them problem solving by themselves introduction of the Self Help Group Concept in the prison is needed. Bureaucratic structure should be changed into cooperative structure with a feeling of belongingness.
- Conditional Privatization of the prison should be encouraged involving other organizations i.e. giving the reformation aspect to one organization, after-care services to other, etc.
- More interaction with the Non-governmental organizations NGOs and to involve more NGOs by making liberal policies. There should not be overlap in the programme and there is a great need to ensure that all aspects of overall development of convicts are covered.
- Regular research studies for evaluation, monitoring and improvement of the system and also implementation of any policy needs pretesting, and should be followed by small research.
- **For a released prisoner housing and employment problem** is very severe for him. The District Urban Development Authority (DUDA) builds the low cost houses to the poor living in the slums. If these houses can be given to the convicts after release where they can also take up some self-employment while living in the colony. Otherwise, during the period of their sentence convicts can bring their families to the cities where wants to settle after release. This will be really a landmark step in re-integration into the society. The minimum contribution which they have to give cant be met out from their wages.
- **Meditation, prayers, religious feeling** needs to be strengthened with the help of print and audio visual media
- More **operational flexibility is required**
- More comprehensive planning with more attention to the social aspects of development and greater control of resources with a view to attaining the objectives of equity, social justice

and self reliance.

- More support and follow up of programmes after release
- Correctional research should be systematic aimed at strengthening the empirical knowledge in respect of control of deviant behaviour and re-integration through corrective, protective and preventive devices.
- **Training in Micro enterprises** because in the trades like powerloom, paper industry etc. will not benefit them after release and even they can not afford to establish such set up. So the convicts must be trained in the trades like tailoring, auto repair, typing, etc so that they can take a self employment after release. **New Micro level activities according to the need and interest** of individual convicts
- **Training, sensitization of prison staff** to the special needs of different groups of prisoners is important. Introduction of **training and sensitization of prison officials** at regular interval so as to achieve the correctional goal of the prisons.
- More **openness is needed**. The secrecy surrounding these places like the prison makes them closed places and the staff becomes often complacent and negligent. In most cases the families too want to hide the fact that they have a relative in prison, because of the social stigma attached with imprisonment.
- There must be some **awareness programmes of the govt. schemes** related to employment, women empowerment, education, housing, etc. for the convicts also. This will solve the problem in two ways, one the family facing the problem outside can seek some help from these programmes and other is that after release the convict also can get the advantage of the govt. schemes.
- There must be a **proper system of allotment of prison labour**. The convicts must be allotted the work in which they are trained. There are examples wherein the convicts trained in tailoring trade are put into the powerloom.

- There must be **some reward for the convicts who show good behaviour** and set example for the fellow convicts. Motivation and encouragement of these type of convicts is very necessary. It may be money or a thing or a certificate they will feel proud of. ■

Sl. No.	Name of State	Number and name of After-care institutions/ Organizations	Administrative Authority
1.	Andhra	1. After-care Home for Men at Malkapet Hyderabad	Inspector General of Prisons.
2.	Delhi	1. State After-care for boys at Anand Parbat, New Delhi	Directorate of Social Welfare Delhi Administrator
3.	Haryana	1. State After-care Home at Madhuban, Karnal	Social Welfare Department
4.	Gujarat	1. District Shelter for Men at Ahmedabad 2. State Home for Men at Rajkot	Social Welfare Department
5.	Kerala	1. Three After-care Homes for Men Trivendrum, Trichur, & Tellichery. 4. One After-care Home for Boys at Kottayam	Jail Department
6.	Mysore	1. Two District Shelters for Men at Mysore & Bengaun. 2. One State Home for Men at Hubi.	Department of Probation and After care Services.
7.	Maharastra	1. Maharastra State Probation And After-Care Association and its Districts Branches. Navjeevan Mandal, Poona.	

8.	Orissa	1. Seven District After-care Shelters at Puri, Belasore, Sambalpur, Sundargarh, Bolangir, Berhampur and Cuttak 2. One Central After-care Home at Baripath, Distt. Mayurbhanj	Jail Department
9.	Punjab	1. State After-care Home at Hoshiarpur	Social Welfare Department
10.	Tamil Nadu	Madras Prisoners Aid Society and its District Committees	
11.	Uttar Pradesh	1. Asha Kiran/Prison Ministry 2. Nari Sewa Samiti 3. National Council for Woman 4. Taru Chhaya	
12.	West Bengal	1. Bengal Prisoners' Aid Society	

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Internalizing International Human Rights on Prisoners In India – An Analytical Study

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Keywords

Internalization, International Human Rights, Domesitic Human Rights, Assimilation).

Abstract

Life, Liberty, Equality and Dignity are the basic tenets of human rights. It evolved at the global level and is internalized by the Legislature and harmonized by the judiciary at the domestic level. India suffered under the imperialistic yoke for centuries. All the existing Criminal laws are based on British legal system. Hence it declared human rights as its cardinal principle to protected at all costs. Being the largest democracy with a heterogeneous population makes this aspect even more important and difficult. Therefore corresponding to the developments of human rights at the global level, India periodically attempts to internalize such laws into the domestic system either by amending the Constitution or through legislative enactments. In spite of that, there is persisting gap between the evolving global laws and the existing laws relating to prisoners rights. Global human rights are far ahead of national human rights. In this context, this research attempts to analyze the role of the Supreme Court in assimilating, internalizing and harmonizing the global laws in order to minimize the gap. In this research work certain questions crop up, which are sought to be answered.

“There is no iron curtain between a prisoner and the fundamental rights” said Hon’ble Justice V.R. Krishna Iyer in Sunil Batra

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case². The profundity of this simple statement is enormous. Prisoners' rights are very sensitive one, mostly neglected or brushed aside. By birth no man is a criminal, circumstances mould some as criminals. The saying is embodied in all religious principles. *Gandhi*, the Mahatma following that great religious precedent said, "Hate the sin, but not the sinner". It is accepted by the Indian legal system with a true sense of 'heart and soul' and is the cardinal principle of criminal justice system in India.

Prisoners as 'persons' are entitled to all those rights available to 'persons'. The treatment meted out to prisoners differs from country to country. But in no country they are accorded all human rights. Commenting on the general unhealthy trend, *Hon'ble Justice V.R. Krishna Iyer* observed "Barbarity in sentence and torture in prison are a trend, which aggravates the malady and is so self-defeating that punitive cruelty is a curative futility."³

Freedom fighters, put behind bars are also treated as prisoners. After the country attains Independence, they become heroes and leaders of the new nations. The autocratic regime on India for more than two centuries saw many a freedom fighter behind the bars, leaving the prisons a crowded place in British India. India has inherited most of the laws relating to prisoners from the British, whose aim was to facilitate effective control over colonial India. After independence, these laws especially its structure continued, but modifications were made to other aspects. It is relevant to understand the rights available to all sorts of prisoners, convicted for political causes or for various other offences committed by them, against the State as well as individuals.

The laws relating to prisoners in India have been influenced by international instruments on one side and on the other the practice of treating prisoners, that is the residue of British imperialism which also introduced the police and prison system. These systems are responsible for the continuance of inhuman treatment of the prisoners. In this paper, an attempt is made to probe the following research problems: what is the role of the Supreme Court of India

(2) Sunil Batra (ii) v. Delhi Administration, AIR 1980 SC 1579

³Ibid

in enforcing prisoner's right and critically analyze the harmonization process in various phases and its various dimensions

Research Methodology

It is an ex-post facto research. The cases decided by the Supreme Court from 1950 to 2010 related to human rights have been taken for analysis. The process of interpretation by the judiciary is analyzed. However, in this research work, the role of the Supreme Court in enforcing the international human rights law into domestic law has been explored, analyzed and formulated only through the cases already decided by the Supreme Court. This research work consists of various stages.

Firstly, Supreme Court judgements in which one or more international human rights instruments mentioned are explored. secondly, Such explored cases are arranged chronologically and classified into four groups, which constitute four phases namely from 1950 to 1966 i.e. from the commencement of the Indian Constitution to the year of the enactment of International Covenant on Civil and Political Rights, 1966 (ICCPR) and International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR); the Second phase from 1966 to 1979 i.e. after the enactment of ICCPR and ICESCR to the year of ratification of these two instruments by India; the third phase commenced from 1979 i.e. after the ratification of the two covenants and before the enactment of Protection of Human Rights Act, 1993, the fourth phase commences from the enactment of Protection of Human Rights, 1993 to 2011 is a period of confinement of the research. Thirdly, all the above cases are further classified into 'Reference' and 'Expansion'. If the Supreme Court mentioned international human rights instruments in its judgements and used such instruments for the purpose of expanding domestic human rights in the light of international human rights, such cases are referred as 'expansion' and other cases are mentioned as 'reference'. This research applies explorative, formulative, analytical and critical methods. The human rights cases decided by the Supreme Court have been explored. After exploration, the role played by the Supreme Court in harmonizing the international law with the domestic one is formulated. The role of the Supreme

Court is analyzed in the context of international human rights and a critical evaluation is made about the role of the Supreme Court in this regard. Trend analysis is used to critically analyze the role of the Supreme Court during various phase of harmonization.

With the help of "AIR Info-tech" and <Manupatra.com> software all these cases, which have the concept of "human rights" in the judgement decided by the Supreme Court from 1950 to 2010 are enumerated first. There are 27 cases found in the "AIR Info-tech" with the content of "human rights". This study is confined only to the human rights cases decided by the Supreme Court of India, which predominantly relate to international human rights, as found in the international treaties and conventions. For the purpose of this analysis, the Supreme Court cases have been selected irrespective of the judgement remaining as *obiter dicta or ratio decidendi*.

From 1950-66

In that phase, the Court did not refer or invoke directly any international human rights instruments connected with prisoners.

From 1966-1979

During this period, the positivist traditional approach of the Supreme Court turned to an activist one. The changing political winds had an effect on the Supreme Court. The activism of the Supreme Court was slow and imperceptible, and came to be noticed only towards the end of this phase when India was reeling under emergency. The Court slowly started perceiving the larger dimension of its Constitutional role during this period⁴. In this phase, Court did not cross swords with the executive, but legitimized State intervention for regulating the economy and enacting social justice, barring a few cases on the prisoner's rights. Therefore, an attempt is made to explain and explore the dynamism of the plenary power of the Supreme Court in safeguarding the prisoner's rights in these cases.

The significant development in this phase is ratification of the *International Covenant on Civil and Political Rights*, 1966 in 1979.

⁴S.P Sathe, *Judicial Activism in India*, (Oxford: Oxford University Press, (2002), p.53.

Subsequently, an Optional protocol was passed to constitute Human Rights Committee to receive and consider the individual claims of the victims in 1976. By the influence of the ICCPR, 1966, UN adopted a *Declaration on Protection of All Persons from being subjected to Torture and other Cruel Inhuman or degrading treatment or punishment*. But India had reservation in this convention.

The Supreme Court observed in *Nandini Satpathi case*⁵ the Supreme Court of India interpreted Article 22(1) of the Constitution in consonance with Article 3(b) of the ICCPR, 1966 and extended the operation of this right of the accused person under circumstances of near custodial interrogation. In this case it was found that the judges of the Supreme Court attempted to infuse the human rights principles in the domestic jurisdiction to render complete justice thus bringing in harmonization. This phase witnessed an increasing consciousness about the desirability of prison reforms.

In *A.D. M. Jabalpur v. V.S.Shukla*,⁶ ,Khanna.J. dissenting note stated that “in case of conflict between international law and municipal law, the latter should prevail. But if two constructions of the municipal law were possible, the Court should construct its judgment in such a way as to bring harmony between the municipal law and international law or treaty.”⁷ The Supreme Court initially refers the Constitutional provisions in 1950’s and 1960’s. In the dawn of 1970’s the judicial activism enable the Court to interrelate the Article 21 with other provisions of Fundamental Rights of the Constitution. During late 1970’s and 1980’s the Supreme Court assimilated the International human rights instruments in the domestic law.

The Supreme Court expanded its scope for preserving and protecting the right to legal aid of the indigent persons in *Hussainara Khatoon Case*.⁸ It case was the starting edge of the application of International human rights instruments in the domestic jurisdiction. This case reveals that judicial activism in India stepped into an area

⁵Nandini Satpathi v. P. L. Dhani, AIR 1978 SC 1075.

⁶AIR 1976 SC 1207.

⁷Ibid.

⁸Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1819.

of legislative vacuum in the field of human rights. The language of Article 21 was merged with Article 14(3)(d) of the ICCPR. In this case P.N.Bhagwathi, J. observed that “we are crying on our roof top that we are implementing human rights in the administration of justice, but it is a shame on our part that our bail system is connected with monetary loss.” The Court criticized the administration of criminal justice and bail provisions which are interwoven with monetary aspects. The legal system’s belief that monetary loss would alone compel a person to appear before judicial procedure was also criticised.

The right of prisoners to ask for observance of human rights has been recognized by the Supreme Court in *Charles Shobraj v. Superintendent, Central Jail, Tihar*.⁹ The fruits of Article 21 were made available to the prisoners while dealing with the question of their right of reading and writing books in jail. This view was reflected in subsequent Supreme Court judgements. In *Ismail IqbalSodawala v. Union of India*¹⁰. The Court observed that it is the duty of the Court to hand over a copy of judgment free of cost to the prisoner immediately after pronouncement of judgments. Otherwise it would amount to unfair trial. The same opinion was followed subsequently in *M.H.Hoskot v. State of Maharashtra*.¹¹ In these cases, the impact of the International instruments is largely felt and it influenced the minds of the Indian judiciary. The fag end of this phase was the darkest period in the political history of modern India. The emergency period probably strengthened judicial activism. Hence harmonization of international law into domestic sphere was thus started with *A.D.M. Jabalpur* case.

From 1979-93

The above trend was continued during this phase wherein the Supreme Court directly harmonized several international human rights instruments in the domestic law. It was consistently guided by the UDHR and other international instruments in interpreting the

⁹AIR 1978 SC 1514.

¹⁰AIR 1974 SC (CrI) 764, 770.

¹¹AIR 1978 SC 1548.

provisions of the constitution and the laws. During this phase the Indian Judiciary is slow and steady and became active champion of Civil and Political Rights. It is evident from plethora of judgments decided by the Court with the aid of the international instruments.

During this phase, 'Custodial torture' is a nightmare for any prisoner. It means any act of inflicting excruciating pain especially as a punishment or coercion by an enforcing authority or any person or group of persons upon a criminal or suspect or arrestee for extracting information or to make a confession. When it is in an advanced degree, it is sadistic, inhuman, unreasonable, irrational, uncivil and beastlike or beastly, hence brutal. It is not merely physical, there may be mental torture calculated to create fright and submission to the demands or commands. When such threats are from a person in authority like police officer, the mental torture caused by it is even more grave.

*In Sunil Batra Case (II)*¹², a landmark case under Article 21, the International Conventions were referred and also invoked. This case arose from a *habeas corpus* writ petition, based on a letter sent by a prisoner to a judge of the Supreme Court complaining of brutal assault by the Head Warden on another fellow prisoner. Due to intense physical torture a prisoner developed a tear of the anus due to forced insertion of stick by some prison official. The prisoner's medical examination revealed the fact of his being tortured by warden. The Court was shocked to hear that not only the lower but the higher officials were meeting out such inhuman treatment."In this case the Court in its decision referred to the *Convention on the Protection of All Persons from being subject to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975*. Guided by the International standards laid down by the Declaration, the Court issued detailed directions relating to the treatment of prisoners, prevention of torture in prisons and redressal of their grievance. The Court also directed the State to follow the *United Nations Standard Minimum Rules for the Treatment of Prisoners* without fail. All the directions and guidelines issued by the court reflect the spirit of the said Convention, thereby giving the Declarations a practical and

¹²Sunil Batra (II) v. Delhi Administration, AIR 1980 SC 1579; (1980) 3 SCC 488

positive meaning.¹³ This set the trend and with this decision the Court began to consider a prisoner as a human being and conferred dignity to the prisoner.

In Francis Coralie Mulin,¹⁴ a petition was filed by a British national under Article 32 of Indian Constitution raising a question in regard to the right of a detainee to have a meeting and interview with her lawyer and members of her family. She was denied the facility of interview with her lawyer. It was imposed by the authorities under the prison rules. The principal ground on which the Constitutional validity of these provisions was challenged was that these provisions were violative of Article 21 of the Constitution.

In this context the Court condemned cruelty by torture in the following words "Any form of torture or cruel, inhuman or degrading treatment would be offensive to human dignity and constitute an inroad into this right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with the procedure prescribed by law, but no law which authorizes and no procedure prescribed by law, which leads to such torture or cruel, inhuman or degrading element can never stand the test of reasonableness and non-arbitrariness it would plainly be unconstitutional and void as being violative of Article 14 and 21. It would be seen that there is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment, which is enunciated in Article 5 of the UDHR and guaranteed by Article 7 of the ICCPR. The right to live, which is comprehended within the broad connotation of the right to life, can concededly be abridged according to procedure established by law and therefore when a person is lawfully imprisoned, this rights to live is bound to suffer attenuation to the extent to which it is incapable of enjoyment by reason of incarceration." The Court strongly spoke against affront to prisoners' dignity by relying on the international instruments.

In Prem Shankar Shukla v. Delhi Administration,¹⁵ the Supreme Court strongly spoke against affront to prisoner's dignity. The Court

¹³Ibid

¹⁴Francis Coralie Mulin v. Union territory of Delhi, AIR 1981 SC 746.

¹⁵AIR 1980 SC 1535.

struck down the rule of handcuffing as violation of human rights on the basis of the international standards laid down in Article 5 of the UDHR, 1948 and Article 10 of the ICCPR, 1966.¹⁶

This period saw justice V.R. Krishna Iyer and P.N. Bhagwathi towering over others as champions of prison justice. In *Charles Sobraj v. Superintendence, Central Jail, Tihar*,¹⁷ V.R.Krishnalyer,J,. observed that "Iron is allergenic to human body" and categorically stated that "Iron chains, bar fetters and handcuffs should not be imposed on any prisoner except with the permission of the Court." Deeply pained by tales of torture in prison, Court expressed its anguish in these words, "we are deeply disturbed by the diabolical recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new peril when the guardians of the law gore human rights to death, the vulnerability of human rights assumes traumatic torturesome poignancy when the violent violation is perpetrated by the police arm of the State whose function is to protect the citizen and not to commit gruesome offences against them as has happened. Police lock-up if reports in news papers have a streak of credence are becoming more and more awesome cells. This development is disastrous to our human rights awareness and humanist constitutional order."

The Constitutionality of the death penalty was raised by the Supreme Court on several occasions. The Law Commission of India in its 35th report was for retaining the death sentence in India. Adequate safeguard is prescribed in the Criminal Procedure Code for imposing death penalty and all relevant facts and circumstances are taken into consideration. The judge balances a number of aggravating or mitigating circumstances of the case and records his reasons in writing for awarding the death sentence.¹⁸ Ordinarily for murder, life sentence would be an appropriate punishment and for death penalty special reasons must exist. In several cases the Court emphasized the fact that death penalty is an exception rather than a rule and it ought to be imposed only in the gravest of grave cases of extreme

¹⁶AIR 1980 SC 1535.

¹⁷AIR 1978 SC 1514.

¹⁸Jagmohan Singh v. State of Uttarparadesh, AIR 1973 SC 947; (1973) 1 SCC 20.

culpability or in the rarest of rare cases when the alternative option is unquestionably foreclosed.¹⁹ But it is criticized that it is violation of International human rights. Article 6(1) of the ICCPR states “Every human being has the inherent right to life. Law shall protect this right. No one shall be arbitrarily be deprived of his life.” Article 6(2) provides “In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of crime and not contrary to the provisions of the present covenant.” Further Article 6(6) states “Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State party to the present covenant. But when we read the complete provision of Article 6, it is clear that its intention was not to abolish death penalty completely. In 1982, UN Human Rights Committee commenting on Article 6 supports for the abolition of death penalty and requested the world countries to take adequate measures in this regard. The Second Optional Protocol of the ICCPR requires the state party to abolish death penalty.

The validity of the capital punishment was challenged in *Bachan Singh v. State of Punjab*²⁰ on the ground of fallibility in the legal process, resulting in the execution of innocent people. The Supreme Court reconsidered the earlier judgments in the case of *Rajendra Prasad v. State of UP*²¹ and relied on the inter-relationship of Articles 14, 19 and 21 as we achieved in *Maneka Gandhi v. Union of India*²² to give its judgments. This novel approach gave a new dimension of interpretation of fundamental rights and freedoms. The question pondered over by the Court was whether death sentence would violate Article 21, and Article 6(1) of the ICCPR. On international standards on death penalty and ICCPR, the Court observed that most states subscribing to these international standards have retained the death penalty for murder and a few other crimes in their penal laws. Finally it held that death penalty did not violate Article 21 because neither India’s ratification of the ICCPR nor the

¹⁹Bachan Singh v. State of Punjab, AIR 1980 SC 898.

²⁰Ibid.,

²¹AIR 1979 SC 916.

²²AIR 1978 SC 597.

expansive interpretations of Article 21 after the *Maneka Gandhi* case have made a change in the prevailing standards of decency and human dignity. It also reasoned that ICCPR did not outlaw capital punishment as such.

In *Jolly George Verghese v. Bank of Cochin*,²³ the Court discussed the question whether a person could be arrested and detained in civil prison on the ground of inability to fulfill a contractual obligation. Viewing this case from the angle of Article 11 of the ICCPR, the Court said that 'no one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation'. The question of interpretation was the impact of a provision in the international covenant on a provision in the national law. Here, Section 51 of the Civil Procedure Code was to be interpreted in the light of Article 11 of ICCPR to minimize the possibility of detention for breach of contractual obligation.. Justice V.R.Krishnaiah observed that, "to this extent, Section 51 CPC was amended judicially, in the light of a provision in the international human rights document."

The Rights of the accused as stated in Article 22 of the Constitution was discussed by the Supreme Court in the light of the international instruments. In *CBI v. A.J. Kulkarni*,²⁴ the question of production of the accused within 24 hours to the nearest Magistrate was raised before the Supreme Court from the human right perspective. By harmonizing Article 9 and Article 14 of the ICCPR, 1966 the Court observed that, if there is failure to produce the arrested person before the nearest Magistrate within 24 hours, it makes the arrest illegal. The judiciary authorized the detention of the accused under judicial custody or police custody from time to time if the investigation is not complete. There can be no detention in police custody after expiry of 15 days. If the investigation is not completed within 60 or 90 days, the accused has to be released on bail under Section 167(2) Cr.P.C.

Administrations of justice in general and criminal or corrective justice

²³AIR 1980 SC 470.

²⁴Central Bureau of Investigation, Special Investigation Cell-I, New Delhi v. Anupam J. Kulkarni, AIR 1992 SC 1768.

in particular are sovereign rights of States. As per the traditional notion of sovereign immunity, any wrongs committed against any person in course of employment is immuned from the liability. However, the Court interpreted sovereign immunity in a different manner in the light of international instrument and held the liability of State to compensate in wrongful arrest or detention. This period saw Compensatory jurisprudence being developed by the Supreme Court, though India had not ratified and had reserved the clause of compensation for victims in lieu of Article 9(5) of ICCPR, but it is adopted in several decisions by the Supreme Court. Thus was started a new era of compensatory jurisprudence in Indian legal history. This newly forged weapon is helped to protect the torture victims in many of its decisions.

In *Rudal Shah v. State of Bihar*,²⁵ the petitioner was awarded Rs.35,000 as compensation against the State of Bihar as he was kept in jail for 14 years after he was acquitted by a criminal court. The question before the Court was whether it could grant some compensation under Article 32 to the petitioner for his wrongful detention. The Court strongly criticized the inefficiency of the administrative mechanism, leading to flagrant infringements of fundamental right and held the opinion that it cannot be corrected by any other means. It led to the judiciary to adopt the right to compensation for the unlawful acts of the government. This stand of the Court was repeated in *Bhim Singh v. State of J&K*²⁶ wherein the Court awarded compensation to the petitioner for his illegal detention in police custody which was held to constitute violation of Article 21.

The Court, in *Sheela Barse v. Secretary, Children's Aid Society*²⁷ referred UN Declaration on Rights of Child, 1959 for protection of children from exploitation in prison. While issuing the directions to the State of Maharashtra to protect children from exploitation in jails, the Supreme Court held that the convention which had been ratified by India, and which elucidated norms for the protection of children, cast an obligation on the state to implement their

²⁵AIR 1983 SC 1086.

²⁶AIR 1984 SCC Supp. 504.

²⁷(1978)3 SCC 50.

principles. In this connection the Court observed that: "In 1959, the Declaration of all the rights of the child was adopted by the General Assembly of the United Nations. In 1966, the International Covenants appropriately recognized the importance of the child. India is party to these International Charters having ratified the Declaration; it is an obligation of the government of India as also the State machinery to implement the same in the proper way." In this way the Court emphasized the significance of international human right instrument and internalized it to the domestic law.

In Saheli v. Commissioner of Police,²⁸ the Court held that the State was liable to pay compensation to the mother of the deceased who had died because of police beating and assault. These two cases were decided by the Supreme Court by applying Article 9(5) of the ICCPR, thereby consolidating the international laws here.

From 1993-2011

This phase witnessed the Supreme Court going from strength to strength in its self proclaimed endeavour as 'people's protector' or 'Supreme Court for Indians'. Its activism was unabated, allowing its sane voice to be heard above the din. The new weapon forged by it i.e, 'Compensatory Jurisprudence' was used many times in these phase also, creating jitters in the administration.

In *Nilabeti Behera v. State of Orissa*,²⁹ Supreme Court considered the question of monetary compensation to the victim of unlawful arrest and detention. In this case, the victim Suman Behera and another accused were handcuffed and tied together and kept in custody at the police station. Next day, the body of the Suman Behera was found on the railway track with multiple injury. Additional Solicitor General urged that it was not a case of custodial death but of death of caused by injuries sustained by him in a train accident, after he managed to escape from police custody by chewing off the rope with which he had been tied at the Police outpost. The Court rejected the contention and ordered the government to pay compensation to the deceased's mother by referring to support of Article 9(5) of

²⁸(1990)1 SCC 422.

²⁹AIR 1993 SC1960.

the International Covenant on Civil and Political Rights, 1966 which indicates that an enforceable right to compensation is not alien to the concept of enforcement of guaranteed right.³⁰ Article 9(5) reads as follows: “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

In *Joginder Kumar Case*,³¹ the Supreme Court took measures for preventing custodial violence through documentation of arrests. It suggested that police should inform the arrest and detention of a person to a nearest relative, friend or neighbor. It is also urged that the *UN Body of Principles for the protection of all the persons under any form of detention and imprisonment and the UN Standard Minimum Rules* for the treatment of prisoners are to be followed. A shocked Supreme Court looked down at the inhuman treatment of prisoners lodged in hospitals, in *Citizens for Democracy v. State of Assam and Ors*, and observed, “the handcuffing and in addition tying with ropes of the patient-prisoners who are lodged in the hospital is, the least we can say, inhuman and in utter violation of the human rights guaranteed to an individual under the International law and the law of the land. We are therefore of the view that the action of the respondents was wholly unjustified and against law. We direct that the detenues – in case they are still in hospital – be relieved from fetters and the ropes with immediate effect”³²

Supreme Court time and again held that torture is not permissible and it is a human rights violation. In *D.K. Basu v. State Bengal of West*³³ is a case all those matters related to torture of prisoners are outlined and steps to be taken by the authorities to end such torture was given in the form of guidelines by the Court. It observed that, “Custodial violence” and abuse of police power is not only peculiar to this country but it is widespread. It has been the concern of International community because the problem is universal and the challenge is almost global. The UDHR, which marked the emergence of a worldwide trend of protection and guarantee of

³⁰Nilabati Behera v. State of Orissa (1993)2 SCC 746; AIR 1993 SC 1960.

³¹Joginder Kumar, v. state of U.P AIR 1994 SC 1349.

³²(1995)3 SCC 743.

³³AIR 1997 SC 610; (1997) 1 SCC 416.

certain basic human rights, stipulates in Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Further the Court held that the custodial death is the worst crime in a civilized society governed by the Rule of Law. The right inherent in Article 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. Any form of torture or cruel, inhuman or degrading treatment would fall within the ambit of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. The precious rights guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, detainees and other prisoners in custody, except according to the procedure established by law and by placing such reasonable restrictions as are permitted by law. Despite the pious declaration, the crime continues unabated, though every civilized nation has shown its concern and takes steps for its eradication.

In this case, the Court went to the extent of saying that since compensation was being directed by the Courts to be paid by the State, which has been held vicariously liable for the illegal acts of its officials, the reservation to Article 9(5) of the ICCPR by the government of India has lost its relevance. In fact, the sentencing policy of the judiciary in torture related cases, against erring officials in India has become very strict. For an established breach of fundamental rights, compensation can now be awarded in the exercise of public law jurisdiction by the Supreme Court and High Courts, in addition to private law remedy for torture action and punishment of wrongdoer under criminal law. In this case the Court gathering support from Article 5 of UDHR³⁴ laid down a code for protection of detainees at and after arrest. Regarding award of compensation in case of illegal arrest and detention, by referring to Article 9(5) of the ICCPR³⁵ it observed that, "The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by

³⁴Article 5 of UDHR states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

³⁵Article 9 (5) of the ICCPR, 1966: "Anyone who has been the victim of unlawful arrest or detention shall have enforceable right to compensation".

the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm on the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State in law is duty bound to do."³⁶

Compensatory Jurisprudence was once again stressed by the Supreme Court in *People's Union for Civil Liberties v. Union of India & Another*, A large number of cases were referred to and once again the Court relied on ICCPR instrument of 1966, read which was along with our Constitutional rights to chalk out protective and remedial measures earlier unheard of to torture victims in police custody. This case was concerned with the award of compensation in a case of fake encounter resulting into custodial death of two persons alleged to be terrorists, who were shot dead by the police. The Court considered the question of fake encounter by police while the accused was in custody. By referring Article 9(5) of the ICCPR and a good number of foreign judgments, the Court awarded a compensation of Rs. 1 lac to the families of each of the deceased families.³⁷

Right against exploitation is available to persons including prisoners and hence no prisoner can be compelled to work forcibly. In *State of Gujarat v. Hon'ble High Court of Gujarat*, the Court considered the question of putting prisoners to hard labour, as part of their punishment. It laid down that they should be paid wages for such work at rates prescribed under Minimum Wages Law. Otherwise the person provides service to another for remuneration less than minimum wage labour and that service would amount to "forced Labour" or 'beggar' under Article 23. In this case the Court referred the provision Article 8 of the ICCPR which says that, "No one shall be held in slavery and the slavery trade in all their forms shall be prohibited."³⁸

³⁶AIR 1997 SC 610

³⁷People's Union for Civil Liberties v. Union of India, AIR 1997 SC 1203.

³⁸AIR 1998 SC 3164, (1998) 7 SCC 392.

In *State of Andhrapradesh v. Challa Ramakrishan Reddy & Others*,³⁹ the Supreme Court cautioned the public authorities that the Constitutional right to life should not be denied to anyone, even to persons detained or imprisoned, as they do not cease to be ... human beings ... and still retain the residue of constitutional rights. Punishment or sentence that may be imposed on accused persons or prisoners, which constitute torture or cruel by inhuman or degradation treatment, can amount to violation of the right to life. The Court relied on the combination of Article 14 and 21 of the Constitution and clubbed it with international legal principles embodied in Article 5 of the UDHR and Article 7 of the ICCPR it held that "... (A)ny form of torture or cruel, inhuman or degrading treatment would be offensive to human dignity and constitute an inroad in to this right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with procedure prescribed by law, but no law which authorizes and no procedure which leads to such torture or cruelty, inhuman or degrading treatment can ever stand the test of reasonableness and non-arbitrariness: it would plainly be unconstitutional and void as being violative of Article 14 and 21.

In *Pratap Singh v. State of Jharkhand and another*,⁴⁰ the Constitutional bench of the Supreme Court discussed whether the date for determination of age of juvenile offender is date of offence or the date he produced before the Court was raised before the Court. In this connection the Court observed the obligation of the enactment of Rule 9 and Rule 27 of the Juvenile Justice Act, by referring the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 also known as Beijing Rules and declare that the rules in the legislation shall not be interpreted as precluding the application of the Standard Minimum Rules for the treatment of prisoners adopted by the UN and other human rights instruments and standards recognized by the international community that related to the care and protection of the young.

In *Aloke Nath Duta v. State of West Bengal*,⁴¹ the appellant was

³⁹(2000) 5 SCC 712.

⁴⁰AIR 2005 SC 2371.

⁴¹MANU/ SC/8773/2007.

sentenced to death for conspiring to commit murder. On the issue of the death penalty, Justice S.B.Sinha mentioned the growing demand in the international forum to abolish the death penalty and referring to the Second Optional Protocol of the International Covenant on Civil and Political Rights, 1966, converted the death penalty to life imprisonment based on its precedent and the evidentiary issues involved in this case.

Again, in *Munshi Singh Gautam v. State of M.P.*⁴² the Supreme Court set aside the conviction of the three accused on the basis of the evidentiary and procedural issues and held that Article 5 of the UDHR highlights the problem of torture and custodial violence as one of universal concern.

In *Dalbir Singh v. State of U.P. & Ors*⁴³ The Court held that rarely in cases of police torture or custodial death, there is any direct ocular evidence of the complicity of the police personnel, who alone can explain the circumstances in which a person in their custody had died. Torture and custodial violence cannot be permitted to defy the fundamental rights under Articles 20(3) and 22 of the Constitution by relying Article 5 of the UDHR. The court awarded compensation for the petitioner.

Similarly in *Swamy Sharaddanand v. State of Karnataka*,⁴⁴ Justice S,B,Sinha observed that “growing demand in the international fora, particularly the Second Optional Protocol of International Covenant on Civil and Political Rights, 1986, the American Constitution of Human Rights etc are recommended to abolish the death penalty and to bring the change in the barbaric sentence”. The Court relied the international human rights instruments and regional instruments in the domestic law to make reform in the death sentence.

Recently the Court assimilated the international human rights instruments relating to the issue of non-bailable warrants in *Inder Mohan Goswami v. State of Uttaranchal*,⁴⁵ It quashed the non-

⁴²MANU/ SC/8173/2007.

⁴³AIR 2009 SC 1674; (2009) 11 SCC 376.

⁴⁴MANU/ SC/7715/2007.

⁴⁵MANU/ SC/7999/2007.

bailable warrants issued by the lower court. It relied on several decisions to reach the conclusion, and mentioned that liberty is an important human right enunciated in the American Declaration of Independence, 1776, the French Declaration of the Rights of Men and the Citizen, 1789, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, 1966.

Justice S.B. Sinha in *Harendra Sarkar v. State of Assam with Kailash Gaur & Ors v. State of Assam*, while discussed the application of “Doctrine of Reverse Burden” in certain category of offences, where accused has burden to establish his innocence before the Court of law, the Court observed that “whether parliament intended to lay a different standard of proof in relation to certain offences or certain pattern of crimes, it did so. In such a case subject to establishing some primary fact, the burden of proof has been cast upon the respondent. There is large number of statutes where the doctrine of reverse burden has been applied. Save and except those cases where Parliamentary statutes apply the doctrine of reverse burden, the Court should not employ the same per se would not be violates of UDHR, but also the fundamental rights of the accused as envisaged under Article 21 of the Constitution of India.”

In *Man Bahdur v. State of A.P.*⁴⁶ the Court while discussing the right to a fair trial of the accused in the light to international instrument. It observed that, “Article 12 of Universal Declaration of Human Rights provides right to a fair trial. Such rights are enshrined in our Constitutional scheme bring Article 21 of the Constitution of India. If a right to fair trial, his case must be examined keeping in view the ordinary law of the land.

In *Smt. Selvi and Ors v. State of Karnataka*,⁴⁷ the Court discussed the whether the involuntary administration of the impugned techniques violates the ‘right against self-incrimination’ enumerated in Article 20(3) of the Constitution. The Court recognized that the right against self-incrimination has been recognized in the international human rights instruments. It observed that “in the ICCPR, Article 14(3)(g)

⁴⁶AIR 2009 SC 367.

⁴⁷AIR 2010, SC 1974.

enumerates the minimum guarantees that are to be accorded during a trial and states that everyone has a right not to be compelled to testify against himself or to confess guilt and the guarantee of 'presumption of innocence' bears a direct link to the right against self incrimination since compelling the accused person to testify would place the burden of proving innocence on the accused instead of requiring the prosecution to prove guilt."

Guaranteeing civil and political rights to citizens is mandatory in a democracy. The Indian Constitution framed for a nascent democracy fresh from a long colonial past has wide ranging civil and political rights. Almost all the positive aspects of UDHR are embedded in the Constitution. The same zeal was shown by India, when it ratified the 1966, Civil and Political rights convention excepting provisions. When the Constitution incorporates and the government accepts international human rights provisions substantially, the gap between the international and the domestic law is minimal and the gap widens when it is to the contrary. The role of the Supreme Court in harmonization is more so if the gap is wide. Here the role of the Supreme Court is not so wide. Yet the above analysis under different phases reveals that the Supreme Court's role is not the same in all categories. In one it is vibrant, in another it is dormant and in yet another presence is visible. All this depends on the width of the gap to be bridged.

Conclusion

Prisoner's rights are sensitive category under the Civil and Political rights of the international human rights instruments and the domestic legislations. It is found that there are 28 cases reported from 1950 to 2010.

Phases	Reference	Expansion
First Phase (1950-66)	Nil	Nil
Second Phase (1966-79)	1	2
Third Phase (1979-93)	0	9
Fourth Phase (1993-2010)	0	16
Total	1	27

It is found that the role of the Supreme Court in the enforcement of the international human rights instruments touched the entire gamut of criminal jurisprudence starting from the arrest of a person, for an alleged offence, including arrest on suspicion and ending in capital punishment and compensation in the case of fake encounters. The last aspect i.e. compensatory jurisprudence was unheard of earlier in conventional common law tradition where immunity is invoked to defend the state and its authorities while discharging their function in the process of maintaining law and order and jail administration. The doctrine of sovereign immunity erases all excesses. But the activist Supreme Court nailed that effectively.

It is also found that all the cases except one in the prisoners' category have been used to expand the horizon of human rights available to prisoners. Only in *A.D.M. Jabalpur* case, the Supreme Court stopped with mere reference of the international instrument and did not go in for expansion. This case was decided during the darkest period of Indian democracy, when national emergency was in force. Probably due to that, the Supreme Court did not avail the opportunity of expanding the human rights available to the prisoners.

In *Rudal Shah* case, the Supreme Court directed the authorities to pay compensation to the victim who was negligently detained in prison without any authority of law for a period of 14 years. This was in accordance with the international norms. Similarly, compensation was awarded to the victim who was kept under illegal detention by the police in *Bhim Singh v. State of Jammu & Kashmir* case. In *Niabati Behra and Saheli*, the mothers of victims of custodial violence were awarded compensation by the Supreme Court.

Compensatory jurisprudence apart, the Supreme Court ventured into laying detailed guidelines to safeguard the rights of the prisoners. In *Sheela Barse* case the Court laid down guidelines to women prisoners including detainees who are under police custody. It is based on UDHR stipulations. An attempt was made to extend the human rights available to other prisoners including male prisoners in *Joginder Kumar Singh* case. It is related to the treatment of prisoners.

The process of harmonization was at its peak in *D.K. Basu* case,

where detailed guidelines dealing with the procedures of arrest and detention and protection of prisoners including compensation for victims of fake encounters was laid down. The Court stipulated that the guidelines as laid down in this case are to be followed till appropriate legislative enactments are made. Till date no such legislation has been passed (except minor modifications made in the present rule, 2007) to replace this code, which has been inspired by the international instruments. The Standard Minimum Rules of Prisoners laid down by the UN was applied in *Prem Shankar Shukla case*, to forbid handcuffing and other inhuman treatments, normally meted out to under trial prisoners by the police. In *Kulkarni case* bail was granted to the prisoners for the failure of the prosecution to complete investigation on time. However while ratifying the Civil and Political Rights, India categorically made few reservations. One such reservation was on compensation to the victims. But in the cases cited above, the Supreme Court brought in the principle of compensatory jurisprudence in India even in the absence of legislation on the same. The Supreme Court brought in harmonization to enable the prisoners to have all these human rights which they can possibly have. Hence for the furtherance of human rights of prisoners the Court felt it necessary to harmonize international laws.

From the above analysis it is clear that the Supreme Court played a substantial role in enforcing the international human rights with the domestic human rights with reference to Civil and Political Rights dimensions. In the process of harmonization, the Supreme Court did not rest with mere invocation of international human rights instruments, but also saw to it that some of the rights available in the international instruments become part and parcel of the domestic law and thereby enforceable. Some part of the related judgements is quoted verbatim to substantiate the above findings relating to qualitative changing trend of the Supreme Court. For instance, in *Jolly George Verghese v. Bank of Cochin*, the decision concluded "indeed the construction I have adopted of Section 51 Civil Procedure Code has the flavour of Article 11 of the Human Rights Covenants, counsel for the appellant insisted the law and justice must be on speaking terms – by justice he meant, in the present

case, that a debtor unable to pay must not be detained in civil prison.... counsel for the respondent did argue that international law is the vanishing point of jurisprudence is itself vanishing in a world where humanity is moving steadily, though slowly, towards a world order, led by that intensely active, although yet intellectual body, the UNO. Its resolutions and covenants mirror the conscience of mankind and inseminate, within the member states, progressive legislation, but till this last step of actual enactment of law takes place, the citizen in a world of sovereign states has only inchoate rights in the domestic courts under these international covenants."

Prisoner's human rights constitute an important domain for enforcement. As Professor Baxi in his book "Crisis of Indian Legal System" observed that after Independence the republican Constitution introduced various rights to prisoners in its Constitution, but the same prison system and police system of the British Raj continue.⁴⁸ In spite of Constitutional provisions, the structural and functional changes in the police system could not take place. Therefore some of the human rights available to prisoners at the global level were denied to Indian prisoners. Hence in this sphere the Supreme Court harmonized and enforced widely when compared with other Civil and Political Rights.

⁴⁸Upendra Baxi, *Crisis in the Indian Legal System*, (New Delhi: Vikas, 1982) pp.36-7



HIV/ AIDS Intervention Programme in a Prison-Setting

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Key word

HIV/ AIDS, Declaration of Commitment on HIV/ AIDS, Health Situation, NACO, WHO, Risk Behaviour, Prison Setting.

Abstract

The prevalence of HIV infected persons in the prison system is a serious challenge both to the institutional health services and to outside community public health. This challenge offers a unique opportunity to reach out to these high risk individuals and connect them to the HIV and AIDS prevention and treatment programmes. It is not expected that prisons would tackle these most critical health issues on their own as they are not equipped to do so. It is, therefore, imperative that HIV / AIDS is considered as a public health issue among prisoners and appropriate measures are initiated for their protection treatment.

Introduction

Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) have emerged as the most important public health concern across the globe (WHO, 2009). Since 1981 when the first case was reported, the virus has claimed the life of millions of persons. The disease has the highest toll in the age group of 15-49 years, which corresponds with the economically useful age-group in the human life-cycle (UNODC,

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2008a). In effect, many lives are lost to this epidemic amongst those who are or would be actively engaged in economically productive activities like farming, office work, mining, factory work, professions, etc. The illness and consequential death of parents and breadwinners leave behind hopeless and helpless dependants who may have little social support and no regular source of income (Thomas, 1994). Besides, the capacity of the afflicted to work and earn may get affected, sometimes severely. Cumulatively, the virus may, indirectly but substantially, contribute to dependency and poverty at individual, group and even national levels.

Efforts to fight HIV infection have been met with several diverse challenges. Among them are the socio-cultural and economic barriers. Yet the greatest obstacle has been palpably high level of ignorance about the virus, its routes of transmission and risk-reduction practices (Kakkar, 2005). Furthermore, the afflicted have often been reluctant to access health facilities, fearing stigmatization in the community because of certain inchoate cultural traditions and beliefs (Dube, 2000).

It may be pointed out that in 2001, United Nations General Assembly on HIV/AIDS adopted the Declaration of Commitment on HIV/AIDS, acknowledging that the epidemic constitutes a "global emergency and is one of the most formidable challenges to human life and dignity." Among the things, the Declaration laid down ten priorities, including prevention, treatment and funding. It was designed as a blueprint to meet the Millennium Development Goals to halt and mark a beginning to reverse the spread of HIV/AIDS by 2015 (cited in UNAIDS 2006). In 2008, there were approximately 33.4 million persons living with HIV infection globally. Out of this, approximately 4.7 million were in Asia (WHO, 2009). In India, an estimated 2.5 million adults suffer from HIV and AIDS which amounts to 0.36 percent prevalence in the country's population (NACO, 2008). Although the proportion of persons with HIV and AIDS is lower than previously estimated, India's epidemic continues to affect a large number of people because the population of India is growing at a faster rate. There is found to be a high HIV prevalence among sex-workers, injecting drug users

and men who have sex with men. These infected persons seldom adopt risk-reduction practices and, when they mingle with others, they spread the infection of HIV. Given this, the problem tends to assume large proportions and to become a public health issue.

The Madhya Pradesh Human Rights Commission (1998) in its report titled '*Conditions of Prisons in Madhya Pradesh*' discussed a series of problems being faced by the prison population. It described the problem of overcrowding as being critical. Out of the 113 functional jails of MP, 73 were overcrowded. The overcrowding ranged from 100 to over 300 per cent in several sub jails. This resulted in insufficient floor space for sleeping and movement, ill health, insufficient toilets and problems of management. The National Human Rights Commission (1997), for instance, has referred to the "appalling conditions of overcrowding, lack of sanitation, poor medical facilities, inadequate diet, and the like, in most of the jails of the country.

In this scenario, the health situation among prison inmates assumes a pointed significance. Looking to the set and setting, morbidity and mortality issues in prisons even otherwise figure prominently. With regard to HIV and AIDS, prisons therefore call for the prevention and treatment programmes. Such interventions promise to benefit not only jail inmates and their partners and families, but also larger public health. The incarcerated prisoners have a right to access physical and mental health services. This right is also specified in Article 25 of the United Nations Universal Declaration of Human Rights, and in Article 12 of the International Covenant on Economic, Social, and Cultural Rights (as cited in UNAIDS, 2006 and UNODC, 2007). But there are instances where these rights are being denied to them. The international thinking is plain that, except for liberty, prisoners retain all other rights which should not be denied to them as a consequence of imprisonment. States, therefore, have a responsibility to have legislation, policies and programmes in conformity with international human rights norms, to ensure that prisoners are provided a standard of health care corresponding to that accessible in the outside community.

Prison statistics reveal that prisons usually have a concentration of

high-risk persons or inmates. Often prisons come to have situation highly conducive for the transmission of numerous infectious diseases, including Tuberculosis, Hepatitis (A, B and C), sexually transmitted diseases and HIV. A study conducted by Singh and Mohanty (1999), looked into the sero-prevalence rates of sexually transmitted and blood-borne infections among inmates of district jails in Northern India. Serum samples were obtained from the inmates (N=249; 240 male and 9 female), aged 15-50 years, and tested for antibodies against HIV, Hepatitis C virus, Treponema Pallidum, and Hepatitis B surface Antigen (HBsAg). The results indicated that 11.6 percent inmates had active Hepatitis, 10.4 percent active Pulmonary Tuberculosis and 4.6 percent Syphilitic Ulcer on the penis. Similarly, 1.3 percent of the inmates were HIV-1 positive while 11.1 percent men and 22.2 percent women were positive for HbsAg. This indicates that sexually transmitted and blood-borne infections have a high prevalence in jails and pose a threat of rapid spread through drug use and homosexuality. Statistics reveal that prison population mainly comprises males (including the prison staff). In such a gender exclusive surroundings, male-to-male sexual intercourse is highly likely. The actual number of such instances is likely to be much higher than what is reported. Not only prison authorities but also inmates take to denial mode, fear of being harassed or the criminalization of homosexuality. Small D. (2008) has highlighted a nexus between drugs, sex, prison and HIV infection. He reports this on the basis of a study conducted on prisons in the United States of America. It has been observed that there is comparatively a high prevalence of drug addiction and HIV infection among the prison population. Despite the proven nexus between them in correctional settings and risk of catching HIV infection, very few prisons provide condoms, clean syringes or other devices to protect against HIV transmission (Small, 2008). In another study supported by UNODC, Seifman and Egamberdi (2008) revealed that there is limited information on HIV in African prisons. Research highlights that the prison-based high-risk sexual and other risky behaviour increases the spread of HIV and sexually transmitted infections not only in the prison community but also between prison and non-prison population-groups. It stresses on the need to evolve effective policies to prevent HIV in prisons and

reforms in the criminal justice system.

Available information is convergent that prisoners are one of the principal vulnerable population groups susceptible to infections like HIV. However, Seifman and Egamberdi (2008) note that they seldom find a place in national HIV and AIDS prevention policies. As a consequence, there is seen a lack of awareness and education among prisoners about the risks of contracting and transmitting HIV infection. At the same time, absence of protective means and proper medical care increases their risk of HIV infection manifold. In another study by Kamugisha (2008) carried out in the prisons of Uganda has explored the level of awareness of HIV and AIDS, its causes and implications and the capacity of the prison administration to handle HIV and AIDS cases. Majority of the respondents express their desire to receive information about HIV / AIDS, access to voluntary counselling services, behaviour change programmes and treatment and care services. More than a half of the male prisoners, above 40 years of age, admit of having seduced younger inmates into homosexuality, often using mere cigarettes as gifts. The risk of infection is also increases for those inmates who come in contact with other prison population groups, such as prison staff and their spouses, as well as visiting spouses or partners of prisoners.

Given above, the prevalence of HIV infected persons in the prison system is a serious challenge both to the institutional health services and to outside community to public health. This challenge offers a unique opportunity reach out to these high risk individuals and connect them to the HIV and AIDS prevention and treatment programmes. It is not expected that prisons would tackle these most critical health issues on their own as they are not equipped to do so. It is, therefore, imperative that HIV / AIDS is considered as a public health issue among prisoners and appropriate measures are initiated for their protection treatment.

PRESENT WORK

In the light of the foregoing, it is important that the HIV/AIDS situation obtaining in prisons in India is ascertained. The present study is an attempt in this direction.

Objectives of the Study

The study has, in the main, the following objectives:

- To assess the level of awareness among prison inmates towards HIV infection;
- To look into the nature of ongoing HIV intervention programmes in a prison and their impact; and
- To unravel challenges in the implementation of the intervention programmes.

Research Design

Exploratory in nature, the study has been carried out at the Central Jail, Tihar, Delhi. The reason for taking this jail was that Delhi is the hub of information and awareness. It is a place where both the tangible and intangible resources are available. Keeping this in view it was felt that taking Delhi Prisons would be feasible, in order to explore the existing HIV/ AIDS Intervention Programme in a Prison-Setting. As mentioned earlier, the Prison environment has reflected the vulnerability of prisoners to various health problems, HIV/AIDS being one among them.

It is assumed that by interacting with prison officials, inmates and NGO workers active in the prison and by gathering relevant information would facilitate the realization of the enunciated study objectives.

Sampling

The Tihar Prison in Delhi, in fact, is a complex of nine central jails. Central Jail Tihar, Delhi has been selected for the study for specific distinctive reasons; inmates population includes a diverse range of ethnic and linguistic segments; and quite a few government. and non-government organisations have been active in generating HIV and AIDS awareness. The present study has focused on one of these jails as the permission to conduct the research was given in one jail only. As compared to other jails, the jail under study has comprehensive health facility located inside the jail premises as it

has an in-house big hospital, drug de-addiction centre, Integrated Counselling and Testing Centre run by Delhi State AIDS Control Society (DSACS). Although these facilities are meant for all the nine jails, yet the accessibility of this particular jail is maximum to the health services. Besides the health facilities, it also has a Health Awareness Programme being run by an NGO called AIDS Awareness Group (AAG). At the time of data-collection, the jail had 1917 inmates. The study focused on the inmates who were in the age range of 19 to 35 years. This particular age group was selected because according to National AIDS Control Organization (NACO, 2008) statistics it is seen that an unduly large numbers of persons in the age range of 15-35 years are infected. So, the present study focused on the inmates in the age-group of 19-35 who had been in this jail for at least 6 months. Meeting these criteria, sampling was done where it was found that there were 790 inmates in this age range. The researchers were given the permission for only one week to visit the jail. Keeping this in view, a sample of 30 inmates were taken using systematic random sampling approach, every 25th inmate on the list was selected as the respondent to conduct the research.

Besides, prison officials, Health personnel, ICTC counsellor, and NGO worker active in the jail were included in the sample. Their total number was 7. The list of officials included Law Officer (1), Superintendent (1), Welfare Officer (1), Medical Officer in-charge i.e. RMO (1), SMO (1), Integrated Counselling and Testing Centre (ICTC) counsellor (1) and NGO worker (1).

Data Collection and Analysis

Keeping in view the sensitivity of the issue and the composition of the jail inmates, the study has used interview schedule. It has mostly open-ended items dealing with sexual behaviour, awareness and information about HIV infection, and HIV risk-reduction practices.

For prison officials and NGO workers, an 'interview guide' has been developed to elicit their view on HIV and AIDS infection as well as on the intervention programmes. It also includes issues of challenges faced by them in the implementation of these programmes.

The two tools have been implemented during a two-month period — the time-frame laid down in permission given by the prison authorities. The data collected has been qualitatively and quantitatively analysed. The findings of the study that follow are as interesting as they are revealing.

Findings of the Study

Prison profile: The nine prisons in the Tihar Jail complex house around 12,000 prisoners against the sanctioned capacity of 6,250 prisoners only. There has been a steady increase in the prisoners' population over the past some years. At present, the jail has a huge population of 8,936 under-trial prisoners. Out of the total population, 7,025 are young inmates in the age-group of 18-30 years. They are locked up for two-thirds of the day, in crowded barracks, with minimal lighting and space. This kind of overcrowding has led visibly to the deterioration of the physical conditions in the prison premises. It has also told upon the custody and supervision of the inmates, a fact that considerably increases the danger of gang activity and violence. It would be hardly surprising if some jail inmates under tension, frustration, and idleness seek release through sex and sexual aberrations.

Usually, prisons are managed by three categories of personnel i. e. custodial, correctional and medical staff. At the cutting-edge level, it is the staff-inmate ratio that is an important indicator of how effectively the inmates are treated. In Tihar Jail, the number of inmates per custody official is 13, per correctional staff 1,522, and per medical staff 516. Further, there is no monitoring mechanism on the physical conditions and health system in the prison.

Prisoners' profile: All of the inmates under study are males and more than a half (53.3 percent) of them in the age-group of 26-30 years which is sexually active age-group. Out of the 30 respondents, 96.3 percent of the inmates are literate—about 10 percent have had schooling till primary, 16.6 percent till 10th standard, 40 percent till 12th standard, 26.6 percent till graduation and 3.3 percent beyond graduation. Paying attention to their marital status, two-thirds of them (66.6 percent) are unmarried. Regarding their occupation that

the inmates have been pursuing before having been committed to the prison, 46.6 percent of the inmates worked as daily wage-workers, 20 percent self employed, 9.9 percent in private job, 6.6 percent in government job, 9.9 percent students and 6.6 percent were unemployed. It is further revealed that majority (67.8 percent) of them have had a monthly income between Rs. 4,000 and 10,000. It is found that about 50 percent of the inmates are migrants to Delhi, they have come to the city from different parts of the country. May it be noted that this kind of spatial mobility is often a contributory factor in HIV infection.

An overwhelming majority (96.6 percent) of inmates is of under-trials, that is, their cases are being heard by court. A third of them have spent more than 4 years in the prison, 26.6 percent 2 to 4 years, 30 percent 1 to 2 years, and 9.9 percent less than one year (average, 3 years). This in view, most of them may be taken to be under tension and suffering from emotional stress.

HIV/AIDS awareness: Two-thirds of the inmates have received 'first knowledge' about HIV infection through various means such as media (36.6 percent), school (23.3 percent) and books (6.6 percent). This shows that media and educational institutions play a significant role in disseminating information on HIV and AIDS. Another 17.5 percent of inmates have got information from such sources as primary health centre, family doctors and peer group. It is worthwhile to note that about 17 percent of the inmates have come to have 'first information' about HIV and AIDS in the prison only — till they entered the prison, they report of having no knowledge of HIV infection or AIDS.

Although, all the inmates are generally found to have information about the main routes of transmission of HIV/AIDS, that is, needle-sharing, mother-to-child, blood transfusion and unsafe sex. However, quite a few of them are having umpteen myths and misconceptions. For example, 16.6 percent of the inmates have a misconception that HIV/AIDS spreads through mosquito-bite. While some are self-assured on this, a few have a little doubt. Another 16.6 percent believe that one might get HIV infection and AIDS, if they get in touch with the saliva and sweat of an HIV-positive person. Needless

to add, such myths and misconceptions make for an impediment in the path of intervention programmes.

Risk Behaviour and Practices

While examining the relation between the literacy level of inmates and their awareness about HIV and AIDS, it is seen that literacy has no significant role in raising their awareness level about HIV transmission. Data bring out that out of the 10 inmates who have misconceptions, 9 are literate and only one is illiterate. Myths and misconceptions have less to do with the literacy level of an individual but more to do with deep-rooted beliefs and attitudes (Singh, 2008). This shows that spreading awareness about HIV and AIDS is not enough as there is a need to work on changing the popular belief system.

On exploring the sexual life of the inmates, it is found that the majority (80 percent) of the inmates have been sexually active before being committed to the prison. The average age of an inmate at the time of first sexual intercourse was 19 years. Out of this (N = 24), 91.6 percent of the inmates have experienced sexual intercourse with opposite sex (heterosexual behaviour), one inmate reports to have had sex with same sex partners (homosexual behaviour with multiple 'same sex' partners), and one respondent have had sexual intercourse with both the sexes (bisexual behaviour). Data reveal that two-thirds (66.6 percent) of the inmates have had their 'first' sexual intercourse in their adolescent years (i.e. 14-20 years of age) and one-third in adulthood (i.e. 21-26 years of age).

In order to know about the partner in the sexual activity, the heterosexual inmates reported that 54.1 percent have had sex with a regular partner, 20.8 percent with a commercial sex-worker and 16.6 percent with casual partner. As already mentioned, 8.5 percent of the inmates have had sex with male partner. It needs to be highlighted that as many as 11 inmates have been at 'high risk' because of their sexual behaviour. Two of the respondents, who admit having sex with men, report that they are sexually active in the prison also. It may be pointed out that one inmate is a drug-addict and has sex with multiple 'same sex' partners (inside the

prison) as barter for his favourite drugs. The data clearly bring out that sexual activity goes on even in the regimented set up of the prison.

Due to fear and humiliation, it is not easy to obtain exact statistics regarding sexual activity but both the consensual and non-consensual sex is quite evident among prisoners. An inmate reports that sexual assault or forced sex is a reality of the prison-life, and so is the fear of forced sex. Often it's cruel and the violent nature makes recipients more prone to anal tears and, consequently, increases the chances of HIV transmission.

The study explores the use of condom during sexual intercourse to have 'safe sex'. Over 83 percent of the inmates report that they have not used condom in the 'first' sexual intercourse. Out of 4 inmates who report safe-sex, three are graduates and one has had education up to 12th. It seems that education plays an important role in determining 'safe sex' behavior.

It is encouraging to note that a majority (93.3 percent) of inmates have information about the availability of condom. According to them, condom can be procured from medical stores in the market and health centers.

It is generally seen that the problem of HIV and AIDS has a profound and unsettling effect on the family and the community. The inmates have been asked about the effect of HIV and AIDS on the family. More than four-fifths report that HIV and AIDS have a highly disturbing effect on the family because of its incurable nature. They report that it may cause breaking of the family. Besides, family members face stigma and discrimination associated with the problem of HIV and AIDS. Also, it adversely affects the family income. Only 3.3 percent tend to treat HIV/AIDS like any another disease, whereas 14 percent have no idea about the ill effects of HIV/AIDS on the family and community.

With regard to chances of contracting HIV/AIDS in prison, 20 percent inmates concur that there are chances of getting infected in the prison, too. They refer to various causal factors for this eventuality that is men having sex with men and prison violence (such as assault

with the infected sharp-edged objects by HIV positive inmates). In fact, quite a few have been threatened by fellow afflicted inmates. On the other hand, 73.3 percent inmates report that their chances of getting HIV are negligible because they are well aware and have the ability to protect them from the infection.

A fifth of the inmates think that in future there are chances of getting infected with HIV outside the prison. Out of this, 13.3 percent are of the opinion that there are fewer chances of getting infected outside the prison and 6.6 percent think that the chance of getting HIV infection whether inside or outside the prison are nearly equal. What is more striking is that a vast majority (80 percent) of the inmates assert that there is no risk of contracting HIV infection.

Preventive Practices by Prison Authorities

A baseline knowledge, attitude and practice survey (KAP) was conducted (UNODC, 2008 b), in selected prison site of India, Nepal and Sri Lanka. A total of 1,386 prison inmates were included in the purposive sample. Out of them, 34 percent were from India, 7 percent from Nepal and 59 percent from Sri Lanka. With regard to the drug profile of inmates, 86 percent were from Sri Lanka, 63 percent from India and 72 percent from Nepal who had ever used intoxicating drugs. Noteworthy is the fact that 3 percent from Sri Lanka, 29 percent from India and 4 percent from Nepal had switched to injecting mode after coming to prison. More than 50 percent of the inmates in Sri Lanka and Nepal and more than 25 percent in India believed that inmates had had sex with each other inside prison. This indicates high risk behaviour conducive for the transmission of HIV among prison inmates.

Data available on the official website Delhi Prison (Internet, 2009) reveal that the inmates, who tested positive for HIV at the Integrated Counseling and Testing Centre (ICTC) during June 10, 2008 to June 30, 2009 was 1709. Out of this, 140 tested HIV positive which included 93 injecting drug users (IDUs). As would be readily seen, the incidence of HIV is extremely high amongst injecting drug users. Most of these injecting drug users, who have no awareness about were unaware of their HIV status, would spread HIV to other

injecting drug using partners or to their spouses after release from prison. May it be noted that during this period inmate population was between 12,000 and 13,000 including highly mobile population of under-trials.

Institute for Social and Economic Change conducted a study on NGO's intervention in HIV/AIDS in Karnataka in 2007. Karnataka is designated as one of the "High prevalence state" in the country as far as HIV/AIDS is concerned. The study was conducted to analyse the strategies adopted by NGO's, in the process of intervention with regard to prevention of HIV/AIDS among high-risk group. The strategies adopted by NGOs in the intervention were-peer group approach, capacity building of the project personnel, condom promotion strategies, accessibilities of IEC material, STD diagnosis and treatment counselling, outreach work strategies and intervention at the community levels. It has been found that peer group approach plays a key role in gathering the beneficiaries and also building rapport among the beneficiaries (Narian, 2004 and UNODC, 2007).

The Prison officials report that in view of UNODC report and other situational analysis, Tihar Jail set up an Integrated Counseling and Testing Centre (ICTC) in collaboration with DSACS within its campus in the year 2008. The purpose behind ICTC is to provide a targeted intervention for the detection of HIV status among such inmates as injecting drug abusers, inmates suffering from sexually transmitted infections (STIs) and inmates suffering from other multiple infections.

Directorate-General of Prisons, NCT of Delhi, reports that it does not have any prison policy to deal with the issue of HIV and AIDS, and it is merely following the guidelines of the NACO and DSACS. At present, ICTC is disseminating information on the prevention of HIV/AIDS along with pre-test and post-test counseling. The RMO of the jail hospital reports that he has made a protocol for the inmates who need to be tested. At the time of admission all the inmates are checked up to know their general health in prison during *mulayaza* and their drug history is taken. The new entrant who is Injecting Drug User (IDU), suffering from T.B., STIs and other chronic diseases

are recommended for pre-test counselling in ICTC. Those who are found to be on injecting drugs in the preliminary examination are kept in the Drug De-Addiction Centre, where they are given Oral Substitution therapy (UNODC is running this facility). Drug addicts are first lodged in a separate ward for about three weeks, and then they are shifted to a general ward having other inmates.

The Jail Superintendent mentions that they have involved an NGO, called AIDS Awareness Group (AAG), in the HIV and AIDS Awareness Generation Programme. AAG workers visit the prison twice a week. They reach out to prisoners through sensitization programmes, distributing flyers, and organizing street plays and group discussions. These sensitization programmes are meant for inmates as well as prison officials. Every month, AAG workers visit each ward and educate inmates. In the jail yard, the ICTC has put a box in which inmates may drop their health queries, with or without mentioning their name. Every three months, a meeting is organized, attended by a large number of inmates, in which ICTC workers respond to these inmate queries, sometimes involving brief discussion. Occasionally, cultural programmes, including street plays, are also organized which address health issues. Sometimes jail inmates are encouraged to participate in street plays.

AAG is also monitoring health status of HIV-positive and AIDS patients, testing for CD4 count and making appropriate referrals to the hospital. Medicine schedule and diet are also monitored by AAG workers to ensure that the HIV positive prisoners get the required special diet according to the diet chart recommended by the physician.

A vast majority of the inmates (86.6 percent) admit that AIDS Awareness Program has changed their life style. This program has considerably cleared their misconceptions regarding HIV and AIDS. Only 9.9 percent of the inmates report that this programme has not brought about any change in their perception. Similarly, 96.3 percent agree on the benefits of AIDS Awareness Program. They report that, as a consequence, they are able to handle their fears and apprehensions in a better manner. They also mention that they are better prepared to protect themselves by following safe-sex

practices, and to avoid unprotected sex. They further report that they are in a position to pass on this knowledge to fellow inmates and to others back home.

Due to the efforts of the ICTC and AAG, the number of inmates coming forward for voluntary testing has increased over the years. According to the ICTC counsellor, earlier on, barely 60 to 70 inmates in a month would volunteer for testing; now this number has gone up to around 110 to 120. Furthermore, off and on, even jail officials come forward for voluntary testing.

Challenges in Combating HIV and AIDS in Jail

As already mentioned, there are no specific policies in place in the jail that address the problem of HIV and AIDS among the inmates. Essential HIV/AIDS interventions, such as condom distribution, condom vending machine and lubricant distribution, do not exist. Guidelines on HIV testing for jail inmates are rarely followed. What is more, no confidentiality is maintained with regard to the inmates testing HIV positive.

There is no intervention for men having sex with men. Prison administration does not accept that there exists homosexuality in the jail and, hence, it has not evolved or adopted a policy on the subject, perhaps to avoid any legal implications as homosexuality is prohibited under Section 377 of the Indian Penal Code. On the other hand, first-hand information gathered from inmates reveals that the homosexuality does exist in jail, whether jail authorities acknowledge it or not.

All jail officials state that they are following guidelines laid down by Delhi State AIDS Control Society (DSACS) in addressing the problem of HIV/AIDS. Ironically, no policy statement has been adopted by DSACS and NACO on HIV/AIDS prevention in jails. National AIDS Control Programme phase III (NACP- III), focus on Intervention among high Risk Groups (Commercial Sex Workers, IDUs and MSM) and Highly Vulnerable Population i.e. migrants, truckers and young woman and men in the general community but it doesn't focus on prison population(Internet,2008).

Further, there is observed a palpable information-gap among the jail officials about the extent and magnitude of the epidemic. Officials of the jail under study deny that there is any stigmatization or discrimination of HIV infected persons inside the institution: All inmates live together-they share food and barrack, and they socialize.

Quite a few inmates, however, report that some inmates with HIV/AIDS threaten their fellow inmates and even lower level jail staff to give them infection by scratching them with infected blades or needle. Doubtless, it is a new kind of violence which is finding a place in the prison setting, and emerging as a new challenge for the jail administration.

Assuredly, there is a high risk of transmission between prison and non-prison population. The data indicate that approximately 50 percent of the inmates are migrants from other cities and villages, a fact which presents yet another alarming scenario for in-bound and out-bound spread of HIV transmission, as prisoners and the prison communities are not cut off from the general population. A large numbers of prisoners do leave prison, and return to the society within their first year of imprisonment. Given this situation, there are chances that the outgoing prisoners have contracted the infection in the prison; the probability is large that it could get transmitted to others. Further, despite all the awareness and counselling, majority of the inmates do not come forward to get tested for the virus. During medical attendance, the RMO comes to suspect and recommends testing for HIV; however, on an average, every month, one or two inmates refuse to undergo testing.

Jail inmates, who are HIV-positive, are put on anti-retroviral therapy (ART). However, more often than not, prison environment weakens the ART dose schedule which is critically important for the anti-retroviral treatment to be effective. Court attendance on days of hearing and transfers of inmates from one jail to another cause gaps in the ART treatment.

Conclusion and Recommendations

Prisoners are entitled, without discrimination, to a standard of health

care equivalent to that available in the outside community, including preventive measures. This principle of equivalence is fundamental to the promotion of human rights and best health practice within prisons (UNAIDS, 2006).

HIV and AIDS in jails is an affliction which is a serious problem not only for the inmates but also for the society. It denotes a crisis situation in jails due to the fact that it has never been addressed effectively. Policy-makers have not yet recognized the potential danger of HIV and AIDS within the prison population. Prison policies – including those affecting administration, staff, and prisoners – are hardly conducive for the education, prevention or treatment of HIV and AIDS. Furthermore, the nature of incarceration – particularly the physical, political, social and economic isolation of prison populations – increases the difficulty of addressing many complex issues of HIV and AIDS.

The study brings out that the jail inmates have had (prior to their entry into the jail) received information on HIV from media and educational institutions. Nearly all the inmates had information about the main routes of transmission of HIV infection. A vast majority of inmates have favorable attitude towards AIDS awareness programmes, which is being run inside the prison. However, quite a few of them had myths and misconceptions. There is a presence of 'high risk' behavior forms, that is, drug addiction, men having sex with men, forced sex, unprotected sexual behaviour and prison violence between jail inmates, which increase the chances of transmission and spread of HIV infection.

HIV and AIDS treatment programme in the jail is a daunting task due to inadequate resources and administrative support, which becomes an impediment to the adherence to the treatment programme. It has been indicated earlier that the jail puts more emphasis on custody. Therefore, more attention needs to be paid to expand the, resources for facilitating correction and improving medical care.

The Tihar jail complex houses around 12,000 inmates (Internet, 2009) which is much beyond the sanctioned jail capacity. Reportedly,

this has led to deterioration of physical conditions. Hence, there is a pressing need to improve the conditions that negatively affect prisoners' health and also result into violent behaviour and sexual aberrations.

At the same time, the jail staff needs sensitization through training programmes, which would increase the ability of the staff to manage and understand the issues related to health, hygiene and sexuality among jail inmates.

HIV / AIDS is a public health issue that has been recognized as an area of concern by the WHO and NACO. However there is no policy regarding HIV and AIDS in the prison system as of now. The prison administration has set up an ICTC and is also taking various measures to create awareness among the inmates regarding HIV and AIDS but there are no provisions for dealing with prevention, testing, confidentiality and management of HIV and AIDS. A number of studies, including the present study, have unraveled that sexual activity and sexual violence are more or less common in jails that greatly facilitate the transmission of HIV infection. Hence, there is dire need for an effective policy to deal with the problem of HIV and AIDS in jails.

This apart, Section 377 of the IPC needs to be re-assessed. This law criminalizes sexual activity of a man having sex with other men (MSM). As sexual activity and MSM is a reality of prison-life hence, official acknowledgment of MSM by prison officials is the first step in raising public awareness, and then implementing effective programmes addressing the issue of sex and other behaviour forms.

There is also a need to conduct an extensive, systematic and methodological research studies on inmate behaviour and sero-prevalence surveillance in the prison. The involvement of peer group approach in disseminating of information regarding HIV/AIDS will be more relevant and acceptable by the beneficiaries. There is a pressing need for the promotion of the popularization of the risk-reduction practices, including the free distribution of condoms and

its regular use.

An effective framework for regular reviews and quality control assessment, including independent monitoring of jail conditions, including health services should be encouraged.

To effectively address the problem of HIV/AIDS in penal institutions, we should promote collaboration between prison services, public health systems, NACO and international, social work agencies and civil society organizations (CSOs) as they all are the stakeholders and, have a critical role to play in curbing the problem of HIV and AIDS. We need to ascertain the ground realities, identify best practices, encourage advocacy by social workers and activists and open policy dialogue for the integration of preventive programmes on HIV and AIDS in jails. These measures are likely to go a long way in conceiving and initializing the programmes, to contain the dreadful epidemic amongst jail inmates who are doubtless a population group hard to reach

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Globalization and Security Concerns: Paradoxes and Possibilities

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Key words

Globalization, External Security, Internal Security, Paradoxes, Possibility, Perceived Security, Global Terrorism, Security Concern.

Abstract

The dawn of the 21st century has witnessed rise of the most serious crisis in the form of global terrorism. Irrespective of their position, power, influence and progress, all nations across the globe have experienced the disastrous impact of terrorism. India has been a particular victim of this form of warfare for at least the last four decades. In the backdrop of the growing and altering non-conventional and conventional threat perceptions and the metamorphosis of the world into a global village coupled with easier access to technology, today terrorism is one of the most challenging internal security threats that India is dealing with.

Prelude

Globalization is a complex and controversial concept. There is little agreement in the literature on what it is, whether it is or is not taking place, whether it is new or old, and if it is good or bad. In its narrower conception, globalization signifies a process of intensification of economic, political, and cultural interconnectedness among the various actors in the global system. Globalization is often used to describe a process by which the people of the world are unified into a single society to function

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together. It leads to growth of cross-cultural contacts; advent of new categories of consciousness and identities which embodies cultural diffusion, the desire to increase one's standard of living and enjoy foreign products and ideas, adopt new technology and practices, and participate in a 'world culture'. Globalization also denotes increasing connectivity and interdependence of world market.

The major recent driving forces of globalization are: telecommunication, infrastructure and the rise at internet. Globalization is said to have increased opportunities and intensified competition. It also exerts the sense of otherness which keeps the basic nostalgic distance among its participants and attendants. The nostalgia is culturally imbricated and every activity gets conditioned on it. It affects every day life, and security too, is a part of it. Globalization poses serious challenge before the perceived security and some times real one, as well. It goes hand in hand with safety, continuity and reliability.

The dawn of the 21st century has witnessed the rise of a most serious crisis in the form of global terrorism. Irrespective of their position, power, influence and progress, all nations across the globe have experienced the disastrous impact of terrorism. India has been a particular victim of this form of warfare for at least the last four decades. In the backdrop of the growing and altering non-conventional and conventional threat perceptions and the metamorphosis of the world into a global village coupled with easier access to technology, today terrorism is one of the most challenging internal security threats that India is dealing with¹.

The successful testing of missiles in India is a step forward achievement to qualify the continuity, safety and reliability as an ingredient of security at the national frontiers. Domestic security has much to do with smooth functioning of law enforcing agencies where as national security is largely rooted in diplomatic policies and able leadership. In nutshell, any systematic strategy to curb and control the sense of loss and damage can well be defined as the

¹Can also be seen on: <http://www.ipcs.org/article/india/challenges-before-indias-internal-security-countering-terrorism-3126.html>

concern for security. The Indian Government has attempted to deal systematically with the security concern.

'Basically, there are three main causes for internal threats. These are misgovernance, corruption and the social and economic divide. These affect human resources in social, economic, technological, environmental and ecological development fields. They lead to disruptive conditions or internal threats like armed violence, scarcity, ethnic dissonance, weak governance, and high levels of internal turbulence act upon external threats. Internal problems may endanger national security more critically than external aggression¹². The internal security concern finds a dismal domain in India today, especially on the domestic fronts. 'Dowry death, wife beating, child abuse, molestation of girls are domestic crimes which have become an inextricable part of the fabric of violence that shrouds Indian society¹³.

In order to combat it, we require coping with the evolving trajectories of innovative tools, techniques, knowledge and information. The use of these techniques can be a possibility when the personnel undergo through some vibrant skilled training programme.

Indigenous threats

Considering very systematically on globalization as a trend or trajectory, Prof. Oommen⁴ distinguishes four kinds of others evolving as the by-products of it, namely, equal other, the internal other, the deviant other, and the outside unequal other. The equal other faces the challenges of cultural and political differences. The internal others are perceived as the stigmatized and inferiors. The deviant other is the product of aberrant. The double blending of inferiority and externality gives rise to outsider unequal others. The sense of otherness gets configured for a fathomless gulf created

² Kumar, S (011) *India's Internal Security: Issues and Challenges*, Sunrise Publications, New Delhi.

³ Mathur, KM (1996) *Crime, Human Rights and National Security*, Gyan Publishing House, New Delhi.

⁴ Oommen, TK (2006) *On the Historicity of Globalization* in a Book Edited By Tiankui and Sasaki(2006) *Social Change In The Age Of Globalization*, International Institute of Sociology. Bostan.

implicitly during the course of interaction between global partners. The interaction with its diffused orientation brings about many changes and challenges in attitudes, activities and information. In the academic parlance, the desire to cope up with global system of education, the changes in the household life has also been noticed. 'In fact, 35% youngsters complain that they have too many things to do every day. 33% feel lonely because they do not have enough friends to spend time with. 33% get irritated at the frequent scolding from parents and teachers. 31 % fear major exam, while 26% complain about frequent tests at school. 29% get irked at constant reminders from parents to study. 21 % get anxious over school work and problem with teachers. Very interestingly, 82% teens wish to talk about themselves, but 76% parents discuss only career issues⁵. These changes show the isolation is rampant in the youngsters as the desire to cope with speedy economic changes get parents engaged in.

The consequences of globalization in the realm of security concerns are mostly imbricated like the entry of fresh air with mosquitoes. In the hope of pleasure, we get accustomed to pains. We loose the sense of erosion and depreciation in life and continue with the consumption of unfiltered so called fresh air. The blurred boundary of cherish and perish gets inextricably intermingled. That is to say all gainers are victims of pains. It is more vivid when we systematically see the very notion of indigenous cultural threats coming especially from tribal world. It is because the precursor of globalization is structural adjustments first, which are largely uneven and contingent on the availability of infrastructure. The fathomless disparity created by infrastructure provides opportunity to the people who are in centre of development. This is the reason why the dependency idea of globalization divides the world in core, semi-periphery and periphery where core exploits periphery and semi- periphery. In the indigenous cultural realm, the chaos and contradiction on the degree of development is always on which needs to be looked into also. The inadequate infrastructural facilities are inhibiting the momentum of growth in the tribal areas.

⁵ Damyanti Dutta (2008) Teen Suicide, in India Today, Vol. XXXIII, No.17. April-22-28, Living Media India Limited, New Delhi. Page No. 40-50

In fact, the cultural indicators need to be taken proper care of while formulating a policy of development for the tribal world, curbing and controlling the insecurity syndrome. The insecurity concern in India will best be addressed by the developmental model where the employment of every unemployed youth is ensured. The schemes of development are there with the Govt. but its real implementation is necessary. The CAG's report, which now vouches for social audit, needs to be done well in time so that the concentration of resources in the monopolistic form could be negated.

Exogenous Threats

As a matter of fact, the problem of insurgency, or any tribal unrest has tacitly been answered by other countries in a soothing manner by providing measures to question the governance, and run a parallel system which is very important issue to be considered. We believe it requires a good education system as a repellent to teachers of hostility.

Globalization with its multiple traits and properties connotes: information technologies, along with a variety of other technologies, are developing alarmingly and getting spread widely. There is expansion in the trade at the global level depending upon the specialization of the countries in terms of forces of production ranging from labour to capital. Interdependencies are growing in all aspects powered by media. 'Electronic media mark and reconstitute a much wider field, in which print mediation and others forms of oral, visual, and auditory mediation might continue to be important. Through such effects as the telescoping news into the audio visual bytes, through the tension between the public spaces of cinema and the more exclusive spaces of video watching through the immediacy of their absorption into public discourse and through their tendency to be associated with glamour, cosmopolitanism, and the new electronic media (whether associated with the news, politics, family life, or spectacular entertainment) tend to interrogate subvert, transform other contextual literacies'.⁶

⁶Appadurai, Arjun (1996) *Modernity at Large: Cultural Dimensions of Globalization*, University of Minnesota Press, London,

But the exchanges in terms of idea of innovation may create possibilities as well. These developments create real opportunities to achieve economic prosperity, spread political freedom, and promote peace. Yet they are also producing powerful forces of social fragmentation, creating critical vulnerabilities, and sowing the seeds of violence and conflict. Economic crises extend across state borders and are producing global hardships. These are important and having security implications. Indeed, multiplicities of threats have become global in scope and more serious in their effects as a result of the spread of knowledge, the dispersion of advanced technologies, and the movements of people. These same developments, combined with expanding global economic interactions, contribute to some of the problems and resentments that lie at the root of security threats.

Different aspects of globalization now combine to increase the dangers of a variety of transnational threats from weapons proliferation, cyber attacks, ethnic violence, global crime, drug trafficking, environmental degradation and the spread of infectious diseases.

The potentially destructive capabilities of weapons of mass destruction (WMD) in the hands of enemy states and terrorists clearly suggest the need for a preventive strategy.

Squaring Off

The global spread of ideas and technologies is unquestionably making it easier for states, and even disaffected groups, to develop the most-dangerous weapons. So it is fair to question whether a strategy can be designed that can offer any real prospect of preventing weapon proliferation. The need of the hour is to have a serious analytic effort to discover how and with what confidence access to the critical knowledge, materials, and technologies can be denied to those bent on acquiring weapons of mass destruction.

The possibilities would be to focus on the non-proliferation tools: domestic and international security mechanisms for storage and transfers, multilateral export controls, arms control verification

and enforcement measures, intelligence surveillance and tracking operations, and military and other forms of interdiction. Each of these would need to be evaluated, individually and then in combination, in light of technological developments.

Information technologies and systems are central features of globalization and have become increasingly important to the functioning of many critical civilian systems, communications, energy, transportation, electrical, water, and banking. The problem is that these now are potentially vulnerable to the threat of cyber attacks and disruption. The dangers arising from environmental degradation crosses state borders. The most publicized danger involves the rising global temperatures that are resulting into devastating droughts, floods, and violent storms. Other environmental dangers include air and water pollution, the loss of forests and biodiversity, and the potential introduction of toxic substances into the human food chain.

The threat of infectious diseases will spread globally and quickly, as a result of increasingly drug-resistant microbes, the lag in development of new antibiotics, poor patterns of land and water use, shifts in climate, the rise of mega-cities with severe health care deficiencies, the ease of movement of peoples across borders, and the growing number of refugees.

The Annual Report of Ministry of Home Affairs, 2009-2010, has identified a number of new measures undertaken by the government to strengthen the country to meet the grave challenges of security concern. These include operationalization of the National Investigation Agency (NIA), establishment of four National Security Guards (NSG) hubs to ensure quick and effective response to any possible terror attack, augmentation of the strength of Intelligence Bureau (IB), strengthening of the Multi-Agency Centre in the IB to enable it to function on a 24X7 basis and strengthening coastal security⁷. The idea of working on the issue of security always brings sense of confidence among the people.

⁷ Can also be read on: <http://www.ipcs.org/artjcle/india/challenges-before-indias-intemal-security-counterimg-terrorism-3126.html>

The security concerns are very important to us and it should be addressed in the cultural matrix of the country first. If the security considerably succeeds on the domestic level, the democracy of our country will be secured, and the chance to be victorious would be very higher for any activity to be carried out by any citizen.



Implementing a computer based Inventory Management System (IMS) in Sashastra Seema Bal

Anil Agrawal, IPS*

key words

Inventory Management System, Manual Record Keeping, SSB, CAPF, FHQ. User Manual, Inventory System, Constabulary, CTS.

Abstract

Managing inventory is a complex process, especially in a vast and country-wide Central Armed Police Force. One of the most important administrative tasks of any armed police unit is to run an efficient inventory system---which has three vital components viz, indenting, receiving and issuing of uniform items to personnel of different ranks at the Battalion level. In Sashastra Seema Bal (SSB), the book keeping relating to the entire processes of management of uniform items was being done manually. In the manual process, very frequently there are discrepancies during reconciliation of stocks, which are difficult to balance. Similarly, the process of projecting requirements of different items is not based on scientific calculations.

Introduction

Manual record keeping implies poor maintenance of information, non-availability of timely and accurate information, many times leading to delayed decisions, indecisions and may be wrong decisions at times. Duplication of work and disjointed efforts also imply loose control, resulting in wastages and losses. We all knew

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that a computer based Inventory Management System could address the above shortcomings. It has been our dream to have a software developed for the purpose. The focus was the Constabulary and the uniform items issued to them. It is with this vision, that we started working on the Inventory Management System to deal primarily with CTS (Clothing, Tentage and Stitching) items. To start with, the goal was very modest--the system must be able to show correct stock position of any CTS item in a Unit and forecast requirement of any item, for a given period.

In its final shape, the IMS achieves these objectives and in fact does much more. It caters to all the requirements of management of different types of Inventory at Battalion, Sector, Frontier or Force Headquarters (FHQ) levels. At each level, the inventory relating to the Unit's own inventory can be managed in addition to compilation of records from the Subordinate Units.

Design

The design of the software has been kept to be generic in nature. It was decided that it should cater to all kinds of items, rather than just CTS items. Further, it would not only track items issued to individual officials, but also to all 'entities' as well. (An entity is an office or a branch or a section, which is issued various items like furniture, stationery etc.) Finally, the system should work not just at the Battalion level, but also at Sector, Frontier and FHQ levels as well. It should also be able to consolidate data from all Subordinate Units of an office.

The IMS works structurally around a core of 'Master Files', which defines a number of attributes. Once defined centrally, the same files are used at every location. This leads to uniformity, standardization, ease of comparison and also of compilation and consolidation of data. These master files define, for example, the organizational structure, ranks, branches, items, groups of items, etc.

The organizational processes are supported by the master files. Various processes relating to supply orders) receipts, issue, diversion and disposal of items are supported. Specifically, the processes relating to issuing supply orders to suppliers, receipt of items by

Units, issue to Sub-Units, issue to individuals, issue to entities, issue to tradesmen, diversion of items from one Unit to another, receipts from tradesmen, receipt of partially worn-out items, receipt of unserviceable items from individuals, condemnation of items and disposal of items, among others, are supported.

Architecture

The architecture of the Inventory Management System Software is as under:

The application is installed at a central server and each unit separately. It is used at the central and the unit levels independently, in an offline mode. The software is made using Visual FoxPro on Windows XP operating system. It also uses Crystal Reports.

Common master files are populated by the central IMS Nodal Team. Whenever they are updated, they are sent to each Unit for updation over secure email. Periodically, all the Unit specific master files and transaction files are sent to central location over email, where the IMS Nodal Team synchronizes the data from units.

Features

A wide range of features are available.

- An intuitive User Interface which includes context specific information and data validation checks.
- Structured reports which are interactive and informative and cover an entire range of processes from supply orders to condemnation. Exportable in many popular formats for use elsewhere.
- Preparation of Annual Indent for any provisioning cycle as per MHA's proforma at Bn., Sector or Frontier levels.
- Generation of Kit Card of an individual, a Quarter Master's delight. Display of a whole set of features and facility to print every kind of information relating to all issued items.
- A report giving a list of all items that an individual has not been issued, out of the authorized scale over any given period

of time.

- Issuance of supply orders and receiving supplies compatible with DGS&D purchases.
- A number of processes which assist management of Unserviceable, Partially Worn-out Stock (PWS) and Condemned items. A separate PWS Stock Register exclusively to monitor above stores, in place.
- Quick and easy generation of condemnation Board Proceedings, which hitherto remained cumbersome and time-consuming.

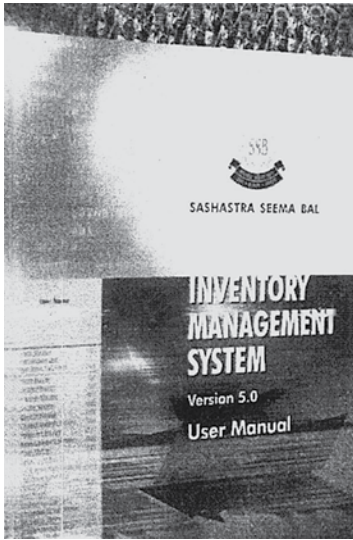
Reports

The reports of the IMS are quite comprehensive. More than 50 different types of reports can be generated. The reports relate to supply orders, supply receipts, issue to individuals and entities, diversions to or from another Unit, stock ledgers, forecasting requirements, return of unserviceable, partly worn-out and condemnable items and their disposal. Monthly Progress Reports and Annual Indents, which are required to be sent periodically, are also generated.

A by-product of IMS reports has been a unique report on nominal roll. A very flexible interface allows the user to specify any complex criteria to get a list of officials with varying parameters. This report has found particular favour with all the battalion officers, as it fulfils their requirements relating not only to inventory management, but in other critical tasks relating to administration of the battalion e.g. generating a list of individuals with a particular blood group, age group, domicile, etc.

User Manual

A comprehensive User Manual has been prepared detailing all aspects of the IMS software. It describes all the processes that are supported by the IMS. All processes are explained with the help of accompanying figures and descriptive text, A number of sample reports have also been included. A section on 'Frequently Asked



Questions' has also been included based on practical and oft-repeated questions that trainers had come across during the launching of different versions of IMS at various SSB Units. The User Manual is intended to assist the process of assimilation of this new way of working at the Battalion level and higher levels. Hard copies of the Manual have been printed and sufficient number of copies issued to each Unit. Now an easily navigable electronic version of the Manual has also been prepared which forms part of the software.

Timeline

We started conceptualizing this project in mid-2007. The work was assigned to a small software company based in Lucknow in November 2007, on a trial basis. Next three months were devoted to understanding the existing system in detail and spelling out requirements. The first trial version was received in April, 2008. We conducted a 2-day workshop of all Quarter Masters and Battalion Assistants in May, 2008, for training and starting the data entry process. All battalions were asked to complete data entry by June 30, 2008. Although working on a software project for the first time, the Units showed commendable spirit in completing the task.

The feedback received from Units was extremely encouraging and valuable. Software requirements were enhanced manifold and we revised the software design. Second version was received in August, 2008. Another workshop was held in August, 2008 on the new version. As its benefits started showing results, the Units demanded more features. Software requirements were again enhanced in November, 2008. The Third version was released in February, 2009. The Fourth version carried significant improvements in the overall process of data entry in Units and its consolidation at higher levels,

along with improvements in user interface and interactivity of many reports. This was released in May, 2010.

The Fifth Version, released in February, 2012 carries significant enhancements to make the IMS a complete system for managing inventory: right from a Battalion up to the Force Headquarters. These enhancements lead to an accurate and timely forecasting of demand, monitoring of the purchase process, scientific and fair distribution of supplied stores and systematic disposal by diverse means.

Implementation

Implementing a software package in a government organization is challenging and we have had our share of challenges. The initial inertia and then the resistance to change have been overcome and they have given way to newer expectations. It is the increasing expectations that are a source of immense gratification.

We started implementing this software in 12 battalions of Lucknow and Ranikhet Frontiers of SSB in May, 2008. Patna Frontier implemented the system in their 15 battalions in June, 2010. In May, 2011, it was decided to implement this system in all 57 battalions and training centres of SSB. Following this directive, intensive trainings for all Units of Force Headquarters, Training Centres, Guwahati and Siliguri Frontiers were conducted in many separate sessions during July-August, 2011.

The total number of records entered in IMS, as on March 15, 2012 was estimated to be in excess of 32 lakhs.

Conclusion

The IMS has been implemented in SSB in all its Units, Sectors, Frontiers and Force Headquarters. It caters to most tasks relating to indenting, receiving and issuing of uniform items to the large number of personnel in SSB in all battalions. The consolidation of data at Sector, Frontier and FHQ levels is also being done comfortably.

In an ultimate analysis, all record keeping relating to purchases, distribution and disposal of various items in all Quarter Master

Stores - is done by Constables. As the system has been implemented in diverse Units, we have seen them adopt the IMS and learn its nuances. We are truly amazed at the capabilities of our Constabulary. Many of them have displayed exceptional understanding, creativity and initiative to suggest enhancements, which we have found extremely useful. Many of these suggestions have been incorporated into the new version. It gives us a true sense of delight to see their drudgery of record keeping and forecasting reduce significantly by this automated system.

The present IMS application is a desktop application. We now have a vibrant Wide Area Network (WAN) implemented up to the Battalion level in SSB. Implementation of IMS over the SSB- WAN is the next logical step. We have already started working on the WAN version of the IMS.

Screenshots and Sample Reports

1. Stock Ledger

SSB - Sashstra Seema Bai (v.5.0)

Stock Ledger -

Proceed **Frontier :** Click for All Frontier **Sectors :** Click for All Sectors **Unit :** Click for All Units **Sub Unit :** Click for All Sub Units **Item :** CR04 Cap Barrel Khan (Help - Press F10 to get Item List) **As on Date :** 01/05/2012

Sr	Date	Whom Recd Issue	Voucher No	Qty Recd	Qty Issu	Sub Unit	Qty Issue (Sub Unit)	Qty in Store	Total in Stock
	23/08/11		00753		62.00	F Coy. 4 BN	20.00	1928.00	2176.00
	17/10/11	PERSONNEL ISSUE						1928.00	2116.00
	18/10/11		00758			E Coy. 4 BN	50.00	1876.00	2116.00
	19/10/11		00761			4 BN	7.00	1871.00	2116.00
	18/10/11	PERSONNEL ISSUE			7.00			1871.00	2109.00
	28/10/11	PERSONNEL ISSUE			23.00			1871.00	2086.00
	29/10/11	PERSONNEL ISSUE			22.00			1871.00	2064.00
	21/12/11	PERSONNEL ISSUE			1.00			1871.00	2063.00
	23/12/11	PERSONNEL ISSUE			5.00			1871.00	2058.00
	02/01/12	PERSONNEL ISSUE			57.00			1871.00	2001.00
	07/01/12	PERSONNEL ISSUE			34.00			1871.00	1967.00
	10/01/12	PERSONNEL ISSUE			5.00			1871.00	1962.00
	24/01/12		00650			4 BN	6.00	1865.00	1962.00
	24/01/12	PERSONNEL ISSUE			6.00			1865.00	1956.00
	10/02/12	PERSONNEL ISSUE			8.00			1865.00	1948.00
	11/02/12	PERSONNEL ISSUE			12.00			1865.00	1936.00
	24/03/12		00953			HQ Coy. 4 BN	50.00	1816.00	1936.00
	24/03/12		00964			4 BN	26.00	1789.00	1936.00
	24/03/12	PERSONNEL ISSUE			26.00			1789.00	1910.00

Back Print Preview Print Refresh View Summary

2. Kit Card of an Official: All Items Issued

Kit card - All Items issued

Sl	Offical Code	Offical Name	Issue Date	Qty	
46	049165	Rajeev Rajan	06/10/2014	1.00	
				COT Total	2.00
47	346498	Pratap Singh	02/08/2015	1.00	
				COT Total	1.00
48	017839	Nishikant	02/18/2012	1.00	
49	01024798	Md. Saiged	02/18/2012	1.00	
50	00532612	Ganesh	07/11/2014	1.00	
51	00534232	Rajendra Singh	12/11/2013	1.00	
52	028672	Rameshwar Dutt	04/10/2015	1.00	
53	0145424	Pudhakar Singh	01/14/2014	1.00	
54	0045043	Eranga Singh Rajput	07/11/2014	1.00	
55	01261765	Jagad Kumar Soren	07/11/2014	1.00	
56	8047888	Rohit	07/11/2014	1.00	
57	8929382	Rajendra Singh	12/11/2013	1.00	
58	821101	Suman Anand	07/11/2013	1.00	

3. Item Requirement: Official-wise

Future requirement of Durrie Cotton

Sl	Offical Code	Offical Name	Issue Date	Reqd. of Qty	
46	049165	Rajeev Rajan	06/10/2014	1.00	
				COT Total	2.00
47	346498	Pratap Singh	02/08/2015	1.00	
				COT Total	1.00
48	017839	Nishikant	02/18/2012	1.00	
49	01024798	Md. Saiged	02/18/2012	1.00	
50	00532612	Ganesh	07/11/2014	1.00	
51	00534232	Rajendra Singh	12/11/2013	1.00	
52	028672	Rameshwar Dutt	04/10/2015	1.00	
53	0145424	Pudhakar Singh	01/14/2014	1.00	
54	0045043	Eranga Singh Rajput	07/11/2014	1.00	
55	01261765	Jagad Kumar Soren	07/11/2014	1.00	
56	8047888	Rohit	07/11/2014	1.00	
57	8929382	Rajendra Singh	12/11/2013	1.00	
58	821101	Suman Anand	07/11/2013	1.00	

4. Annual Indent of a Unit on MHA Form PV-1



Name of Unit - 4 Bn Lucknow

MHA FORM NO. PV-1

ANNUAL PROVISIONING REVIEW WORKING SHEET FOR ITEMS ON LIFE CYCLE CONCEPT FOR 24 MONTHS
ITEM NOMENCLATURE: Amket Web Khak.

2011-2012

Sl No	Particulars	Qty	Remarks
1.	Enlisted strength of the Force as on 30/09/2011	SO 45 CR 994	
2.	Recruits-in-take	35	
3.	3% of Authorized strength		
4.	Assessed life in month	SO 24 CR 24	
5.	Scale of issue per man	2	
6.	Total authorization (1+2)	1074	
LIABILITIES			
7.	Replacement requirements	SO 90 CR 1988	
8.	Initial liabilities	70	
9.	Done out if any	0	
10.	Total (6+7+8)	SO 90 CR 2058	
ASSETS			
11.	Physical stock as on 30/09/2011	1531	
12.	Done in	305	
13.	Total Assets (10+11)	1836	
14.	Calculated demand (9)	SO 90 CR 2058	
15.	Proposed demand (13-12)	312	
16.	Rate	45	
17.	Financial effect	14020	
RECONCILIATION STATEMENT			
18.	Stock as on 30/09/2010	1673	
19.	Done in Pending Supply as on 30/09/2010	105	
20.	Done in fresh order supply order Placed after 30/09/2010	200	
21.	Total (18+19+20)	1978	
22.	Stock as on 30/09/2011	1531	
23.	Issue official Issue+Discretion+Issue against done out after 30/09/2011	142	
24.	Done in pending supply as on 30/09/2011	305	
25.	Total	1973	

5. Annual Indent of a Frontier on MHA Form PV-1



Name of Frontier - Lucknow

MHA FORM NO. PV-1

ANNUAL PROVISIONING REVIEW WORKING SHEET FOR ITEMS ON LIFE CYCLE CONCEPT FOR 24 MONTHS
ITEM NOMENCLATURE: Amket Web Khak

2011-2012

Sl No	Particulars	Quantity				LKP	Quantity				OKP	Total	Quantity	FIT	
		3 Bn	4 Bn	5 Bn	7 Bn		Total	1 Bn	2 Bn	3 Bn					4 Bn
1.	Enlisted strength of the Force as on 30/09/2011	987	1039	1066	978	4070	1014	989	982	1004	4013			8013	
2.	Recruits-in-take	35	35	35	35	140	35	35	35	35	140			280	
3.	3% of Authorized strength	SO	24	ORS	24										
4.	Assessed life in month	SO	2	ORS	2										
5.	Scale of issue per man	SO	2	ORS	2										
6.	Total authorization (1+2)	1022	1074	1101	1013	4210	1049	1024	1015	1001	4119			8361	
LIABILITIES															
7.	Replacement requirement	1974	2078	2122	1978	8140	2028	1978	1960	2080	8036			16106	
8.	Initial liabilities	70	70	70	70	280	70	70	70	70	280			560	
9.	Done out of any	0	0	0	0	0	0	0	0	0	0			0	
10.	Total (7+8+9)	2044	2148	2202	2048	8420	2098	2048	2030	2150	8316			16726	
ASSETS															
11.	Physical stock as on 30/09/2011	1878	1921	913	1222	5847	1900	2019	1655	844	5988			11817	
12.	Done in	120	305	316	285	1206	287	35	408	180	810			2016	
13.	Total Assets (10+11)	1998	1826	1229	1507	7053	1907	2054	2063	1024	6798			13833	
14.	Calculated demand (9)	2044	2148	2202	2026	8420	2098	2048	2030	2150	8316			16726	
15.	Proposed demand (13-12)	46	312	773	426	1567	391	34	37	1126	1528			3890	
16.	Rate	45	45	45	45	45	45	45	45	45	45			45	
17.	Financial effect	2070	1420	3475	19620	70515	17943	640	765	49776	65760			138273	
RECONCILIATION STATEMENT															
18.	Stock as on 30/09/2010	2035	1873	1225	1740	6790	1994	2287	1823	1168	6712			13472	
19.	Done in Pending Supply as on 30/09/2010	120	105	220	180	615	150	6	170	50	378			973	
20.	Done in fresh order supply order Placed after 30/09/2010	0	200	298	105	601	57	15	258	130	440			1011	
21.	Total (18+19+20)	2155	1978	1743	1925	7996	1801	2322	2211	1318	7530			14456	
22.	Stock as on 30/09/2011	1878	1921	913	1222	5847	1900	2019	1655	844	5988			11813	
23.	Issue official Issue+Discretion+Issue against done out after 30/09/2011	157	342	339	415	1033	94	188	198	324	804			1817	
24.	Done in pending supply as on 30/09/2011	120	300	316	285	1206	287	35	408	180	810			2016	
25.	Total	2155	1978	1743	1925	7996	1801	2322	2211	1348	7582			14488	



“Forensic Examination of Indian Passport”

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Key words

IP, GIP, FIP, VIZ, MRZ, VSC-5000.

Abstract

Indian Passport Fraud is a significant and continuously worrisome fraud challenge. In an age of global combat against terrorism, the recognition and identification of people on document images is of increasing significance. Fake Indian Passport (FIP) can be used for escape into exile, identity theft, age deception, illegal immigration and organized crime. This paper describes the Security Features of current Indian Passport (IP) and detailed structure of Visual Inspection Zone (VIZ) & Machine Readable Zone (MRZ). This research also specifies the Technical Specification as well as recommendation for Indian Passport. Therefore, one can easily distinguish the Genuine Indian Passport (GIP) by utilizing the effectiveness of this paper.

Introduction

No person shall depart from, or attempt to depart from, India unless he holds in his behalf a valid passport or travel document."Passport" includes a passport which having been issued

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Fig 1: Indian Passport

by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920 in respect of the 34 of 1920 class of passports to which it belongs. "Travel document" includes a travel document which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed. (The Passports Act, 1967.)

Classes of Passports

The following classes of passports may be issued under the Passport Act, 1967, namely:

1. Ordinary/Regular/Tourist Passport (Deep Blue/Black cover) - Issued for ordinary travel, such as vacations and business trips (36 or 60 pages).
2. Official/Service/Special Passport (White cover) - Issued to individuals representing the Indian government on official business.
3. Diplomatic Passport (Maroon cover) - Issued to Indian



Fig 2: Classes of Indian Passport

diplomats, top ranking government officials and diplomatic couriers.

Offences and Penalties

According to the Passport Act, 1967, whoever (a) contravenes the provisions of section 3; or (b) knowingly furnishes any false information or suppresses any material information; or (c) fails to produce for inspection his passport or travel document; or (d) knowingly uses a passport or travel document issued to another person; or (e) knowingly allows another person to use a passport or travel document issued to him, shall be punishable with imprisonment for a term which may extend to 2 years or with fine which may extend to Rs. 5,000 or with both.

Indian passports are issued to citizens of India for the purpose of international travel. They act as proof of Indian nationality. The Consular, Passport & Visa (CPV) Division of the Ministry of External Affairs, functioning as the central passport organisation, is responsible for issuance of Indian passports to all eligible Indian citizens. Passports are issued from 37 Regional Passport Offices (RPOs)/Passport Offices (POS) across the country and 162 Indian missions abroad. Besides the 37 RPOs/POs there are also 15 Passport Application Collection Centres (PAC), mostly located in remote areas. In addition, there are 495 District Passport Cells and 1154 Speed post centres which serve as application collection centres (MEA, India).

The India Security Press (ISP) is a unit of Security Printing and Minting Corporation of India Ltd. (SPMCIL) which is a wholly owned company of the Government of India. SPMCIL was formed after corporatisation of nine units, including four mints (Mumbai, Kolkata, Hyderabad & Noida), four presses (Nashik, Dewas, Salboni & Mysore) and one paper mill (Hoshangabad) which were earlier functioning under the Ministry of Finance. India Security Press (Nashik) prints passports, visa stickers and other travel documents for Ministry of External Affairs (SPMCIL).

As international travel has increased, passports has become a more frequent questioned documents submitted for examination. Passport examination is both a general questioned documents problem and

a technical field in its own right. The purpose of this paper is to better acquaint the document examiner with the various types of problems common in passports and the types of examinations that generally offer the best results. The research focuses the various Security Features of current Indian Passport, detailed structure of Visual Inspection & Machine Readable Zone of Passport, technical specification and recommendation to Indian Passport. This research is carried out by using various scientific instruments i.e. Video Spectral Comparator(VSC)-5000, Twin Video Comparator, Stereo Zoom Microscope, Ultraviolet Lamp, Magnifying Glasses etc.

Security Features of Indian Passport

There are a number of Security Features which are currently present in the Indian Passports. Both GIP (Genuine Indian Passport) and FIP (Fake Indian Passport) can be distinguished with each other on the basis of Security Features. In the current research work all the Security Features present in the passport is discussed below. All these Security Features can be viewed under different light source in UV Light [365 nm (long-wave UV), 312 nm (medium wave UV) and 254 nm (short-wave UV)], Visible/Normal Flood Light, Infrared/Spot Light as well as in Transmitted Light & Oblique/Side Light.

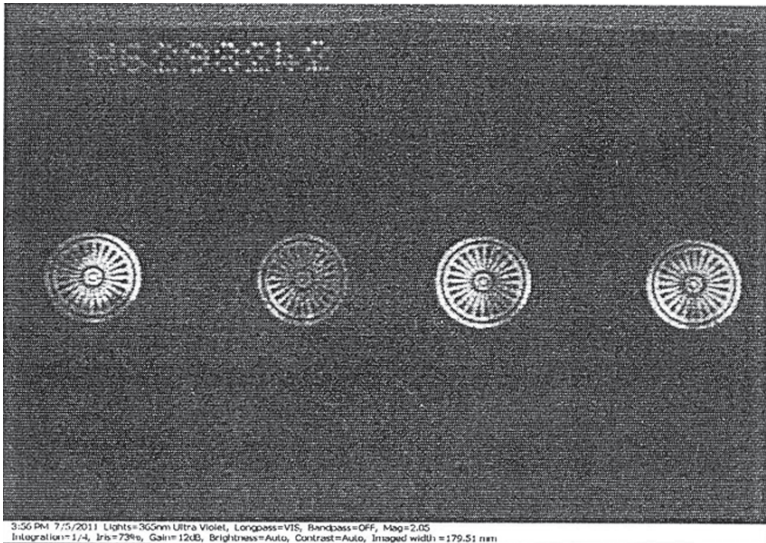


Fig 3: Passport Cover

1. **Passport Cover:** There are three types of Passport Cover depending upon the colours/classes of Passport. The front part of the cover shows Golden Embossing over the text portion [Passport & Republic of India- In both Hindi as well as English] & image [Ashoka Pillar] portion. The back part of the cover contains Punched Passport Number. When this Passport Cover is viewed under the UV light it shows 2 Ashoka Chakra in both Front & Back of the Cover.

2. **Passport Papers/Pages:** The high quality paper is used in Indian Passports which is of 100 GSM [grams per square meter]. The number of pages in the passport depends upon the Passport booklet type. All the pages of the Passport show fine trimming & Finishing as per the prescribed standards. Alignment of pages & passport cover/smoothening of folds/creases is also done as per the standards.

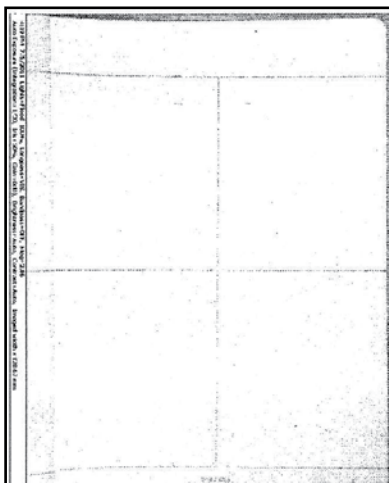


Fig 4: Passport Papers/Pages

3. **Stitching Binding Thread:** Stitching Thread [stitched in the spine] is used for holding together the pages of a booklet of passport. Stitching is performed by using Reverse Stitching Machine that is known as Saddle Stitching. The Thread shows multicoloured fluorescence with Green, Yellow & Red colour when exposed to UV light.

4. **Gothic/Punched Number:** The Passport number is perforated through the half back part of the passport with a laser. This numbering is called as Gothic Numbering, which is present in the half back part of the passport i.e. page 19 to 35 & back passport cover in case of 36 type booklet. Typical distinguishing marks are produced which includes traces of burning round the edges of the holes, no raised edges round the holes in the

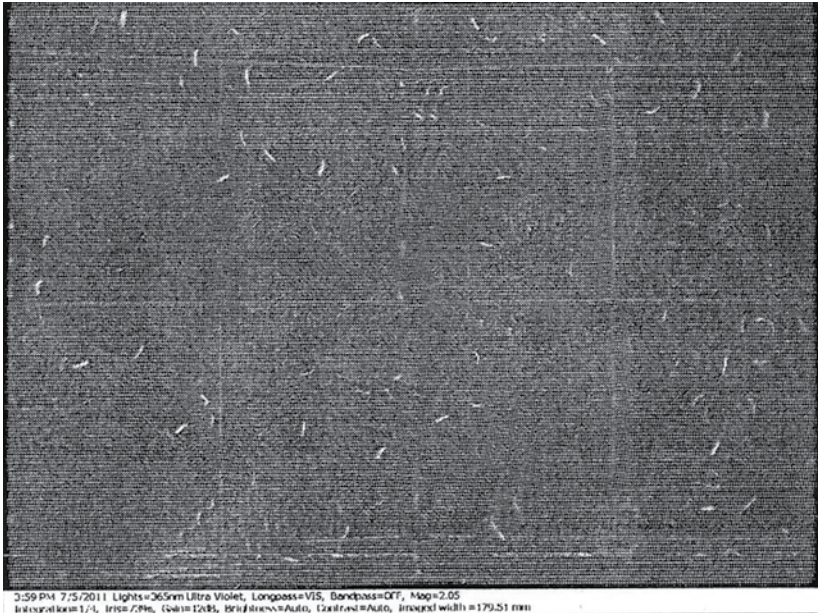


Fig 5: Stitching Binding Thread

paper on the back of the perforations and conical decrease in size of the perforated holes in the book block when viewed from front to back. Hence this feature is created to avoid tampering in the Passport.

5. **Biographical/Biodata Page:** The page just attached below to the passport cover of the passport is known as Biographical Page. Biographical Page is composed of several layers of Polycarbonate (PC), which is fused at high temperature.

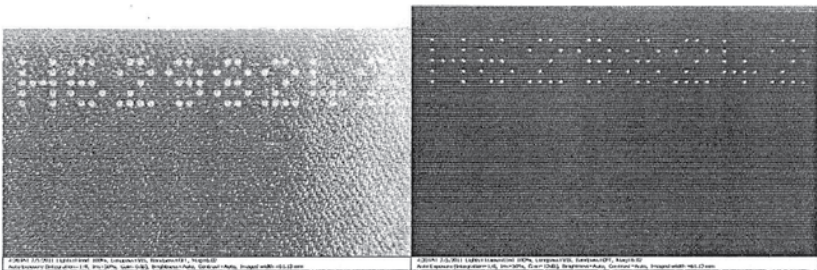


Fig 6: Gothic/Punched Number

PC is a thermoplastic polymer with excellent toughness characteristics. Background printing itself printed by the coloured offset printing i.e. pre-printed text in Passports.

Personalization is the process whereby the passport holder's image, signature and biographical data are incorporated into a Passport. The holder's biographical data (Biodata) appear both in the VIZ (Visual Inspection Zone) and in the MRZ (Machine Readable Zone) of a passport (on the Biodata page). Photograph of holder, a signature and biodata text is incorporated directly by the process of Integration during personalization. The photo is transferred to the Biodata page by digital means which is called as Integrated Digital Photograph, and it is printed by Thermal Wax Printing.

When Biographical Page is seen under the Ultra Violet Light, it shows "GOVERNMENT OF INDIA" {Reddish in colour} repeatedly [in 2 lines] and- "BHARAT SARKAR IN HINDI" {Greenish in colour} repeatedly [in multiple lines]. It has to

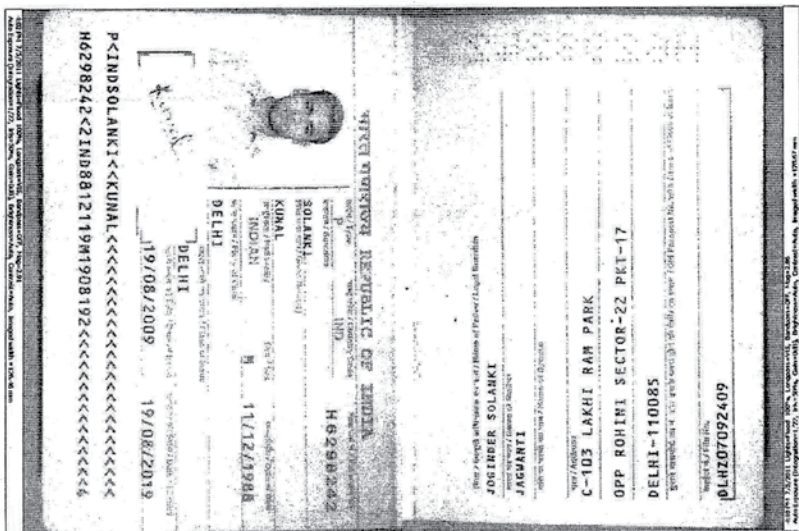


Fig 7: Biographical/Biodata Page

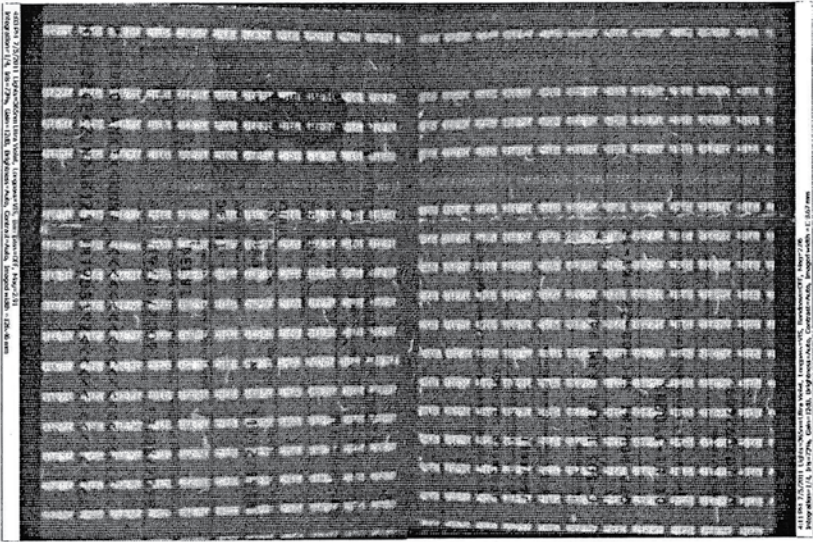


Fig 8: Biographical/Biodata Page under UV Light

be noticed that there should be only three lines "BHARA T SARKAR IN HINDI" between the both lines of "GOVERNMENT OF INDIA". Both types of lines are printed in Laminated Sheet, which is invisible in normal light.

6. **HAUV/Laminated Film:** Lamination is present in the inner side of the Passport Cover or over to Biographical Page. A Laminated sheet is a type of plastic sheet with invisible security features that is affixed to the Biodata page in order to protect data entries against falsification. Lamination is done by using HAUV [Heat Applied Ultra Violet] Film by fusing it at 60 to 180 degree Celsius temperature. This sheet protects against wear and tampering. Therefore, Biodata is safeguarded with transparent laminate in order to prevent manipulation.
7. **Dicuts:** Dicuts are the type of horizontal & oblique lines which are present in Front & Back Page of Biographical page. Additionally 2 Special Dicuts are formed in front Biographical Page in shape of Ashoka Pillar Form.

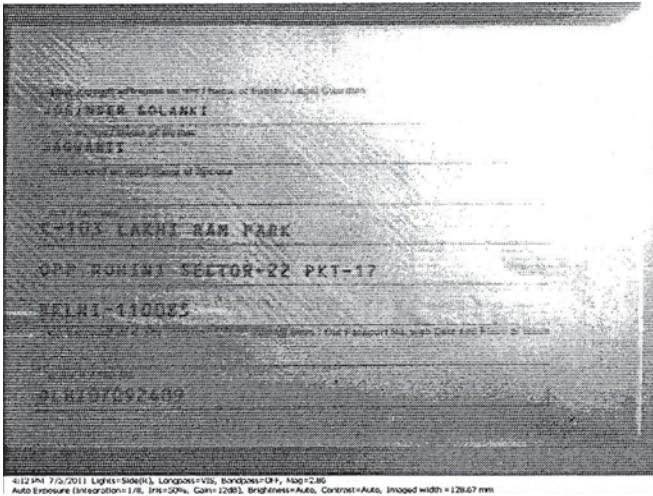


Fig 9: HAUV/Laminated Film

8. **Micro Printing:** Lines or motifs made up of very small letters or numbers that are barely perceptible to the eye is called as Microprinting. Microprint contains printed text smaller than 0.25 mm-0.7 pica points which require the use of low

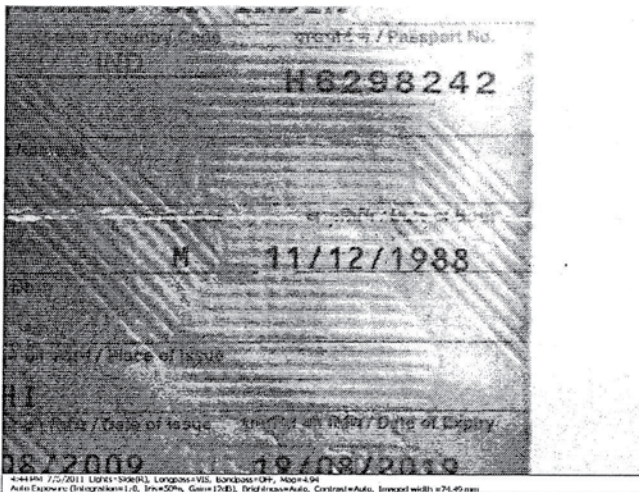


Fig Fig 10: Dicuts

magnification, e.g. a magnifier or a loupe. That is why forged passports will often show unreadable microprint.

Microprinting is present as "GOVERNMENT OF INDIA" & "BHARA T SARKAR IN HINDI" subsequently in Biographical Page. All the printed lines (horizontal & vertical) on the VISA Pages of the Passport are also printed as "VISA PAGE (Respective Page No.)" & VISA PRASTHA (Respective Page No.)" IN HINDI" in each remaining pages (Visa Page) of the Passport.

9. **Guilloches/Fine Line Pattern:** Fine (intricate) designs consisting of interlaced continuous lines arranged in geometric patterns is known as Guilloches. Guilloches are printed on background with the aim of raising the barrier for re-origination and reproduction. Indian Passports contain guilloches pattern which is visible under UV light & fluoresce with various colours in different wavelength i.e. Visa Page shows Pinkish colour of Guilloches Pattern under

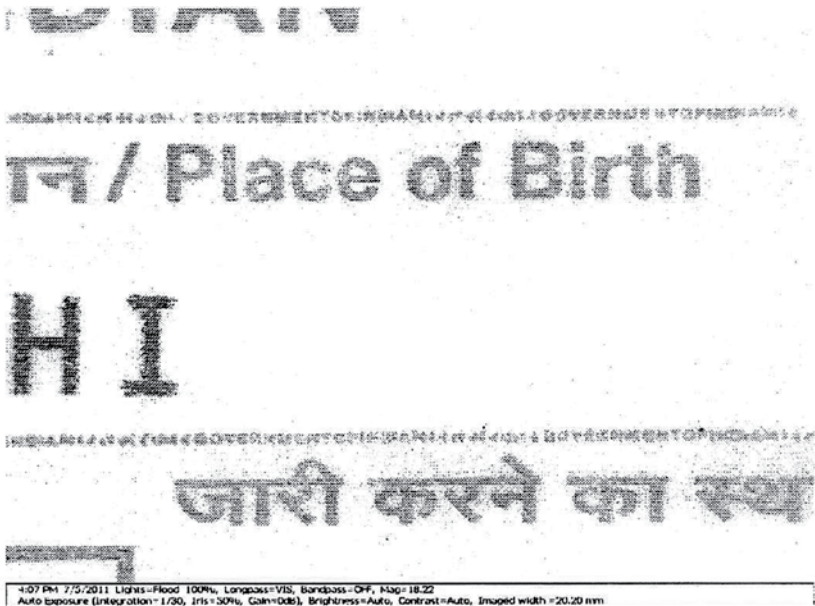


Fig 11: Microprinting on Biographical Page

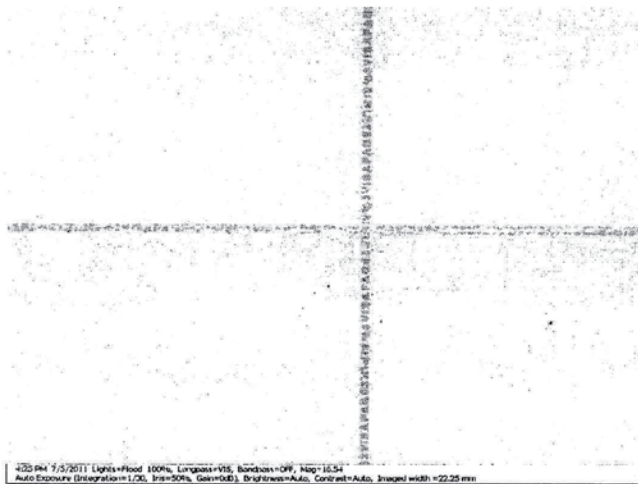


Fig 12: Microprinting on Visa Page

312nm UV.

10. **Fugitive/Sensitizing Ink:** Fugitive Ink is a type of soluble ink that dissolves in certain solvents or water which causes specific

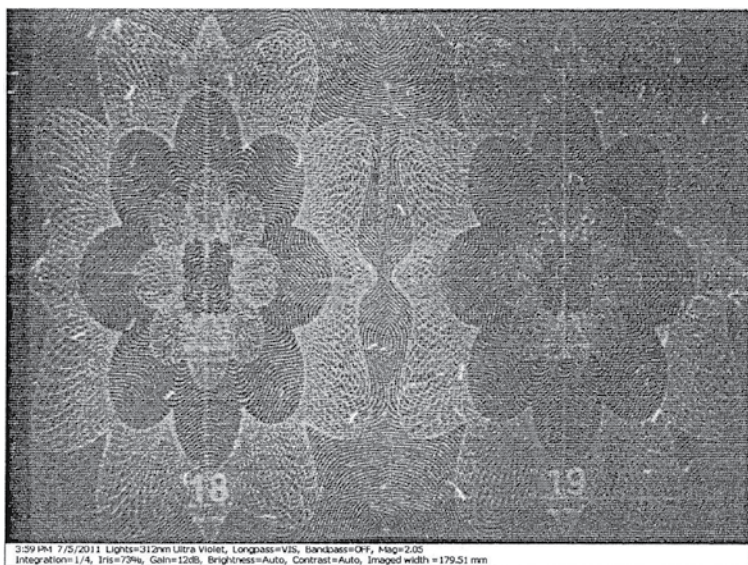


Fig 13: Guilloches Fine Line Pattern

colour hence called as Optical (Fluorescent) Fibres.

- 12. Watermark:** Watermark is incorporated into the paper during manufacture by displacement of the paper fibres, leading to a varying thickness of the paper. The watermark can be observed using transmitted light. Where the paper is thinner, more light passes from it & forms a clearer image and where the paper is thicker, less light passes from it & forms a darker

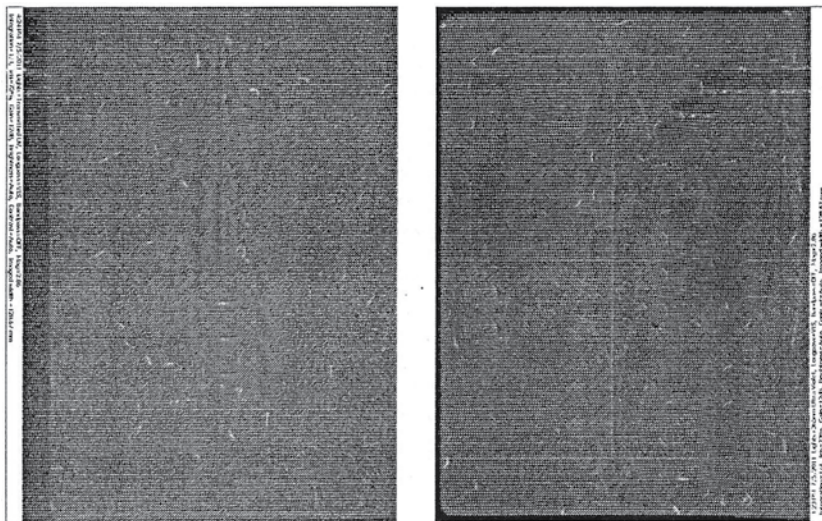


Fig 15: Fibres

image. The watermark should not appear under UV light. Indian Passport contains Single tone watermark that is of dark shade. Indian Passport contains two and half Ashoka Pillar as Head to Head or Tail to Tail condition in each page except biographical page.

- 13. Flourscent Ink:** Fluorescent Ink is used to print background text or motifs. This type of ink is visible under normal light and fluoresces under UV light. Fluorescence is a short-lived light emission which ceases within 10-8 seconds. Ultraviolet light is not visible itself, only its effect, i.e. the visible fluorescence stimulated by UV light can be seen in fluorescent ink. Indian

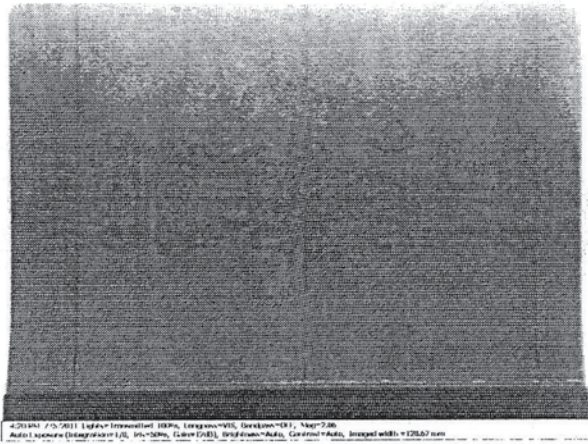


Fig 16: Watermark

Passports shows greenish fluorescence of all printed text.

Visual Inspection & Machine Readable Zones of Indian Passport

The specifications of Machine Readable Travel Documents (MRTD) are set out in document 9303 of the International Civil Aviation Organisation (ICAO). According to these standards, the Biodata page of a MRTD is divided into two different zones:

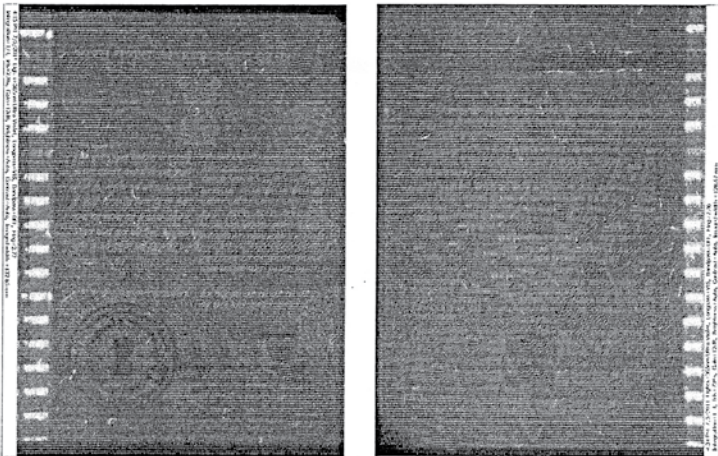


Fig 17: Fluorescent Ink

Structure of VIZ (Visual Inspection Zone)

Front Biographical Page It consists of Photo, Signature and MRZ as well as VIZ as follows;

1.	Type- P
2.	Country Code- IND (pre-printed)
3.	Passport No.- S1234567
4.	Surname- GUPTA
5.	Given Name(s)- SWAPNIL
6.	Nationality- INDIAN (pre-printed)
7.	Sex- M
8.	Date of Birth- 13/01/1986
9.	Place of Birth- BANDA
10.	Place of Issue- LUCKNOW
11.	Date of Issue- 08/02/2011
12.	Date of Expiry- 08/02/2021
Back Biographical Page- It consists of VIZ as follows;	
13.	Name of Father/ Legal Guardian- PREM NARAYAN GUPTA
14.	Name of Mother- SHASHI GUPTA
15.	Name of Spouse- KOPAL GUPTA
16.	Address- H NO 580 A/8 BESIDE RTO OFFICE STADIUM ROAD CIVIL LINES BANDA - 210001 UP
17.	Old Passport No. with Date and Place of Issue- (if issued before)
18.	File No.- ABCD87654321

Structure of MRZ (Machine Readable Zone)

The MRZ provides the verification of the information in the VIZ and may be used to provide search characters for a database enquiry. As well, it may be used to capture data for registration of arrival and departure or simply to point to an existing record in a database. MRZ are printed in OCR-B type font, size 1, constant stroke width characters, at a fixed width spacing of 2.54 mm (0.1 in) as specified in ISO 1073-2.

The Surname is known to be as Primary Identifier while the remaining part of the name that is Given Name(s) is the Secondary Identifier. Primary Identifier is followed by 2 filler character " <<) while "e.-

Primary Identifier shall be written immediately after 2 filler characters. If the primary or secondary identifier have more than one name component, each component shall be separated by a single filler character «). Filler characters «) should be inserted immediately after the final identifier through to the last character position in the machine readable line. Dates are entered in accordance with ISO 8601 e.g. YYYYMMDD. A fixed-dimensional reading area that is Effective Reading Zone (ERZ) of 17 mm x 118 mm.

P < I N D G U P T A < < S W A P N I L < < < < <
 < < < < < < < < < < < < < < < < < <
 S 1 2 3 4 5 6 7 < 2 I N D 8 6 0 1 1 3 7 M 2 1 0 2
 0 8 9 < < < < < < < < < < < < < < < < 6

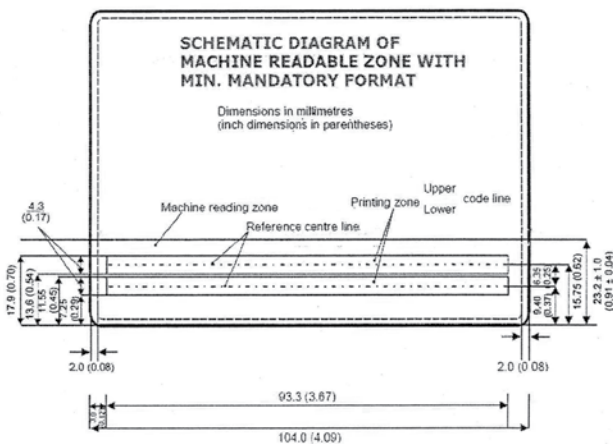


Fig 19. Format for MRZ in Indian Passport

Calculation of Check Digit in MRZ- A special check digit calculation has been adopted for use in MRTDs. The check digits shall be calculated 'on the modulus 10 with a continuously repetitive weighting of 731731 ... , as follows.

4 Steps of Calculation-

Step 1-	Going left to right, multiply each digit of the pertinent numerical data by weighting figure appearing in the corresponding sequential position.
Step 2-	Add the products of each multiplication.
Step 3-	Divide the sum by 10 (the modulus).
Step 4-	The remainder shall be the check digit.
Note-	<p>1. For data elements in which the number does not occupy all the available character positions, the symbol < shall be used to complete vacant positions and shall be given the value of zero for the purpose of calculating the check digit.</p> <p>2. When the check digit calculation is applied to data elements containing alphabetic characters, the characters A to Z shall have the values 10 to 35 consecutively, as follows;</p> <p>AB CDE FGH I JK L\1NO PQ RS TUVWXYZ 1011 12 13 1415 1617181920212223242526272829303 1 32333435</p> <p>3. Check digit is applied to Document Number Field or Fixed Length Field (Passport No.), Date Field (Date of Birth & Date of Expiry) and Composite Check Digit Field (Final One Digit).</p>

I. Calculation of check digit of Passport No.

Sample data element:	S	1	2	3	4	5	6	7	<
Assigned numeric value:	28	1	2	3	4	5	6	7	0
Weighting:	7	3	1	7	3	1	7	3	1
I. Multiplication	196	3	2	21	12	5	42	21	0

FIELD ZONE	CHARACTER VR-Variable
पिता / पालक/ कानूनी अभिलेखित व्यक्ति का नाम / Name of Father / Legal Guardian	16 VR
PREM NARAYAN GUPTA	
माता का नाम / Name of Mother	17 VR
SHASHI GUPTA	
पति या पत्नी का नाम / Name of Spouse	18 VR
KOPAL GUPTA	
घर / Address	19 VR
H NO 580-A/8 BESIDE RTO OFFICE	VII
STADIUM ROAD CIVIL LINES	
BANDA - 210001 U P	
पुराने पासपोर्ट का नं. और उसके बारे में अन्य विवरणों का उल्लेख / Old Passport No. with Date and Place of Issue	20 VR
फाइल नं. / File No.	21 12
ABCD87654321	

Fig. 21: Technical Specification in of Back Biodata Page

Detailed Layout- All the data of VIZ is clearly legible. Data Element in the VIZ are specified as follows;

VIZ- Data Element Directory (Indian Passports)

Field/Zone No.	Data Elements	No. of Characters
01/I	Type	One
02/I	Country Code	Three
03/I	Passport No.	Eight
04/II	Surname	Variable
05/II	Given Name (s)	Variable
06/II	Nationality	Six
07/II	Sex	One
08/II	Date of Birth	DD/MM/YYYY
09/II	Place of Birth	Variable
10/III	Palce of Issue	Variable
11/III	Date of Issue	DD/MM/YYYY
12/III	Date of Expiry	DD/MM/YYYY
13/IV	Holder’s Signature	----
14/V	Holder’s Portrait	----
15/VI	MRZ	Total 88 Characters
16/VII	Name of Father/Legal Guardian	Variable
17/VII	Name of Mother	Variable

18/VII	Name of Spouse	Variable
19/VII	Address	Variable
20/VII	Old Passport Details	Variable
21/VII	File No.	Twelve

Data Structure Of Mrz (Upper Line)

MRZ Ch. Position	Field No. in VIZ	Data Elements	No. of Ch.
1 to 2	01	Passport Type	2
3 to 5	01	Issuing Country Code	3
6 to 44	04 & 05	Name	39 (Pri., Sec Identifier & Fillers)

Data Structure Of Mrz (Lower Line)

MRZ Ch. Position	Field No. in VIZ	Data Elements	No. of Ch.
1 to 9	03	Passport No.	9
10	----	Check Digit	1
11 to 13	06	Nationality	3
14 to 19	08	Date of Birth	6 [YYMMDD]
20	----	Check Digit	1
21	07	Sex	1
22 to 27	12	Date of Expiry	6 [YYMMDD]
28	----	Check Digit	1
29 to 43	----	Other/Unused Data	15
44	----	Composite/Final Check Digit	1

Check Digits In The Mrz (Lower Line)

Check Digit	Ch. Positions for Calculation	Check Digit Position
Passpor No.	1 to 9	10
Date of Birth	14 to 19	20
Date of Expiry	22 to 27	28
Composite/Final	1 to 10,14 to 20, 22 to 43	44

features can offer protection against more than one type of threat, no single feature can offer protection against them all. Likewise, no security feature is 100% effective in eliminating anyone category of threat. The best protection can be obtained from a balanced set of features and techniques providing multiple layers of security in the Passport that combine to deter or defeat fraudulent attack.

The following described features are other than Photo (Portrait), Signature or other biographical data of visual zone.

1. **Substrate Materials-** Paper involved in the construction of the Passport is UV dull & with a controlled response to DV that when illuminated by DV light it exhibits a fluorescence distinguishable in various colour forms. Paper of the Passport also contains a watermark. Visible & Invisible fluorescent fibres are present in the paper.
2. **Security Printing-** Background and text printing involves guilloche design pattern, microprinted text. Guilloche pattern are generated by computerised software but these are produced in such a way that no evidence of pixel is detectable. Ink used for printing is DV fluorescent (visible & invisible), Tile number ing (pi c I-JI inted text) incot porated ai Lllt: time of manufacturing of Passports but is being incorporated at the later stage using the same technique.
3. **Protection against copying-** Lamination and optically variable features are used on the biographic data side used for anticopy (antiphotocopying or antiscanning) protection.
4. **Personalization technigues-** By using this technique Photo or Portrait, Signature and other Biographical data relating to the holder are applied to the Passport. Passports are protected for alteration by using laser printing, laser engraving, ink-jet printing, photographic processes and thermal transfer printing.
5. **Quality Control-** Quality checks and controls at all stages of the production process and from one batch to the next is essential to maintain consistency in the finished Passports.

Securities Recommendations for Passport

Threats	Basis Features	Additional Features
Counterfeiting/ Copying Paper Substrates	<ul style="list-style-type: none"> - Controlled UV response - two-one watermark 	<ul style="list-style-type: none"> - registered watermark - invisible UV fibres/planchettes - visible UV fibres/planchettes - embedded or window thread
Plastic/synthetic substrates	<ul style="list-style-type: none"> - as per paper or substitute - security features providing an equivalent level of security in plastic 	<ul style="list-style-type: none"> - optically variable feature (OVF)
Security printing	<ul style="list-style-type: none"> - two-colour guilloche background - rainbow printing - anti-scan pattern - microprinting 	<ul style="list-style-type: none"> - intaglio printing - latent image - duplex pattern - 3-D design feature - front-to-back register feature - deliberate error in microprint - tactile feature
Numbering	<ul style="list-style-type: none"> - unique document number 	<ul style="list-style-type: none"> - perforated document number - special typefonts
Inks	<ul style="list-style-type: none"> - UV inks 	<ul style="list-style-type: none"> - optically variable properties - metallic inks - penetrating numbering ink - metameric inks - infrared dropout ink - thermochromic ink - photochromic ink - infrared fluorescent ink - phosphorescent ink - tagged ink
Photo-substitution	<ul style="list-style-type: none"> - personalization integrated into the structure of the MRtd - guilloche or other security printed feature overlapping portrait - secure laminate or overlay or equivalent 	<ul style="list-style-type: none"> - OVF over the portrait - embedded image image - secondary portrait image - storage and retrieval system for digital portrait image - biometric feature

Alteration of the biodata	<ul style="list-style-type: none"> - secure personalization technique - guilloche or other security printed feature - overlapping portrait - secure laminate of overlay or equivalent 	<ul style="list-style-type: none"> - OVF over the portrait - embedded image - secondary portrait image - storage and retrieval system for digital portrait images - biometric feature
Falsely obtained documents	<ul style="list-style-type: none"> - good quality captured image - good quality reproduction image - training of inspection staff - checks of supporting identity documents - records search capability - register of lost and stolen documents 	<ul style="list-style-type: none"> - biometric identifier - international cooperation - audit trail for identity check - records of interrogation system - national ID database
Document theft	<ul style="list-style-type: none"> - good physical security arrangements - control of all security components - secure transport of blank documents - internal fraud protection system - international exchange on lost and stolen document 	<ul style="list-style-type: none"> - CCTV in production areas - centralized production - embedded image

Suggestions

A passport is a document, issued by a national government, which certifies, for the purpose of international travel, the identity and nationality of its holder. The elements of identity are name, date of birth, sex, and place of birth. Most often, nationality and citizenship are congruent. That's why Indian Passport Fraud is increasing day by day. Therefore, it should be examined forensically by two levels; Level One:

- Document examination steps and techniques;
- Basic travel document security features;
- Common counterfeiting techniques;

- Common alteration techniques;
- Use of new examination equipment like magnifier, ultraviolet viewer and retro-reflective viewer;
- New trends in fraudulent documents;
- Passenger assessment;
- Identifying imposters;
- Information on new travel documents.

Level Two

- Basic document producing, binding techniques;
- Document issuing procedure;
- New trends of document security techniques;
- New trends of counterfeiting and alteration techniques;
- Use of specialized equipment;
- Analysis of features of fraudulent documents and counterfeiting techniques.

Conclusion

The Passport is a document for an individual identification and travelling abroad for official, business and tourism purpose. There are a number of Security features present in the current Indian Passport, which serves protection against counterfeiting and manipulation of, data, i.e. Background Printing (e.g. Guilloches & Microprinting), Security Printing (e.g. Fugitive & Fluorescent ink), Stitching thread, Gothic numbering, HAUV film, Dicuts, Fibers, Watermark etc. But still these features are not developed enough to minimise counterfeiting. There is a urgent need to improve & amend the Security features. It should be noticed that some security features need to be changed after some time interval e.g. annually. After the thorough examination of VIZ & MRZ of Passport, FIP can be easily identified.

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Estimation of Post Mortem Interval from Larvae of *Chrysomya Megacephala* (Fabricus) Using the Concept of ADH

Ruchi Sharma*, Rakesh Kumar Garg** and J.R.Gaur***

Key words

Entomological Evidence, Larvae, Fibers, ADH, Post Mortem Interval.

Abstract

Entomological evidence is widely used to estimate a post-mortem interval (PMI) during death investigations. Blow flies (Diptera: Calliphoridae), typically colonize the remains within hours of death. They lay eggs on carrion, which hatch and undergo a number of predictable developmental changes. Owing to the quick colonization and reliable progression of development, investigators can use historical temperature data, stage of development, established development tables, and larval body size to backtrack from the time of collection of blow fly evidence to the time of colonization-providing a minimum PMI estimate.

In this study, post-mortem interval has been calculated from the blow fly (Diptera: Calliphoridae) using the base temp/ lower threshold temperature. Development is strictly temperature dependent as blow fly larvae are poikilothermic animals.

The insects cannot control their body temperatures, so they use the environment as a source of warmth. Insects use a proportion of the

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environmental energy (thermal units) to grow and develop. The thermal units are called degree days (D) and can be added together to reflect periods of development. In this case they are called accumulated degree days (ADD). If the period is shorter and length of time being discussed is in hours, then the thermal values will be as accumulated degree hours (ADH). Thus, combining the developmental progress and the temperature influencing it, the developmental time of the larvae can be calculated.

Introduction

The determination of colonization interval of corpse (post mortem interval) has been the major topic of forensic entomologists since the 19th century. This method is based on the link of developmental stages of arthropods, especially of blow fly larvae, to their age. The major advantage against the standard methods for determination of post mortem interval (by classical forensic pathological methods such as body temperature, post mortem lividity and rigidity and chemical investigations) is that arthropods can represent an accurate measure even in later stages of post mortem interval when classical forensic pathological methods fail.

Hundreds of arthropod species are attracted by corpses, primarily flies (Diptera), beetles (Coleoptera) and their larvae. The animals feed on the body, and live or breed in and on corpse, thus depending on their biological preferences, and on the state of body decomposition. By calculating their development stages arthropods are useful in estimating the time since when a corpse was inhabited by animals. This estimate is often referred to as post mortem interval.

Insects are poikilothermic so their development is usually quantified as accumulated degree hours (ADH) or accumulated degree Guys (ADD). When this approach is used, it is important to determine the minimum development temperature. ADH values represent a certain number of "energy hours" that are necessary for the development of insect larvae. The degree day or hour concept assumes that the developmental rate is proportional to the temperature within a certain species-specific temperature range (Dorothy, 2007). One basic condition for using the ADH method is that the ADH value for completing a developmental stage stays constant within certain temperature thresholds.

Analysis of insect development and determination of larval age can be valuable forensic evidence in estimation of post mortem interval (Goff,1993). Blow flies are typically the first organisms to arrive at a body after death, attracted to cadaver by odour produced during early stages of decomposition (Donovan et al., 2006). If allowed access to the body, the adult will feed on any secretions, including blood, and gravid females will rapidly lay their eggs on the corpse.

The determination of a minimum post-mortem interval often relies on the determination of the age of blow flies, since they are generally among the first colonisers of a corpse (Reibe, S and Madea, B, 2010). Calculating the age of immature stages of blow flies showing the longest period of association with a dead body often gives a fairly accurate estimate of the post-mortem interval (PMI). (Singh, D and Bharti,M, 2001; Slone, D.H and Gruner, S.V, 2007).

Maggots appear to lengthen in a continuous manner during growth, developing at a predictable, species specific temperature mediated growth rate. (Gallagher, M.B et al., 2010). Negligence of fluctuating temperatures in legal cases can lead to distinctly wrong estimates of the post-mortem interval (PMI). (Neideregger, S et al., 2010).

In the present study, the post mortem interval has been calculated from the larvae of *Chrysomya megacephala* (Fabricus) using the concept of accumulated degree days/ hours.

Chrysomya megacephala (Fabricus) is forensically important blow fly species distributed in many parts of the world and is available throughout the year in tropical regions of India. Larvae of the species have been reported in association with human corpses in several cases. (Singh and Bala ,2009).

Materials and method

The following procedure of (Nuorteva et al., (1967, Clark, K. et al), 2,006, Gallagher, M.B et al., 2010) is followed with some modifications.

Calculation of Base Temperature of Species by Linear Approximation Method

The development of fly is temperature dependent. Higher the temperature, faster is the rate of development and vice versa.

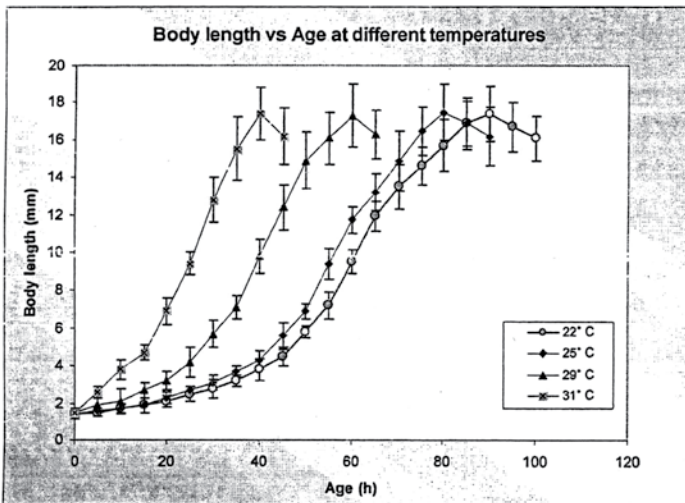
Below the lower threshold temperature the growth stops and above the upper threshold the growth also slows down. Upper threshold temperatures are rarely experienced when investigating most crime scenes, so this factor is only infrequently important. Between the upper and lower threshold temperature the growth is maximum. (Dorothy, 2007).

The temperature below which the growth does not take place is known as the base temperature or the lower threshold temperature. The base temperature varies from species to species and also varies with geographical location. The base temperature is calculated from insect's growth at set experimental temperatures (Ames and Turner, 2003).

Often an estimated threshold is used which may be extrapolated from a linear regression (Ames & Turner, 2003; Grassberger & Reiter, 2002; Liu et al., 1995).

Grassberger and Reiter (2001) used 10 temperatures from ISO C-34° C, O'Flynn (1983) used 8, Hanski (1976) and Reiter (1984)

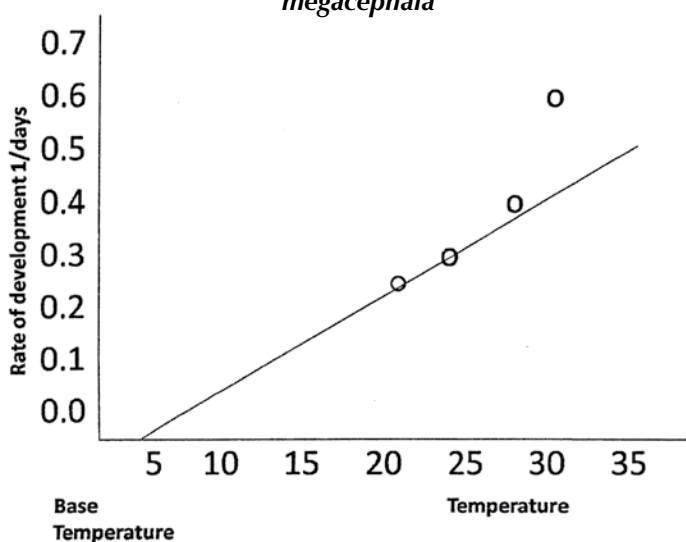
Graph 1 : Growth of *Chrysoma megacephala* at different sets of temperature



(Ref. Dhakane, M.B., 2011)

In this study four different sets of temperatures has been used to calculate the base temperature of *Chrysomya egacephala*

Graph 2 : Calculation of base temperature of *Chrysomya megacephala*



used 7; Byrd and Allen (2001) and Williams and Richardson (1984) used 6 set of temperatures respectively.

One possible solution to this problem is to pool data from separate studies. Fewer developmental studies on blowflies achieve this goal.

The base temperature is calculated by plotting temperature against $1 \div$ total days to develop using a range of temperatures. If the line of the graph is extended down to x axis, the point where it meets can be read off. This is the base temperature for that particular species. The graphical method for determining the base temperature of species is known as LINEAR APPROXIMATION METHOD.

The base temperature of *Chrysomya megacephala* as calculated by linear approximation method is 4°C

Calculation of Accumulated Degree Data

Insects cannot control their body temperatures, so they use the environment as a source of warmth. Insects use a proportion of the environmental energy (thermal units) to grow and develop. The overall energy budget to achieve life stages can be specifically

calculated. The thermal units are called degree days (D) and can be added together to reflect periods of development. In this case they are called accumulated degree days (ADD). If the period is shorter and the length of time being discussed is in hours then the thermal values will be as accumulated degree hours (ADH).

The total accumulated degree hours (or days), reflects the time taken for the insect to develop to the stage recovered from the crime scene. Based on this relationship, accumulated degree hours (ADH) (or days, ADD) can be determined from a formula.

Time (hours) X (temperature-base temperature) =ADH

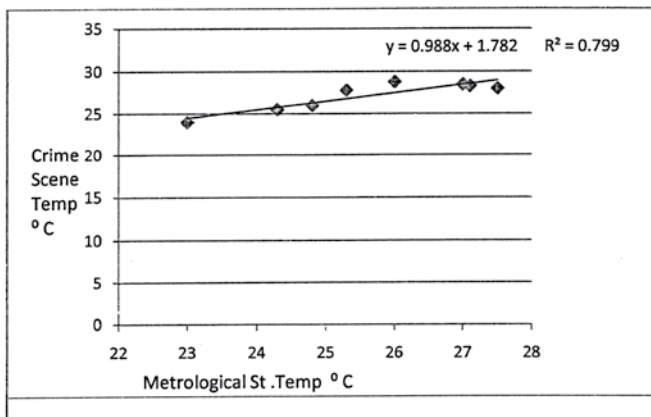
Time (days) X (temperature-base temperature) =ADD

(The number of life stages which have to be taken into consideration is predetermined by which stage is found on the body and the time taken to reach the particular stage).

Because development is believed to come to a standstill at temperatures below the threshold, it is subtracted from the equation.

Calculation of Correction Factor

Correction factor is calculated (regression equation) and the corrected factor is added to meteorological station readings. The standard procedure is to use temperatures of the nearest weather



station for the desired time frame and correct them by applying a regression starting from temperatures measured at the crime scene, when taking the larvae as evidence (Archer, 2004). A scatter diagram is plotted of metrological temperatures (x axis) and crime scene temperatures (y axis) 3-5 days after the body has been discovered.

Post Mortem Interval Calculations

The meteorological station temperature and crime scene temperatures were noted for 9 days in the month of winter. The duration of the egg stage plus first instar duration, plus second instar duration, and so on, are all added up to provide a total experimental time period to reach a particular stage in the life cycle. The number of life stages which have to be taken into consideration is predetermined by which stage was found on the body.

Calculation of Pmi From Third Ins Tar of Chrysomya Megacephala (Fabricus) in Winter Season

(Temperature is 3-5 days after the body has been discovered)

Metrologi cal Station Temp. (Degrees C)	Crime Scene Temp. (Degrees C)	Base temp. of species (Degrees C)	ADD	£ ADD
23	24	4	20	
24.3	25.5	4	21.5	41.5
24.8	26	4	22	63.5
25.3	27.8	4	23.8	87.3
27.1	28.3	4	24.3	111.6
27.5	28	4	24	135.6
27	28.5	4	24.5	160.1
26	28.8	4	2.1.8	184.9
26.3	29	4	25	209.9

For Experimental Temperature

(Time taken to reach to third instar in winter is 9 days)

ADH = TIME X (TEMP- BASE TEMP)

$$\begin{aligned}
 &= 9X (28.05-4) \\
 &= 9X (24.05) \\
 &= 216.45
 \end{aligned}$$

(ADD = ADHI24)

Post Mortem Interval = From the table and working down to the nearest value for the ADD, the 9th day previous to the discovery of the body is the most likely estimate for the time of death.

For Crime Scene

(Correction factor is to be added to metrological station temperature)
The time taken to reach to third instar in winter is 9 days. Therefore the meterological station temperature is $x + \text{correction factor}$

$$\text{Meterological station temperature} = 26.2 + 1.8 = 28$$

ADH= TIME X (TEMP- BASE TEMP)

$$\begin{aligned}
 &= 9X (28-4) \\
 &= 9 X24=216
 \end{aligned}$$

(ADD = ADHI24)

Post Mortem Interval = From the table and working down to the nearest value for the ADD, the 9th day previous to the discovery of the body is the most likely estimate for the time of death.

Where there is no experimental growth data available for the particular species, the larval should be reared until the adults are mature and oviposit. The eggs can then be maintained at a temperature which represents that estimated for the crime scene. The duration from egg stage to the stage of the life cycle which was recorded at the crime scene, will provide a means of estimating the post mortem interval and also of providing confirmation of any post mortem interval which has been calculated.

These calculations of a PMI in a real cases shows that this methods give reasonable results. This has also been confirmed by (Reibe et al., 20 10)

Drawbacks of Using ADH For Calculation of PMI

Accumulated degree days or hours are product of temperature of a species, minimum developmental threshold and the time spent at that temperature.

One difficulty with this linear day/hour degree model is that it only truly applies to the thermal range where temperature is directly proportional to development. The calculated ADD/ ADH required for development will be too low at temperatures near the lower threshold and too high near the optimum temperature (Wagner et al., 1984).

The lower threshold temperature is often very difficult to determine accurately because insects survive for long periods with near zero development.

In general, the biggest problem is the lack of data for the development of, certain species and especially data from different countries, as there is a geographical variation in thermal requirements for insect development (Honek, 1996).

Use of ADH in PMI estimations has shortcomings particularly during the winter period where low temperatures are involved of where, there are sudden summer cold spells during the development period (Ames and Turner, 2003).

The corrected temperature values contain uncertainties that cannot be accounted for by the methods currently used for PMI determination. No information exists for either model about the quality of the method or the error intervals of the calculated PMIs.

Summary and Conclusion

The main aim of Forensic Entomology has always been, and is today, to establish the time of death (P .M.I.) or, more exactly, how long a carrion has been exposed in the environment. Most of the invertebrate fauna occurring on corpses consists of insects (mostly Diptera and Coleoptera). They are selectively attracted by the decomposing status of the carrion, and form complex communities within necrophagous or sarcophagous species and their predators,

parasites and parasitoids, competing each with one another.

The growth and development of carrion-feeding calliphorid (Diptera: Calliphoridae) larvae, or maggots, is of great interest to forensic sciences, especially for estimation of a postmortem interval (PMI). The development rate of calliphorid larvae is influenced by the temperature of their immediate environment.

The concept of ADH assumes that there is a fixed quantity of metabolic activity, controlled by time and temperature that is necessary to complete development. The linear model assumes that the time/temperature relationship is measured in terms of ADH, where one ADH unit is equal to 1 (1X1 h) across all temperatures. If the standard ADH method is used to estimate PMI where there have been periods of low temperature then it is likely that the PMI will be underestimated.

The determination of age of blow fly larvae on corpse is useful for estimation of post mortem interval. Since insects are poikilothermic so they utilize the environmental energy, the overall energy to reach the life stages is calculated. The temperature has direct effect on the growth of flies. So the temperature is the most important factor in estimation of PMI.

The first step is to identify the flies and larvae recovered from the body and calculating how long it would take them to reach this stage at given environmental conditions. The oldest maggots present on the body give the age of blow fly larvae. The next stage is to link this information to the temperature at the crime scene.

Since the upper threshold temperatures are rarely experienced when investigating most crime scenes, so it is not of much importance. The lower threshold temperature should be calculated by entomologist in the laboratory because the lower threshold of species varies with geographical location.

On account of their activity and worldwide distribution, blow flies are of greatest forensic interest. The knowledge of factors inhibiting or favouring colonization and fly development is a necessary pre-requisite for estimating the PMI using entomological data.

Many researchers have advocated the use of software, program tools and mathematical formulae to calculate post mortem interval using Microsoft Excel, but most have developed formulae based on ADD and ADH concepts for which data are not available worldwide for many species.

There is no data available regarding the lower threshold of flies in India. This poses a great problem while estimating the PMI. The lower threshold temperature of flies varies with geographical location and hence there is a necessity to study the lower threshold temperature different parts.

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Differential-Pulse Cathodic Stripping Voltammetry (Dpcsv) Determination of Arsenic-III (As^{3+}) in Blood

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M. Gupto****, **Pushpa Dhar*******

Keywords

Cathodic Stripping Voltammetry, Hanging Mercury Drop Electrode, Arsenic, Blood, Heavy metal, HMDE, DPCV, Ag/AgCl etc.

ABSTRACT

The quantitative determination of traces of arsenic and its compounds in blood is essentially based on their toxicological impact on biological systems. Routinely, inductive coupled plasma, atomic absorption spectrometry, graphite furnace atomic absorption spectrometry have been used for such analysis. An attempt has been made to develop a new method for determination of traces of arsenic in blood by differential-pulse cathodic-stripping voltammetry (DPCV). Blood sample was processed by closed digestion method using nitric acid. Determination of arsenic was made in hydrochloric acid medium with a sweep rate (scan rate) of 25 mV/s and pulse amplitude (pulse height) of 50 mV by Hanging Mercury Dropping Electrode (HMDE) using standard addition method. The solution was stirred during pre-electrolysis (Deposition

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potential) at - 440 mV (vs. Ag/ AgCl) for 60 seconds and the potential was scanned from - 400 mV to - 900 mV (vs. Ag/ A.gCl). Under these conditions the limit of detection of arsenic was 0.1ug/L.

Introduction

Arsenic is a metalloid which exists in different allotropic forms. Denoted by the symbol As, it has atomic number of 33. There are three different metalloids of arsenic, each having different crystal structure. It is steel grey in color, very brittle, crystalline and oxidizes rapidly when heated. The most common compounds are arsenite & arsenate that are poisonous in nature. Arsenic present in plants and animals is chemically bonded with carbon and hydrogen. This organic form of arsenic is usually less harmful to various life forms than inorganic arsenic. Under natural conditions, arsenic is present in low levels and is chemically bonded with other elements such as oxygen, chlorine, and sulphur¹⁻³ resulting in formation of inorganic arsenic compounds. Inorganic form of arsenic is most commonly encountered in water supplies. Various uses of arsenic include

- Smelting industry in which it is a by product of ores containing lead, gold, zinc, cobalt, and nickel
- Microelectronics industry in which it is use in semiconductors in the form of gallium arsenide, indium & aluminium
- Paris green prepared from copper acetate and arsenic trioxide, Calcium arsenate & Lead hydrogen arsenate are used in.
- As pesticide and herbicide
- As colouring agent in paint and dye industry, in the form of paris green and emerald green
- As a finishing agent for glass, in the form of arsenic acid
- Treatment of cancer and acute promyelocytic leukaemia, in the form of Arsenic trioxide.⁴⁻⁶

The normal level of arsenic in whole blood concentration is less than 50~g/L. Level of Arsenic measured in a 24 hour collection, following 48 hours without eating seafood exceeds 100ug/L in

people with arsenic poisoning. Different levels of As in biological material is given in Table 1.

Table1: Normal levels of arsenic in different biological materials

Material	Level
Blood	< 50ug/L
Urine	< 100 ug/L
Nails	≤1 ppm
Hair	≤1 ppm

If acute arsenic poisoning is suspected an X-ray may be helpful.⁷⁻¹¹ Routinely, inductive coupled plasma, atomic absorption spectrometry, graphite furnace atomic absorption spectrometry have been used for analysis of arsenic. An attempt has been made to develop a new method for determination of traces of arsenic in blood by DPCS voltammetry. DPCSV is a powerful technique and has been used for the direct determination of trace metals in different samples. One of the major advantages of this technique is that the running cost of instrument is quite low, compared to any other technique. In the present study, determination of arsenic was made in hydrochloric acid medium with a sweep rate (scan rate) of 25.0 mV/s and pulse amplitude (pulse height) 50 mV by Hanging Mercury Dropping Electrode (HMDE) using standard addition method. The solution was stirred during pre-electrolysis (Deposition potential) at - 440 mV (vs. Ag/ AgCl) for 60s and the potential was scanned from - 400mV to - 900 mV (vs. Ag/ AgCl). It could be presumed that DPCSV technique is a new, rapid, simple, selective and cost effective technique for qualitative and quantitative determination of As (III) in blood, however, more data needs to be collected to substantiate the effectiveness of the method.

Experimental Procedure

Apparatus and Accessories

Microwave digestion system: Microwave digestion system (Aurora Instruments, Canada) equipped with a rotor for six Teflon digestion

vessels was used for the digestion of samples.

Voltammetric Trace Metal Analyzer: Trace Metal Analyzer (model 797 VA Computrace from Metrohm AG Ltd, Switzerland Fig 1) was used. The voltammetric vessel is a three electrode system with an Ag/ AgCl electrode as reference electrode, Multy Mode Electrode (MME) containing mercury as working electrode and platinum electrode as an auxiliary electrode.

Nitrogen gas: Nitrogen gas of purity 99.99% was used.

Micropipette: Micropipettes (Eppendorf make) of volume 10-100 μ l and 100-1000 μ l were used.

Chemicals: Suprapure acetic acid and Suprapure hydrochloric acid (Merck Germany); Nitric acid, Arsenous oxide (AS2O3), Copper (II) sulfate-5-hydrate GR and sodium hydroxide (Merck Mumbai-400018); , Selenium dioxide (SeO₂); Ammonium oxalate and sulphuric acid (Qualigens Fine Chemicals, A Division of Glaxo Smith Kline Pharmaceuticals Limited, Mumbai); Milli Q water (from Millipore apparatus)

Glassware: Beakers of 100, 500ml capacity, volumetric flask of

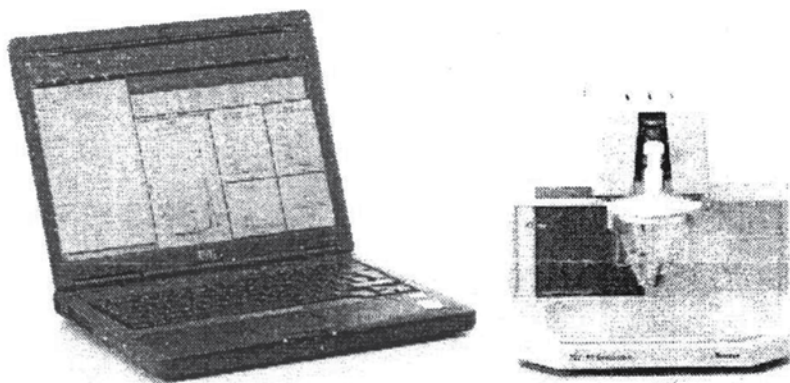


Fig 1: 797 VA Computrace (Trace Metal Analyzer)

50 ml capacity and glass funnels (Borosil make) were used. The glasswares were washed with acetone and then with tap water. Finally, the glassware were rinsed 2-3 times with milli Q and then dried in digital oven.

Blood Sample: Post mortem blood sample was obtained from mortuary, AllMS, New Preparation of 1000 ppm Copper: 0.3968 gm of copper nitrate of high purity was taken in a 100 ml volumetric flask and the volume was made to 100 ml with milli Q water.

Preparation of 1 ppm Selenium: 0.14196 gm of selenium dioxide was taken in a 100 ml volumetric flask and 2-3 drops of sodium hydroxide was added to it and the volume was made to 100 ml with milli Q water. Then 0.1 ml is taken from this prepared solution (1000 ppm selenium) in a 100 ml volumetric flask and made up to 100 ml with water.

Preparation of standard solution: 0.132 gm Arsenous oxide (AS203) was taken in a 100 ml volumetric flask and two pellets of sodium hydroxide was added to it and made up to 100 ml with water (1000 ppm arsenic). 1 ppm standard solution of arsenic was prepared by diluting 0.1 ml of 1000 ppm stock solution of arsenic to 100 ml water.

Sample preparation: Vessel of microwave digester was cleaned up by Nitric acid (HN03) and H2O mixture (1:1) and dried. One ml of blood sample was transferred into the linear vessels. 15 ml of 35 % HN03 was added to each vessel and the mixture was left for few minutes for outgas. In the reference vessel, 1 ml of water was added along with 15 ml of 35% HN03 for sample blank. Vessel carousel was loaded in the microwave digestion oven and the digestion machine was run according to the program given in table 2.

Table 2: Programming conditions for the microwave digester

Step	Time (s)	Starting Temp (°C)	Ending Temp (°C)
1	210	28	100
2	600	100	160
3	600	160	170

After cooling, the vessels were opened and the digested material was completely transferred in 50 ml volumetric flask with the help of milli Q water and finally the volume was made upto 50 ml with milli Q water.

Voltammetric determination: The electrodes were washed with distilled water. 10 ml water, 1 ml HCl, 0.05 ml 1000 ppm Cu and 0.08 ml 1 ppm Se were taken in voltammetric vessel and voltammogram was recorded for blank under the condition given in Table 3. After completion of blank voltammogram, 0.1 ml of digested sample was added in volumetric vessel and voltammogram was recorded under same condition. After completion of sample voltammograms, 0.1 ml of 1 ppm standard solution of As (III) was added and voltammogram was recorded. Again, 0.1 ml of 1 ppm standard solution was added in the same vessel and voltammogram was recorded second time. The concentration of the analyte was calculated by linear regression method (standard addition). All the measurements were done by standard addition technique to avoid the sample matrix effect. The voltammogram of the sample and the two standard additions is given in Fig 2. The extrapolation graph which can give the value of Arsenic (III) is given in Fig 3.

Table 3: Operating parameters for the determination of Arsenic by DPCSV

S.NO.	Parameters	Description
1	Working electrode	MME (HMDE)
2	Auxiliary electrode	Pt
3	Reference electrode	Ag/AgCl, 3M KCl
4	Calibration method	Standard addition
5	I Stripping	Cathodic
6	Mode	Differential pulse (DP)
7	Number of standard addition	2
8	Number of replications	1
9	Drop size	4

10	Stirrer speed	1200 rpm
11	Initial purge time	300 s
12	Addition purgetime	10 s
13	Deposition potential	-440 mV
14.	Deposition time	60 s
15	Equilibration time	10 s
16	Pulse amplitude	50mV
17	Start potential	-400 mV
18	End potential	-900 mV
19	Voltage step	10 mV
20	Voltage step time	0.4 s
21	Sweep rate	25 mV/s
22	Peak potential As ³⁺	-650 mV

Results and Discussion

In the present study, the concentration of the Arsenic (III) in blood was successfully determined by DPCSV technique. DPCS Voltammogramme of As (III) obtained from standard addition technique are given in Fig. 2. The sensitivity was calibrated by standard additions to the sample and the initial metal concentrations were calculated by extrapolation (Fig 3). Consequently, the linear calibration range was automatically obtained as being related to quantitative mode of the Voltammetric unit. The "automatic blank correction" feature of the instrument was used to subtract the blank contribution due to chemicals, water, etc. A further increase in sensitivity of peak currents was achieved by increasing the deposition time to 60s. Under these conditions, the concentration of arsenic (III) in blood sample was found to be nil. Several papers have discussed the determination of Arsenic in matrices other than the blood. The advantages of proposed voltammetric method over the other known techniques include the sensitivity of the method besides the other features such as the rapidity, cost effectiveness and sophistication of the method.

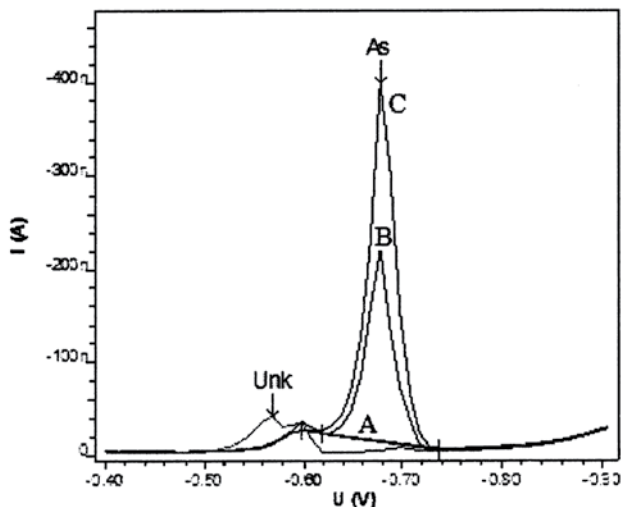


Fig 2: DPCS Voltammogramme of As obtained from standard addition technique with number of replications being two. A) 10 ml water, 1ml HCl, 0.05 ml 1000 ppm Cu, 0.08 ml 1 ppm Se, B) A + 0.1 ml standard solution of As (1 ppn), C) B + 0.1 ml standard solution of As (1 ppm)

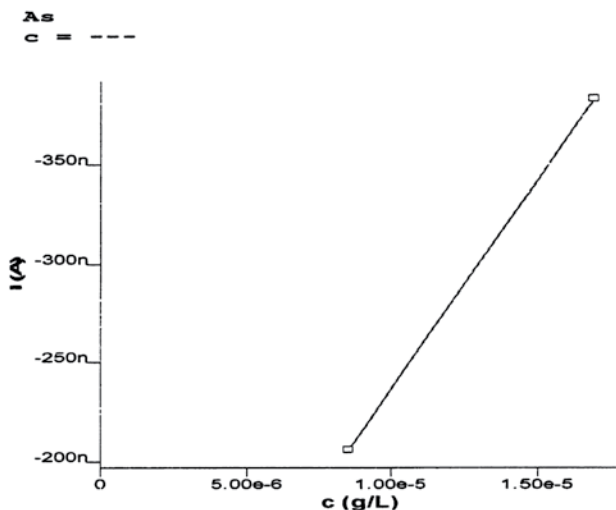


Fig 3: The extrapolation graph of As obtained from standard addition by DPCSV technique

Conclusion

In the current procedure, arsenic determination was carried out under the most appropriate and fixed conditions. It is apparent from the present study that direct determination of arsenic in blood samples is possible by DPCSV. Determination of arsenic was made in hydrochloric acid medium with a sweep rate (scan rate) of 25 mV/s and pulse amplitude (pulse height) of 50 mV by Hanging Mercury Dropping Electrode (HMDE) using standard addition method.

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Legal and Illegal aspects of Abortion

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Keywords

Foetal Haemoglobin, M.T.P. Act, Mifepristone, Abortifacient Drugs, Laminaria Tent.

Abstract

This paper deals with abortion and Medical Termination of Pregnancy. Abortion may commence with abortive pills or using mechanical devices. A sonography of the pregnant woman is crucial factor through which the picture of the baby can be seen to detect their abnormalities or fecundity of ailments. Sometimes medical practitioner misuses this technique to detect sex followed by aborting a foetus of a particular sex under allurement or to earn goodwill or even under threat received from disgruntled elements. Abortion can be fatal, and can endanger the life of a pregnant lady as her peculiar interests have to be safeguarded for restoring prestige, glory and reputation as well as in the wake of self-respect and dignity of the person doing this operation and valour of the institution where he has been working. Moreover, medical termination of pregnancy can be ensued only with the consent of the female and not against her will after crossing 18 years of age. To rejuvenate proper sex ratio, it becomes mandatory to concentrate on ethical values and to focus more attention on certain laws framed by Constitution of India. Abortion or medical termination of pregnancy may not be performed on sentimental basis as one has to bear the consequences.

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1. An Ultrasonographic foetal shadow(<http://www.google.com/ultrasound>)

Introduction

Abortion is defined as expulsion of the product of conception from the uterus before the foetus shows its viability for survival. Under section 372 IPC abortion is liable to be punishable for imprisonment of 3 year to 7 years of duration and fine. However, the abortionist and the women gives her consent for an act of abortion, both are treated as accused U/S 511 IPC. Miscarriage against the will of woman is treated U/S 313 IPC with imprisonment up to 10 years who performs medical termination of her pregnancy. If the pregnant woman does not survive after termination or expulsion of product of conception then the abortionist is liable to punished for 10 years U/S 314 IPC, but if the new born baby is born alive and an attempt is made to kill him/her from being born, then the case is treated U/S 315 IPC followed by imprisonment for 10 years along with fine. If the baby has not been still born, an intention and persuasion is being made to abort the baby by giving or injecting abortifacient drugs, then the case is treated under 316 IPC and 10

years punishment will ensue.

Threatened abortion

It is a clinical entity wherein the process of abortion is continued but has not progressed to a state from where recovery is not possible.



2. An Ultrasonographic foetal shadow(<http://www.google.com/ultrasound>)

Main aim of treatment of threatened abortion lies in preservation of pregnancy and not terminating the same at all. Pregnant woman with the problem of threatened abortion must avoid an abortifacient drugs, Mifepristone. This drug blocks progesterone receptor in the endometrium which further leads to disruption of the embryo and production of prostaglandins with decreasing level of chorionic gonatropin. Moreover, production of prostaglandins causes softening of the cervix. Success rate of mifepristone is dependent on the duration of pregnancy.

1. **Missed abortion:-** When the foetus is dead and retained inside the uterus for a variable period is termed as missed abortion.
2. **Incomplete abortion:-** When the entire products of conception are not expelled out but a part is left inside the uterine cavity.
3. **Complete abortion:-** When the products of conception are expelled enmasse.
4. **Septic abortion:-** When abortion is associated with clinical

evidences of infection of the uterus and its contents is termed as septic abortion.

Poverty is the main cause for perpetuation of crimes. Economic disparity and not with standing the needs of the family, a female is forced to cope with unrealistic social demands. A female with a poor economic status has to force her daughter for immoral trafficking without knowing the consequences of her fate. Her future becomes unholy and therefore, she betrays her kith and kin. Social aspersion endangers and threatens her life. Life of the female remains at stake and she imbibes the characteristics of a dependent lady who thrives and caters to her needs on the lust of the male. Late Pt. Jawahar Lal Nehru has already commented that **“Nothing is good or bad in this world, thinking makes it so”**. If the citizens of nation inculcate positive thinking towards such nefarious designs, then the character of a nation will be developed accordingly. Face is the index of the brain. All the perceptions are to be taken into consideration regarding her liking or ill will towards such type of deeds, which are eating into the vitals of the society and is reflected as a stigma on the fair image of a woman.

Devices and Methods:-

1. Detection of womb in the mother is done through ultra sonography. Ultrasonographic machine is employed to create an image or photograph the particular organ and tissue by using beams of waves 1-10MHz density. Through this device, one can see uterus, fallopian tubes, endometrium and foetus specially in pregnant woman. One can also detect multiple pregnancies or ectopic pregnancy, ovarian cyst and pelvic cancer, tubo-ovarian abscess etc, If the medical officer deviates his attention from the real cause of fatality and furnishes unlawful knowledge about the male or female foetus, then his activities are regarded as detrimental to well-being of society.
2. Experts can extract amniotic fluid by the process of suction through injection and the fluid which is derived out is subjected to detection of Bar Bodies for their presence. If the bar bodies show their appearance, then it confirms female

foetus otherwise male foetus is established.

Tools/Scientific Gadgets

1. Doctors generally conduct abortion by using karman's cannula which consists of pressure control valve and piston locking handle simply operated by them. Plastic syringe (approx 50 ml) creates a vacuum 60cm Hg. It is generally a successful method of abortion of up to 12 weeks of gestation. It is also termed as vacuum evacuation.
2. Prostaglandin injections and synthetic steroids mifepristone (RU-486) have been in vogue to further diagnose abortion. It becomes imperative to visualize deliberate dilation of the cervix by prostaglandin pessary. At the place of occurrence one could be choosy enough to search for prostaglandin pessary, laminaria tents and karman's cannula.

Public or police personnel's can also come across and find foetus, placenta, amniotic fluid along with filth.

No chances of gross injury prevail on vagina, cervix, and uterus if the abortion has been performed by a skilled doctor. On the other hand, severe injury is detected on the aforesaid organs, then one can presume that some medical practitioner who has performed the nefarious act is an unskilled person. Moreover, if inflammation is observed on vagina or cervix, then it can be well understood that some peculiar irritants i.e. Turpentine or Cantharides have been used.

If syringing has been caused by Higginson syringe, then possibility of fluid in the vagina cannot be ruled out.

Nature of injuries found on the genital tract further indicates that the same have been caused by sharp and pointed instrument i.e. surgical forceps.

Medical Termination of Pregnancy

The Medical Termination of Pregnancy Act (MTPA) was passed in August, 1971 and made effective from April, 1972. Whole India has been covered under this act, except Jammu & Kashmir state.

On humanitarian ground when pregnancy has been caused due to rape or when pregnancy is the result of failure of contraceptive methods in case of a married woman which may severely affect her mental state i.e. Social or economic environment and reasonably viable to critically retard mother's health. Termination is allowed up to 20 weeks of pregnancy. Professional survey has to be maintained. The admission register kept for maintaining the record of pregnancy is a secret document and the information contained therein should not be disclosed to any person. The termination of pregnancy by an unauthorized person who is not a registered medical practitioner or in an unrecognized establishment can be dealt with rigorous imprisonment for a term which shall not be less than 2 years, which may further extend to 7 years depending upon the circumstances. Only a qualified registered medical practitioner can do this act and he can be only considered as a qualified expert, if he has assisted in performance of 25 cases of MTP in a recognized hospitals. Chief Medical Officer is empowered to certify that a particular doctor has been imparted necessary training to conduct abortions.

Even non-governmental institutions can perform MTP, if they have obtained a license from chief medical officer of the district. Moreover, abortion cannot be performed on the request of the husband, if the woman herself is not willing. The consent of a woman is essential before conducting abortion. Written consent of a guardian is required if the woman is a minor or mentally retarded. In such a case, proof of age of a women is not necessary and the statement of a woman is enough and acceptable, if she states that she is over 18 years of age. Moreover, statement of woman is quite enough to perform this act, if she says that she has been raped and lodging of F.I.R. is not necessary. If the period of pregnancy is between 12 and 20 weeks, two doctors are supposed to frame common consensus after their agreement, even one doctor can perform the act. In case of emergency, pregnancy can be terminated by even a single doctor without complete training and without consulting another doctor even in a private recognized hospital. Pregnancy termination can be done in first 3 months if, the mother suffers from German Measles, Small Pox, Chicken Pox,

Viral Hepatitis, Viral Infection, Toxoplasmosis, etc. If treatment with X-ray or radio isotopes results into deformation of the foetus or harmful drugs such as cortisone, Aminoprotein, Hallucinogens, Antimitotic drugs or antidepressants are consumed by a pregnant woman. If the parents are insane then it becomes imperative to perform termination.

When patients under treatment of viral diseases, AIDS, etc. come in contact with opposite sex, then the particular disease in question is likely to be transmitted to young baby. Can a young borne will cope with these dangerous infections? Immunity factor is also inherited. The children, who are strong or immune enough can face the fatal risks of viruses which tend to develop even in unfavorable intense hot humid or intense cold dry environment. Breeds of viruses have to be still overcome. When the condition becomes again suitable, these viruses breed in preponderance. When virulent viral attack manifests on the layers of the brain or hits behind the eyes or sinus cavities, then the young baby has to bear all the consequences and struggles a lot for survival. In this way the parents become impatient and they want to get rid of living creature instead of diverting their energies on treatment linked with their childhood.

Exception of MTP Act includes medical urgency i.e. when continuation of pregnancy endangers the life of a pregnant woman or can cause grievous injury to her physical and mental health. When new born baby is born with physical and mental abnormalities pertaining to eugenic factors, termination of foetus becomes feasible when the pregnancy exists due to rape or incest or when pregnancy is observed due to an immense failure of contraceptive devices.

At the place of scene of Crime, Investigating Agencies must notice some of the following evidences found at the site where an act of abortion has been carried out recently:

Higginson's syringe, Wire probe, Laminaria tent, Cantharides, Caustic substances, Turpentine, Pumps, Slippery elm bark, Elastic gum catheter, Abortion stick soaked with jequirity, marking nut, red lead, mercuric chloride and Rectal catheter.

Crime Scene & Societal Factors

Abortionist generally use abortifacient drugs, purgatives and caustic substances during 1st and 2nd month of pregnancy and they use mechanical means to abort the foetus during 3rd, 4th and 5th month

1. ABORTION STICK :-

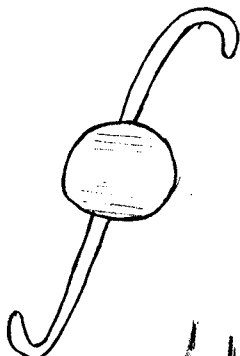


cotton wool soaked with marking nut, jequirty, red Pb, HgCl₂, calotropis

3. Rectal Catheter



2. HIGGINSON'S SYRINGE



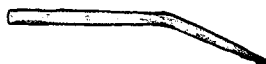
4. WIRE PROBE



6. Slippery elm Bark



5. Elastic Gum Catheter



of pregnancy.

The process of criminal abortions is critical and fatal procedure, leading to disgrace as well as deterioration of physical, mental state of the victim, which is further associated with serious impacts such as:-

Air embolism, Perforation of vault and vagina, Amniotic fluid embolism, Bleeding, Peritoneal hemorrhage, Urinary tract infection and inflammation, Foetal injury and Peritonitis and salpingitis.

Due to the fear of society or aggressive family members, the females do not want to retain the developing embryo in the uterus. However, it is certainly not a social taboo if the pregnant lady wants to retain the foetus in the uterus. If she is not able to retain, then she may come across an unexperienced doctor who, in turn, can give a strong twist to her fallopian tubes which may become dysfunctional in future. Therefore, eminent danger can be perceived and possibility of giving birth to a child is drastically reduced, if the expulsion of womb was carried in. Even an injection of oxytocin has to be given in some instances for further widening of pelvic muscles. Therefore, illegal and illegitimate acts which are going on in the society have further risks for one's life associated with destruction of the womb.

Sometimes, important veins give way and a profuse bleeding occurs and lady dies. Moreover, due to tearing of muscles haphazardly, there are ample chances for severe infection.

Haemoglobin level of a pregnant female falls considerably. Due to continuous weakness, the lady loses immunity and becomes highly susceptible to harmful germs. Therefore, wealth of the nation which lies in a child of strong physique within sound mind is constantly drained out. Real wealth of the nation are these strong future citizens who are capable and physically fit enough to combat external as well as internal challenges. Blood of a healthy lady with proper quantity of W.B.C. can deliver the goods. The slogan of "hum do humare do" has generated a wave of awareness and moreover, taboo against girl child has further made the situation

more troublesome and awesome. Most of the people in India like to have male baby instead of female one, thus neglecting the developing female embryo in the earliest months of pregnancy. The people want to get rid of female child which urges them to take the help of medical professionals or trained midwives. A few pills are suggested for mere expulsion of the developing ova under the process of transformation from blastocyst to a fairly complex mass of tissues, deriving nourishment through the budded placenta and receiving oxygen through their semi-permeable membrane.

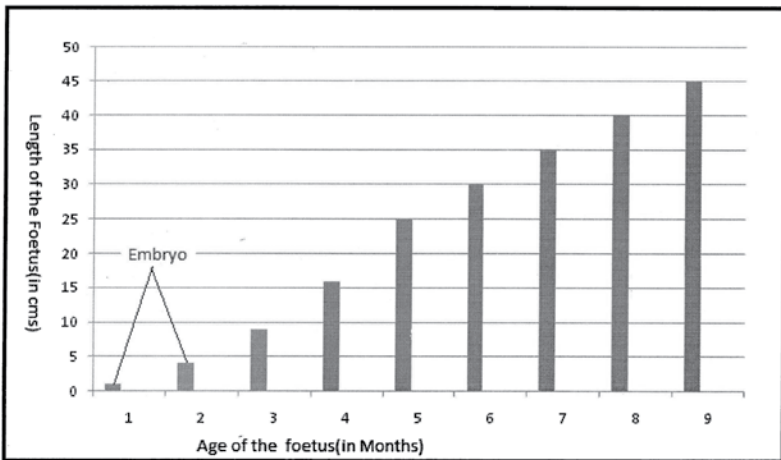
Determination of the age of the foetus is the most striking feature to the evidence linked to the crime scene. Foeticide cases are most prevalent in Haryana, Punjab, Rajasthan, Delhi and other parts of India. The ratio of female to male has considerably fallen in Haryana and other parts of India to the amazing levels. How it is possible to recoup the difference in ratio of male to female at the time of wedding? Do all the grooms will be having brides? In India where polygamy has also been seen in the past. If this state of deprivation of female babies continues, then the days are not far off, when there will be a strong conflict due to disproportion and misappropriation in this regard linked as it is to the population of females.

Imbalance in sex ratio has touched new scales of social insecurity and hierarchy. Dignity of women is considered of high significance as it is linked to moral value and ideal way of living, as noble blood also flows through the veins of persons with profound values. The founder of the society are living on the horns of dilemma, now a days as the young generation has started exploring new relation, irrespective of caste, creed and colour and no "*khap*" is tolerating this kind of illicit relations, which are not above board. Killing of even pregnant women is gaining momentum due to illicit relations and the females are even compelled to get themselves aborted finally. Relation of a particular community having similar surname related to mother and father are not at all tolerated. Social stigma of such type has played havoc to mar the life of the couples and if the girl is found in connivance with that of a particular boy before or after marriage, then they have to face revengeful attitude of the society. Due to prevailing tension, there are chances of miscarriage

or violence can be committed on the female abdomen when severe stroke or punch is given on a pregnant woman which results into expulsion of developing foetus with excessive bleeding.

The Circumstantial Evidence

Physical clues which have been collected with proper care and instruction relating to illegal abortion have to be forwarded to department of Histopathology and Deptt. of Obstetrics and gynaecology for ascertaining type of infection and other crucial factors such as tearing of tissues of various organs, determination of age of foetus being retained in the uterus. Samples are being analyzed in the medical hospitals and blood stained samples are also forwarded to Forensic Science Laboratories for determination of blood origin, grouping, disputed paternity, detection of foetal haemoglobin and DNA analysis. Hon'ble Court takes suitable action against the accused or erring person who have assisted in illegal abortion or medical termination of pregnancy. The authors have seen blood stained buckets, buzzing green blue bottle flies, lumps of muscles in the form of mortal remains and serum tilled with endometrial fluid and squamous epithelium being sent in laboratories. These evidence are immediately placed in cold room



- **Graph showing relationship between Age and Length of Foetus:-**

at chilled temperature and processing is further continued to deliver result in public interests.

Foetal haemoglobin(HbF) can be tested in the laboratory as well as medical institutes i.e. taking the services of experts in gynaecology as haematopoiesis is well demonstrated in the embryonic face first in the yolk sac by 14th day and thereby on 10th week the liver becomes of the larger size. Foetal haemoglobin can be analysed and well differentiated from the normal haemoglobin by performing different kinds of chemical tests. Normal haemoglobin value of a female is about 12- 14 gm/dl which gets reduced proportionately to the developing age of foetus in the uterus, if not supplemented with rich source of food materials/iron and folic acid tablets.

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Drug Traffic in A.P. - A Case Study

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Key words

Drug Trafficking, Cocaine, Amphetamine, LSD, MDMA, N D P S Act, TLC, HPTLC, GC-MS.

Abstract

Drug trafficking is an inevitable social threat. The real drug traffickers are rarely caught. Previously India was not among the countries with high drug-trafficking. Lately, the increase in the number of Trafficking cases (Narcotics & Drugs) has underlined the urgent enactment of necessary laws to successfully combat the traffickers and consumers of narcotic substances/drugs.

The present case study attempts to illustrate the alarming situation in the trafficking. The role of Forensic Science Laboratories is important in the scientific analyses of the substances in these cases. The processes involved in the analyses are also dealt in the present case-study.

Introduction

The recreational use of illicit drugs is one of the most serious societal problems. The possession, use and sale of illicit drugs have been the subject of government control since the early part of the twentieth century.

Narcotic drugs act on central nervous system, as a) Depressants

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(eg. Opiates, Morphine, Heroin, Brown sugar etc.); as b) Stimulants (eg. Cocaine, Amphetamine group drugs etc.); as c) Hallucinogens (eg. THC, Bhang, Charas, Ganja, etc.). Psychotropic substances are mood altering substances, either natural or semi-synthetic (eg. Diazepam, Alprazolam, LSD, MDMA etc.). Precursor chemicals are the chemicals which are required for the preparation of drugs (eg. Acetic anhydride, ephedrine, pseudo-ephedrine, N- acetylanthranilic acid, anthranilic acid, etc).

Diazepam, Alprazolam, etc. psychotropic substances are commonly used as Toddy- adulterants to make undue profit. The internationally famous / popular / much used drugs viz: morphine and cocaine, etc are not in the reach of common man. Hence, obviously only economically/ financially affluent people can and are affording these for consumption. The result is in the public knowledge. In Andhra Pradesh, so far, personalities from fields like cinema, TV, corporate world and high profile youth are caught with these substances in their possession. The sources are across the boundaries of country.

Drug trafficking leads to money laundering, corruption and other crimes, including sexual exploitation & narcoterrorism, etc. The low production cost and high profits lead to drug trafficking transcending the geographical boundaries.

A wave of synthetic stimulant drug abuse has been reported in recent years. A variety of such compounds are encountered in the laboratory as drugs of abuse. A brief introduction of such most abused drugs recovered in the present case is given below.

1. Cocaine

It is a naturally occurring substance-a stimulant derived from the Erythroxyton coca plant. The coca plant grows in only one part of the world, the Amazon slopes of the Andes Mountains in South America. Most commonly, cocaine is sniffed or snorted and is absorbed into the body through the mucous membranes of the nose. It is a powerful stimulant to the central nervous system. Its effects are:increased alertness and vigor, accompanied by the impression of hunger, fatigue and boredom. Since cocaine is a naturally occurring alkaloid, all that is necessary to abuse it is to

extract it from coca leaves.

Cocaine is normally found in the laboratory, in paper or plastic packs of white powder.

2. Amphetamine & Methamphetamine

These are a group of synthetic drugs that stimulate the central nervous system. They have been popular illicit drugs. Both drugs have legitimate medical uses. They are legally marketed as stimulants to relieve lethargy, drowsiness and depression. Both have also been prescribed for hyperkinesis and both have been used as appetite suppressants. Because they are so frequently abused, they are seldom produced for licit purposes.

Street level amphetamine and metamphetamine are normally submitted to the laboratory as white to half-white powders with relative low purity (eg. 5%).

3. Methylenedioxymethamphetamine (MDMA)

MDMA is the prototypical member of a large series of phenethylamine designer drugs and has become one of the main drugs of abuse in many countries in Northern Europe. Clandestine production is centered largely in Europe. These drug substances are collectively known as the 'Ecstasy' drugs.

MDMA is the most common drug encountered in ecstasy tablets. The tablets are typically 10mm in diameter, either flat or biconvex and weigh approximately 300mg. The MDMA content varies in its "mg" say in the range of 80 to 100 'mg' per tablet.

4. Lysergide Lysergic acid Diethylamide(LSD)

LSD is one of the most potent hallucinogens. Lysergic acid is also produced in clandestine laboratories using, most commonly ergometrine or ergotamine tartrate as the starting material.

Nowadays, LSD is encountered mostly in paper-dose form. The paper-dosages are produced by soaking pre-printed paper in a solution of LSD. These sheets are then perforated into squares typically (5mm x 5mm) with each square ('tab') containing approximately 50 g of LSD. One small droplet (approx. 50 g) can

cause visual and auditory hallucinations that can last up to 12 hrs. The designs on the paper can vary from one design per square to one large design that covers many squares. They are called 'window panes' and can be eaten. LSD can be absorbed through skin also.

Case Details

The Sub Inspector of police of one of the important police stations, along with another Sub Inspector and a Deputy Commissioner of police of West Zone waylaid at a specific spot, as a result of credible information that contraband drugs would be changing hands at that time. They found a person (A-1) moving suspiciously and apprehended him. On inquiry it was found that he was having drugs in his possession and that he was awaiting another man bringing drugs, travelling by Hyderabad bound bus from Mangalore, Karnataka.

The bus came from Mangalore and the person (A-2) identified by the 1st suspect (A-1) was also taken into custody. The A-2 revealed that he procures the drugs from European connections (A-4). He further stated that he was selling the drugs to the buyers of twin cities (Hyderabad and Secundrabad) and other metros through agents. The driver of the bus (A-3) had concealed the packet of drugs beneath his driving seat. He said that huge amounts were paid to him for being a part of the 'Drug Racket'. A case was registered, under 20(B) of NDPS Act.

All those suspected contraband narcotic drugs were seized and were forwarded to the Narcotics section of APFSL for analysis, after complying with all the requisite formalities. A brief description of the sample drugs seized is required as this case attracted large public attention.

The substance materials of entire case was received in eight polythene packets and these were labelled as A to H serially.

These were in the form of:

- Green colour tablets (A, B & F)–item nos 1, 2 and 6.
- Orange colour tablets (C)–item no.3.

- A designed paper of two square units partitioned by perforation (D)–item no. 4.
- White colour crystalline substance (E)–item no. 5.
- A designed paper of three square units partitioned by perforation (G)–item no.7.
- White colour powdery substance (H)–item no. 8.

The general approach to the analysis of these drugs is taken from the standard procedures given in Clarke's Analysis of Drugs and Poisons (Vol I & II).

The Analytical Plan

The step-wise analytical plan was based on the principles of analytical chemistry as laid down in the methods prescribed in the book by the Association of Official Analytical Chemists. All the reagents and chemicals used are of analytical grade and HPLC grade.

The preliminary analyses are conducted through chemical examinations by colour tests. The names of the tests conducted and the results obtained are given in the Table-I

All the samples are then subjected to qualitative analysis by TLC & HPTLC methods.

T L C

Stationary phase: Silica gel 'G' coated glass plates.

Mobile phase : Methanol : Ammonia

(100 : 1.5)

HPTLC

Stationary phase : HPTLC plates (10X10cm precoated silica gel 60 F 254)

Mobile phase : Methanol : Ammonia

(10 : 0.15)

The used solvent system gave a good resolution. The location reagent gave orange colour spots when sprayed with dragendorff reagent. The Rf values obtained for standard samples and test samples were matched with the literature available and they corresponded with each other. The chromatograms of the samples along with their Rf values are given in **Figure-2 and Table-II**.

The samples were studied by scanning them (in appropriate organic solvents) with the help of UV-vis spectrophotometer (at scanning wave length 200-400nm with aqueous acid & aqueous alkali modes).The spectrum and the value of the max of the spectrum were compared and matched with the standard values given in the literature.

Finally, the results of the above analyses are confirmed through GC-MS also. The samples were separated, purified and dissolved in methanol and subjected to GC-MS application developed.

Column : 5% phenyl methyl (30m X 0.25 micron capillary).

- Injector temp : 260°C
- Detector (MS) : 285° C
- Oven - Ramp0 C --- Temp°C --- Time (Min)
 - --- 90° C --- 0.5 min
 - 10°C --- 125° C --- 1min
 - 25°C --- 285°C --- 8min.
- Carrier gas : Helium
- Flow : 0.8° C/ Min
- Sample injection Volume : 0.5 ul.

The figure 3 gives the pictures of spectra of the samples.

The principal peaks at m/z –

For N-Methyl-3, 4-Methylene Dioxyamphetamine (MDMA - Ecstasy):

58, 135, 77, 51, 30, 56, 136, 59, 42, 89.

For Amphetamine:

44, 91, 42, 65, 45, 39, 63, 120, 89, 51.

For Cocaine:

82, 182, 83, 105, 303, 77, 94, 96, 42, 81.

Results

The analyses and the tests conducted on the suspected narcotic drug samples reveal that Methylene Dioxymethamphetamine (MDMA)—a stimulant/hallucinogen, commonly known as Ecstasy is found in four of them (items 1, 2, 3 and 6). Amphetamine – a stimulant is detected in one item (Item 5) and Cocaine—a narcotic drug is detected in another item (Item 8). The suspected LSD acid blot papers (Items 4 and 7) could not yield any positive result for lysergic acid, through instrumentation, though their physical & morphological appearance was indicative of the drug.

Conclusion

An unassumingly petty case of a small time drug trafficking, pulled at one end, moved the entire channel of connections. And the channel is across the frontiers of the country—Netherlands in Europe to Hyderabad of A.P, India. This is one case; there are many such cases, some brought to book and many others, not.

In assessing the potential danger of drugs, society is particularly conscious of their effects on individual behavior. The statutory control over narcotic drugs is exercised in India through a number of Central and State enactments. With the passage of time and developments in the field of illicit drug traffic and drug abuse at national and international level, many deficiencies in the existing laws are noticed.

The scheme of penalties under the present act is not sufficiently deterrent to meet the challenge of well organized gangs of smugglers. Further, no minimum punishment is prescribed in the present law, as a result of which drug traffickers have been sometimes let off by

the courts with nominal punishments. The country has, for the last few years, been facing the increasing problem of Drug Trafficking, mainly from some of our neighbouring countries.

In view of what has been stated above, there is an urgent need for strengthening the existing controls over drugs of abuse; enhancing considerably the penalties for Trafficking offences; and making provisions for the implementation of decisions taken in international conventions, relating to narcotic drugs and psychotropic substances to which India is also a party.

Acknowledgements

Author is grateful to Sri O.N. Murthy, Director, APFSL, for his guidance, moral support and encouragement. Author wishes to thank Smt. M. Bharathi and Sri M. Sanjeev Kumar, Joint Directors for their moral support. Author also wishes to acknowledge the technical support by Smt. V.R. Gunasheela, Assistant Director & Sri S. Sanjeev Rao, Scientific Officer.

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Drug Traffic- A Case Study
Figures & Tables
Figure – I



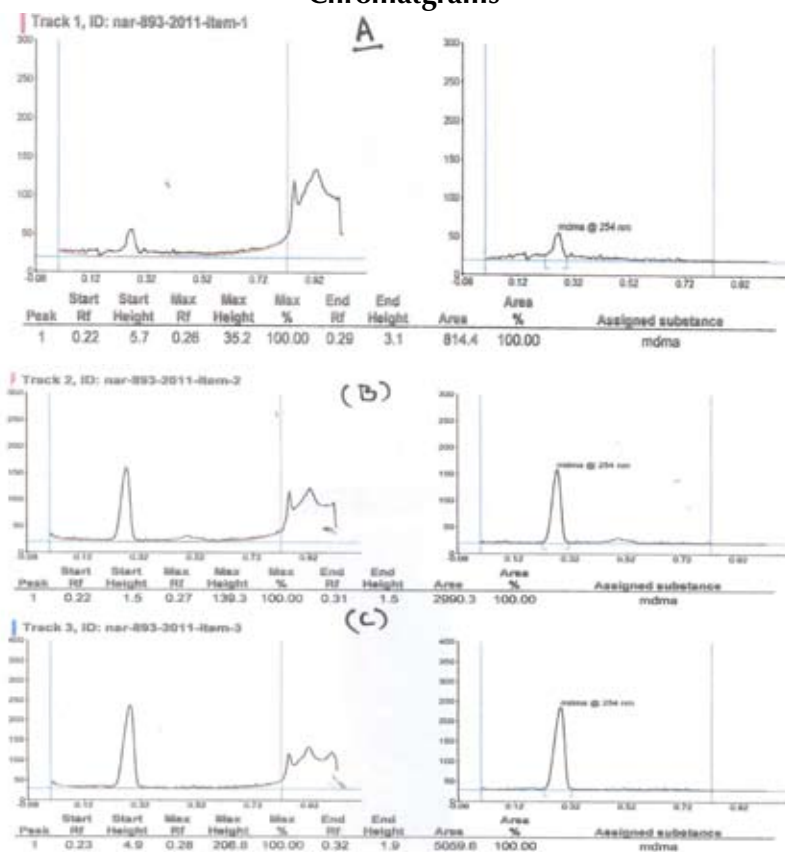
Table - I
Chemical Test (Colour Tests)

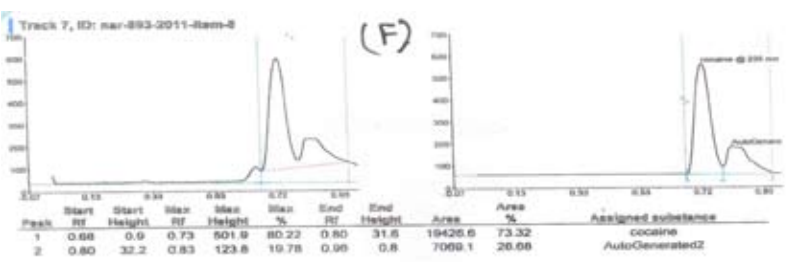
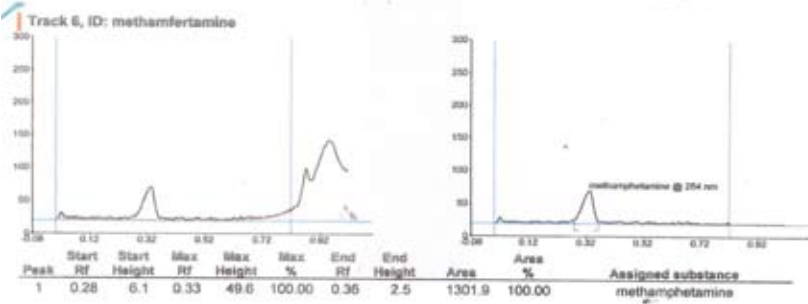
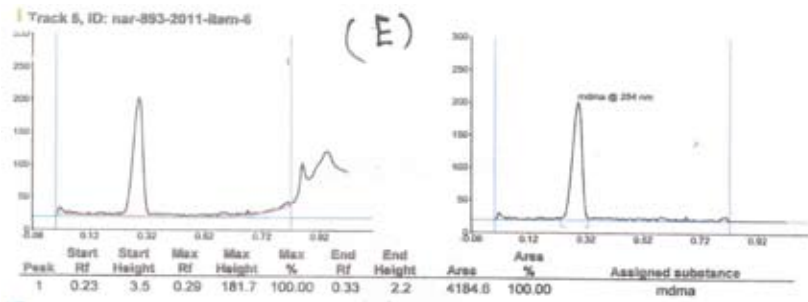
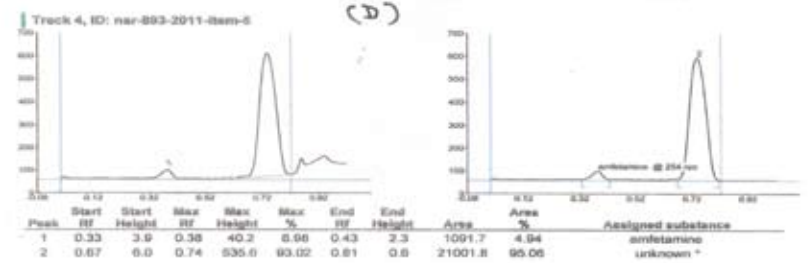
Sl. No.	Name of the Sample	(i) Marquis test	(ii) Scott's test	(iii) Simon's test	(iv) p-DMAB reagent
1.	A-I Item-1	Black	-	Dark Blue	-
2.	B-I Item-2	Black	-	Dark Blue	-
3.	C-I Item-3	Black	-	Dark Blue	-
4.	D-I Item-4	-	-	-	-
5.	E-I Item-5	Blue green	-	Purple	-
6.	F-I Item-6	Black	-	Dark Blue	-
7.	G-I Item-7	-	-	-	-
8.	H-I Item-8	Light Orange-Yellow	Blue Colour enters the chloroform layer	-	Red

Table - II

Sl. No.	Name of the Sample	Rf Value
1.	A Item-1	0.26
2.	B Item-2	0.27
3.	C Item-3	0.28
4.	D Item-4	Nil
5.	E Item-5	0.38
6.	F Item-6	0.29
7.	G Item-7	Nil
8.	H Item-8	0.73

Figure - 2
Chromatgrams





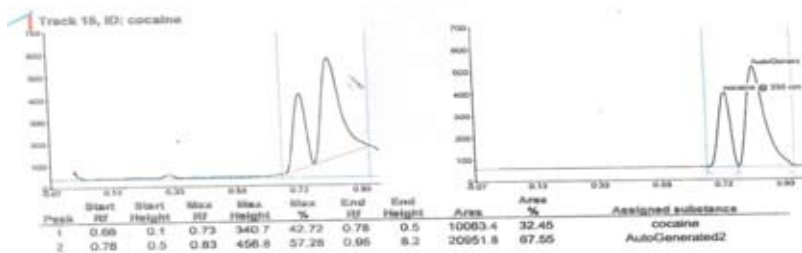
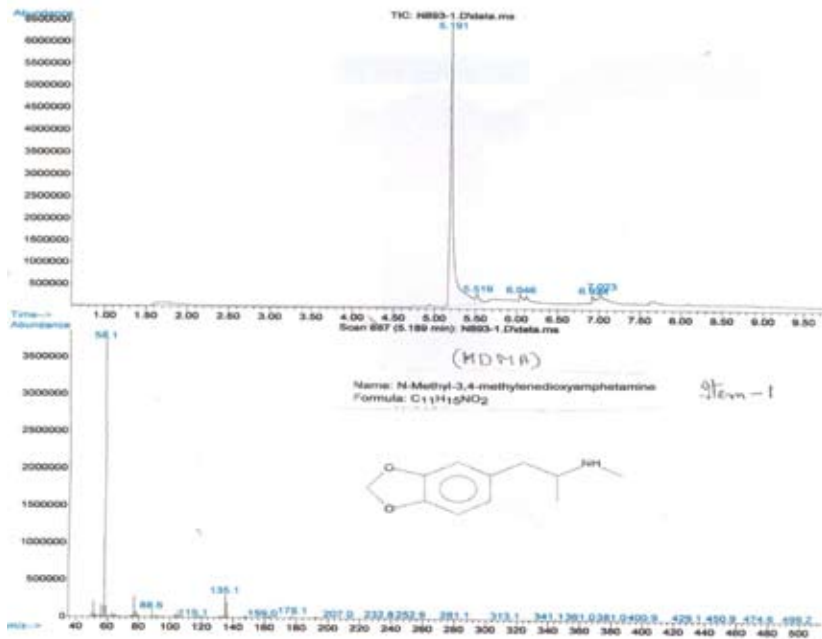
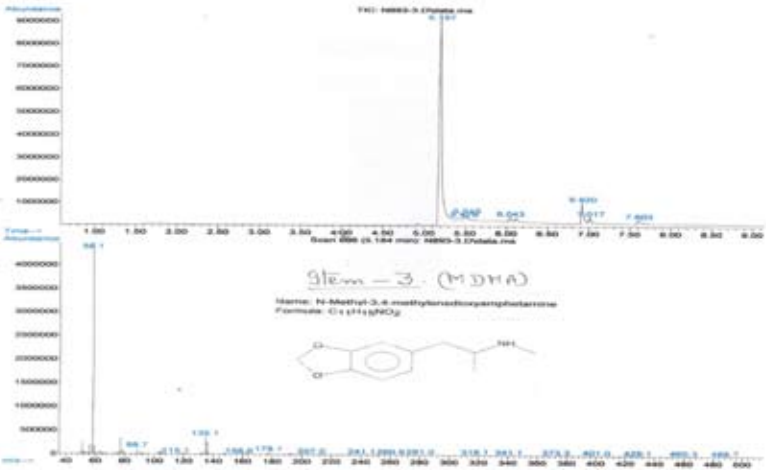
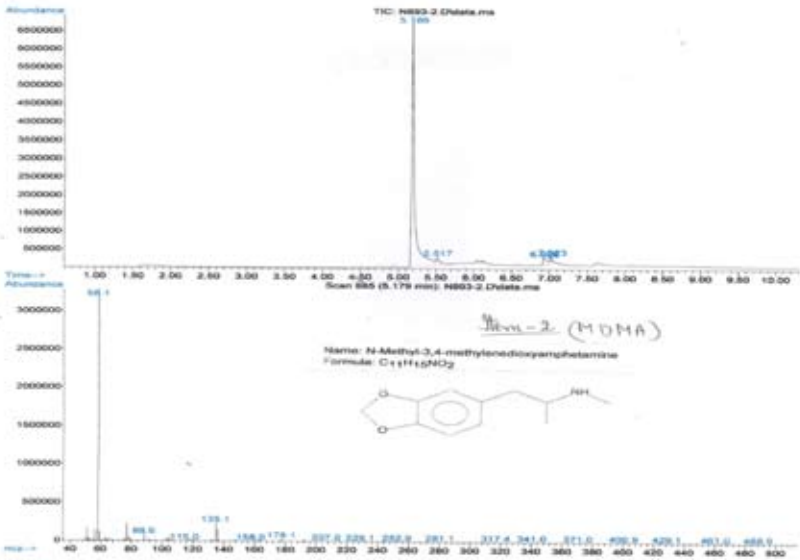
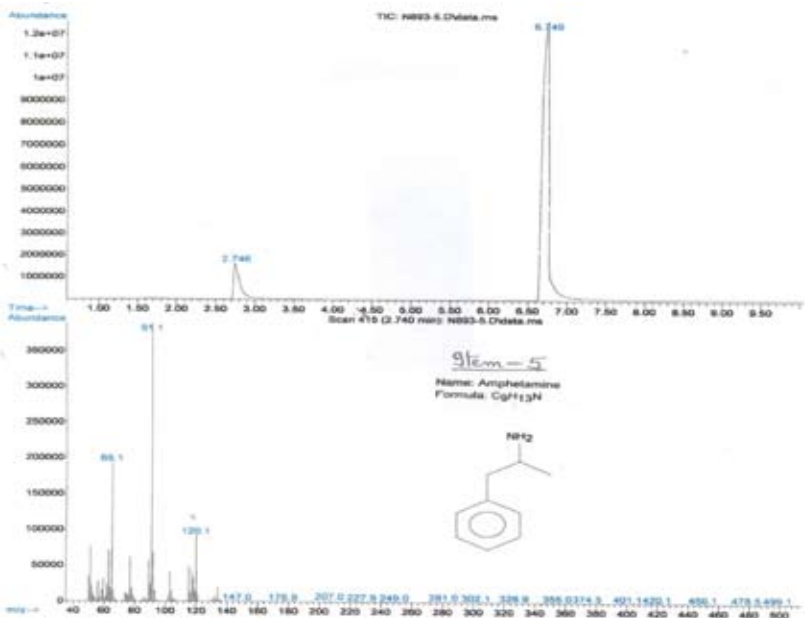
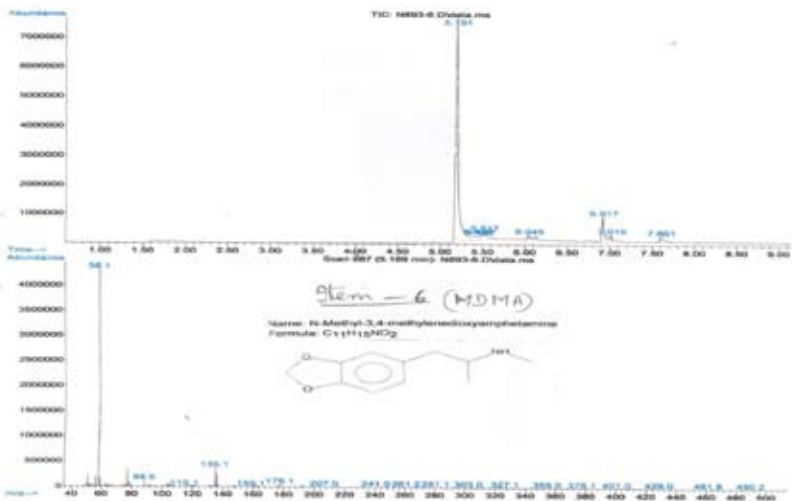
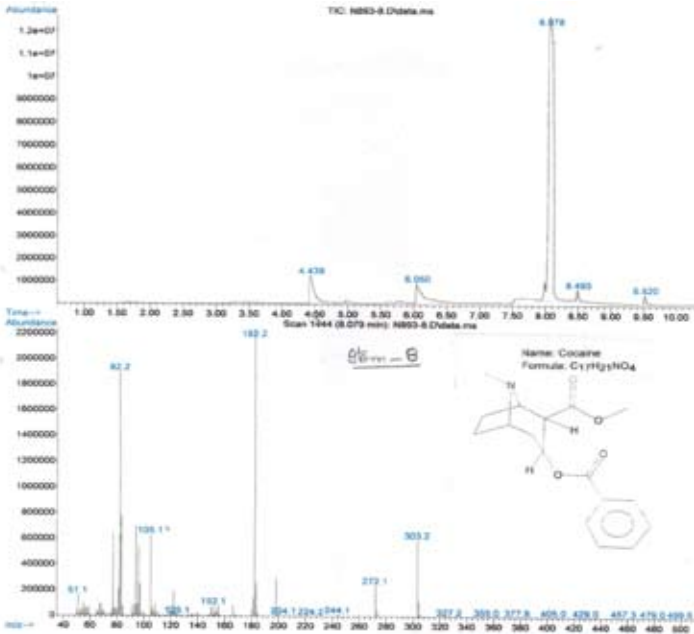


Figure - 3
Spectra from GC-MS









Stranger Rape: A Situational Analysis

*Dr. Vibha Hetu

Keywords

Stranger Rape, Situational Analysis, Traditional Cultures, Virginity, Violence, Resistance.

Abstract

Most people regard stranger rape as the most serious assault as evident by the growing cases of stranger rape. Stranger rape is generally thought to involve more force, display and use of weapons, and physical harm but, also more resistance by the victim. In traditional cultures, a woman who loses her virginity, even by rape, is considered soiled; thus, the assault is always a matter of shame. The situation is a concomitant factor for the rape committed by the stranger. Using the narrative account of two females, victims of stranger rape, this paper outlines how important it is to engage with the complexity of 'situation' leading to rape.

Introduction

It is stranger rape that women picture when they hear the word "rape". Stranger rapes are what Estrich (1987) refers to as "real rapes", meaning they are given more credibility and are more likely to receive legal remedies. Most people regard stranger rape as the most serious assault (Tetreault & Barnett, 1987), including victim themselves, as evidenced by their greater reporting of stranger

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rape. Stranger rape victims (53%) are also more likely to label their experience as rape than are acquaintance rape victims or date rape victims (23%) (Muehlenhard, Powch, Phelps & Giusti, 1992; Koss, Dinero, Siebel & Cox, 1988). The Rape, Abuse & Incest National Network (RAINN, 2000) found in its research that less than one in three rapists were a stranger to the victim.

However, an estimated 20% to 50% of rapes each year are committed by strangers to the victim (Madigan & Gamble, 1991). Stranger rapes and acquaintance rapes are equally devastating to the victims (Koss, Dinero, Seibel & Cox, 1988). Stranger rape is generally thought to involve more force, display and use of weapons, and physical harm but also more resistance by the victim (Ullman & Siegel, 1993; Koss, Dinero, Seibel & Cox, 1988). There is a curvilinear relationship between the amount of violence used by the perpetrator and the degree of acquaintance between the victim and the perpetrator. Although there is a belief that the most violent rapes are stranger rapes, Ullman and Siegel (1993) found no difference between stranger and acquaintance rape survivors in terms of ethnicity, age, income, education, or psychological symptoms. However, stranger rape survivors are more likely than acquaintance rape survivors to reach out to a friend, relative, or professional helper and are more likely to report the attack to the police (Siegel, Sorenson, Golding, Burnam & Stein, 1989; Koss, Dinero, Seibel & Cox, 1988).

In a sample consisting mainly of Asian-American students, Mills and Granoff (1992) found that while 28% of the women were rape or attempted rape victims by legal definition, only one-third of these so labeled themselves. Mori, Bernat, Glenn, Selle and Zarate (1995) suggest that Asian women will thus be less likely to report the rape due to failure to recognize it, fear of negative repercussions, and self-blame. Some women resist the label of rape because the cultural meaning attached to it is intolerable (Holzman, 1994). Mori et al. (1995) reported that Asians are more likely to endorse negative attitudes towards rape victims and greater belief in rape myths. More acculturated Asians were more positive towards rape victims and less likely to believe rape myths (Mori et al., 1995).

As these studies illustrate, the impact of rape must be understood

in the context of the survivor's own cultural religious beliefs and experience as an immigrant or refugee (Holzman, 1994). Race, class, culture, age, and sexual orientation affect every aspect of recovery from the rape experience. According to Holzman (1994), "The dynamics of rape involves the ways in which power and violence are structured by a particular culture, not just the psychodynamics of the individual perpetrators or victims. Rape is both a tool and a consequence of an interlocking system of oppression based on these factors. Those who have the least power in a society are the most vulnerable to rape". In traditional cultures, a woman who loses her virginity, even by rape, is considered soiled; thus, the assault is always a matter of shame (Boemel & Rozee, 1992).

Tool of Social Dominance

According to Madigan and Gamble (1991), rape is a re-enactment of social dominance, no matter who the victim or the perpetrator is. Its motive is the subjugation of another person and demonstrates contempt and objectification of another. It is the acting out of the power roles. Feminist theories that incorporate power analyses into explanations of rape can effectively explain both male-on-female and same-sex sexual assaults. Male power, domination, and physical force are part of the structure of U.S. society (Liddle, 1989). That is because gender is but one of many power and status categories. Power roles can also be defined by economic status, physical size and strength, rank, or social status and be reinforced by personal traits such as aggressiveness, hostility, lack of empathy, and emotional unavailability.

Sec. 375 of IPC says, "The offence of rape is one which is committed by a man who has a sexual intercourse with a woman against her will, without her consent or even with her consent when that consent has been obtained by putting her in fear of death or hurt, whereby fraud when he is not her husband, he obtains her consent making her believe that he is another man to whom she is, or believes herself to be lawfully married, or when she is intoxicated or when she is under sixteen, irrespective of her consent (Indian Penal Code, 1872). "Penetration is sufficient to constitute the sexual intercourse

necessary to the offence of rape". Full penetration is not an essential ingredient of rape. It would amount to penetration if some part of male organ goes within the labium of the pudendum of the woman, no matter how little.

A man convicted of an offence of rape is punishable under Sec. 376 IPC with imprisonment of either description for a term which shall not be less than seven years, but which may be for life or for a term which may extend to ten years and shall also be liable to fine.

A Situational Analysis

As a focal point and perspective, the sociology has taken over the place of psychiatry in the study of rape (Brownmiller, 1975; Geis, 1977). The three major approaches by sociologists are: - Cultural Approaches, Institutional Approaches and The Situational Approaches. The situational approach really has not been codified as an "approach" or "perspective" but has been a matter of collecting situational aspects of rapes with no connecting concept of the situation. In Amir's study (1971), there is a vague conception of the social situation, but the importance of the situation is stressed from a social control point of view. Amir points out that it is not enough just to gather information about personality factors, for even the most criminal personality only commits crimes in certain situations.

The elements of the situation, examined by Amir (1971) include the role models for normative and social support of a crime, or the more general social situation. He also points out that the social situation must be one in which the criminal can neutralize social control and observability while maximizing opportunity. Other studies employing "situational" elements in rape do not do so from any single theoretical perspective but after the fashion of a multiple factor theory or simply as a statistical listing of situational aspects in rape cases. Hursch (1977) uses the concept of the situation to denote different ecological aspects of rape and points out that some places provide better opportunities for rape than others.

V. K. Bajaj, U. N. Joshi and K. P. Krishna (1983), conducted a study on "Some Personal and Situational Aspects of Rape Victimization"

and the study was focused on laboratory analysis of rape cases. It looked into some personal and situational factors underlying rape victimization. To find out the linkage of personal and situational attributes with rape, the study was focused on 245 alleged rape cases referred to Forensic Science Laboratory, Sagar, Madhya Pradesh. Data revealed that most of the rape victims were around 17 years of age and unmarried; they had been raped in the outfield during summer and rainy seasons.

Ram Ahuja (1987) in his book "Crime against Women" highlighted a study conducted in Jaipur on 42 rape victims. The study showed that the rapists were by and large situational or at the most partial planners, drawn into sexuality by chance. Mostly they were married persons who sexually assaulted females known to them. The main cause of rape which came out in the study was not a long enforced celibacy thrust upon the offender by his parents resulting in a need to handle sexual satisfaction; nor was the cause his perverted personality or set of values. Their contention was that the cause of sexual attack was to be sought in the following 5 factors: - 1. The structure of the situation in which rape was committed; 2. The situational "facilities" which enabled the rape to be committed; 3. The precipitating factor(s) that lead to the event, 4. Strains experienced by the attacker, which was his values and his individual problems, and 5. Victim's behavior with the assailant much before the rape was committed. A holistic approach to the combination of these factors alone could give us the correct cause of rape.

Magnitude of the problem

Rape cases are increasing in the country every year. As per statistics collected by Delhi Police, the total number of rape cases reported was 381 in 2001, 403 in 2002, 490 in 2003, 551 in 2004, 658 in 2005, 623 in 2006, 598 in 2007, 466 in 2008, 469 in 2009 and 507 in 2010 (Crime in India, 2010). It means during the last 10 years (2001-2010) reported rape cases have risen in Delhi City. There is 33% of an increase in rape incidents in Delhi City in the last 10 years. 1687 rape cases were reported during the period 2006 Jan to 2008 Dec, out of which 1639 rape cases involved offenders known to victims whereas 48 rape cases involved offenders unknown

to victims. 97.15% of the rape cases involved known offenders, whereas, 2.85% of the rape cases involved strangers (2006-2008) (Crime in India, 2006, 2007, 2008).

Aim of the Study

The utility of analyzing single case studies in order to test sophisticated theoretical postulations about interlinked and idiosyncratic phenomena has been demonstrated across a range of social scientific fields (Yin, 2009). The case study analysis that follows is discussed in this spirit. It focuses on interviews with victims of stranger rape cases that comprise just a small part of PhD work on "Human Rights Violation of Rape Victims: A Sociological study in Delhi City" under a Government of India Fellowship Scheme for Doctoral Work in Criminology and Police Science from Bureau of Police Research and Development (vide order No. 32/29/2007-RD). The duration of PhD was from November, 2006 to March, 2011. The Study had adopted an exploratory research design. Since, the universe of the study was quiet big; stratified random sampling method had been adopted. Rape victims of total 1687 rape cases reported during the period 2006 Jan to 2008 Dec, out of which 130 unmarried rape victims (8 percent) were chosen from the age group of (3-25). The data was collected from the 11 Police Districts: North West, North East, North, Central, New Delhi, South, West, South West, South East, East, and Outer. North West and North East had registered the largest number of rape cases during the period 2006 Jan to 2009 Dec, so maximum rape victims were interviewed from these areas.

It was found that 93.8% of rape victims knew the accused from before, whereas, 6.2% rape victims did not know the accused from before. The pen portrait of Gudiya and Seema (names changed) that follows is derived from the interviews conducted with them using the Free Association Narrative Interview Method (Hollway and Jefferson, 2002).

Case Study I

This is a case of Gudiya (name changed), a nine year old girl, who was raped in 2007 winter. It's easier to execute rape with a girl as old as Gudiya, because they don't understand the meaning of that

act and they don't reciprocate. This girl at the time of incident was studying in class III and belonged to medium class family with a monthly income of Rs. 20,000- Rs. 25,000/month. Her both parents were working. Her father was working in Government Department as a clerk and her mother worked in a shop as a saleswoman. There was an elder sister who was eleven years elder to Gudiya and was married off to a man at the age of seventeen. That means Gudiya had company of her sister till age six, but, after that, whenever she came from school or on weekends, she spent most of her time with her friends in her neighbourhood. She lived in a semi-urban locality.

Gudiya was highly loved by her parents and father seemed to pamper her more. She received small gifts from her parents very often and loved to play with dolls. Gudiya had a very happy childhood. According to Gudiya, 'I love my friends and the time spent with them. At times, I feel lonely when my friends go to take a nap in the afternoon, and I don't get any sleep in my house. I sometimes sleep in my friend's house in the afternoon. Aunties in the Neighbourhood are very nice, especially Pinky's mother (one of her colony friend); she sometimes cooks food for me. But, when my mother comes home around six o'clock, I come back to my house'.

On the very day of her rape, Gudiya was asked by her father to go and buy milk from the market. It was around 8 P.M., when Gudiya left the house. By this time, both the parents were in the house. And it wasn't unusual for Gudiya to go out, because she went at times to buy household things. The market was in the nearby locality. Her parents were old residents of Sultanpuri and were well known to the neighbourhood and also to some shopkeepers in the market.

She bought milk, paid money and started to walk back home alone. In between the house and the market, there was one small patch of land in the road, which was not fully bright, but was lighted by only one street light. One man approached her, while walking that road. He stopped the bicycle before Gudiya and told her to stop. Gudiya got startled and stopped. This man had called her by name, so she thought he must be someone known to her father. The man

told her that he knows her father and has some important papers, which is supposed to be returned to her father. He can hand over those papers to her, provided she comes along. Gudiya nodded. He then, helped Gudiya climb the bicycle and took her to a park, which wasn't very far away from the market.

He got down from the bicycle and took her by hand and left the bicycle outside the park gate. Gudiya said that she got little scared going in to the park which was all dark, except a faint light coming from very far away. She clung to him more and asked him 'Uncle, how far is the place', to which the man replied, that they have reached the place. The park was full of trees, he stopped under one tree. He sat down in the park and made her sit in his lap. She did not mind it, as her father also used to cuddle her many times in the lap. The man then, started to talk to her about her likes regarding food, dolls, her parents etc. He started kissing her on her face, lips, and neck and thereby, put his hand inside her frock. She pointed out to her chest and said that he pressed hard on her nipples, to which she cried out with pain. According to Gudiya, 'Uncle shouted at me and told me to keep quiet. I got scared, because Uncle got very angry. But, tears kept rolling down my face, but, I stopped letting out any noise'.

He unbuttoned her sweater, opened her frock and underpants. While, all these times, he had been fondling her private parts, touching her thighs, kissing her face, etc. He slid down his pants and told Gudiya to lie down on the grass. Gudiya refused to do it, so, he pressed himself on her and made her lie down on the grass. She started crying out very badly, when the coldness of the grass touched her body. She said 'Uncle was very bad, he made me lie down nude on the grass and when I started crying, he slapped across my face and told me to remain quiet. He hit me with something very hard twice in between my thighs.' She pointed out to her vaginal area, and said it was very painful for her. She was about to let out a scream, when the man closed her mouth. He kept on moving over her until she could feel something warm and sticky on her private parts and around inner thighs.

He loosened his grip over Gudiya and wiped his hands on the grass.

Gudiya got up from the grass and started wearing her clothes. The man adjusted his clothes and started to walk back alone. When Gudiya saw him going, she ran to him and caught his hand. She asked him to leave her to the place, where he had picked her up from. The man left her to that place and rode back in the bicycle.

Gudiya reached her house at around 9 P.M. She had difficulty walking back home alone, as it was very painful physically and she was emotionally drained while crying out very badly. When she knocked at her house door, she was about to faint. Her parents were shocked to see her in that condition. Their feelings were mixed with anger, rage, frustration, etc. Her family had become numb for a while, but, later, they decided to go to the Police-station, and from there, rushed her to the hospital. Gudiya's case has not reached the court, because the assailant has not yet been caught. She was thrown out of the school as the word regarding her rape had spread in the neighbourhood. She suffers from insomnia and severe headache. She doesn't take any interest in the study or playing any games. Her childhood friends have stopped talking to her and most of the times;she is found sitting alone and looking blank, or simply lying in the cot.

Case Study II

Seema (name changed), was a fourteen year old girl, educated upto class VII. Seema belonged to a joint family consisting of total ten members. Seema was second among her siblings. She had two brothers and three sisters. Her grandparents were staying with her family. Her house was all crowded because there were only three rooms. There was always lot of work at home. There was seldom any time when family gathered to talk or enjoy merry time. But, Seema always took out time for studies and was very good in studies and also at games in school. Seema was a promising student and had a bright career.

This unfortunate incident took place with her in 2008 summer, when she was returning from her tuition classes. It was around thirty minutes past five in the evening, when a van slid close to her; one man opened the door and pulled her inside. She said

that she usually returned from her tuition classes along with one or two girls, but on that unfortunate day, she was all alone. She was pulled inside the van in a full bright day from a busy road of Narela. Strangely enough, nobody came to her rescue. It might be possible that before anybody could come for her help, she was pulled off the road. Before she could realize what was happening to her, she was already inside the van. It was as if it happened in the flick of moments. She was pushed under the seat and a tape was pasted on her lips. The man who was trying to control her movements was very strong by body and she was too meek to fight back. He tied her hands. All this while, he kept on smiling beastly at her and using very abusive and derogatory words. She recalled that he was a middle aged man and his teeth were all stained with tobacco. His hands were so hard that it meant that he did much of manual labour using his hands.

She was struggling as much as she could. There was lot of space at the back of the van, as the man had now folded the backseat. He was now sitting on her chest and trying to get complete grip of her. She was slapped many times, and physically and verbally abused. The only thought that kept coming to her mind was how to get away from this situation. She couldn't help but watch him ruin her life. She was crying of pain and her tears kept rolling down, but this man did not have any mercy on her. The more she fought, the more she got kicked. She was hurt all over her body and her body had started to ache. She was already suffering from the bouts of pain and had become physically drained. She remembers both the persons' faces very well. She was only raped by the middle aged man and not the one, who was driving. She obviously had no idea where she was being driven to, and the whole time, the van was running on the road.

The man had almost torn her upper clothes. He had opened his pants and was sitting on her chest, so that his private parts could touch her breast. He even committed cunnilingus with her. After that, he raped her. He had scratched her thighs and breast. Although, she was a full grown up girl, her body was very tender and soft. She had started to feel tired after keeping up fight all this while. By the

time he was done, she was already in a fainted mode. She doesn't remember anything after that. She found herself in the hospital at around 10 P.M. Her parents had reported about her missing at around 6.30 P.M. in the evening to the Narela Police station. When she was discovered from some park in the Punjabi Bagh, and brought to the hospital in the unconscious state, her parents were informed. They immediately rushed to the said location.

The parents, siblings, grandparents, all are in shock and despair. The victim hardly talks, and has completely drawn herself from the friends and books. She was once upon a very promising student, but, now she cannot concentrate for long. She suffers from symptoms of PTSD (Post Traumatic Stress Disorder). Since, then, her whole family has been trying to keep her happy and to help her recover from this trauma, but all in vain. There is not even a single positive sign of recovery. The accused has been caught and the court proceedings are on.

Discussion

Everything was going good with Gudiya till the time the rape incident had not taken place with her. The rape incident brought about complete devastation to her life. It was not only her, but, her whole family's peace was raped. This unfortunate incident has caused them life-long pain and more so, with Gudiya, the after-effects of rape are long lasting. The life for them has drastically changed. They don't even know who has caused this pain to them.

Gudiya had a very happy childhood. It's just that, she spent little time with her parents. Both the parents were working and usually used to get home late in the evening. That little interaction only consisted of the queries regarding her studies, or any programme taking place in the school, or about her friends, etc. Most of the times, she interacted with her father, and the mother was usually occupied with the cooking in the kitchen. So, Gudiya never got any lesson regarding with whom to interact or not to, lessons regarding how to be careful in certain situations, etc. It's obviously not possible to prepare any child to face such situations, but from the age of Gudiya, formal lessons can be taught like not to believe any

stranger, not accept anything offered by an unknown person, never go with any stranger no matter what he says etc. When Gudiya was asked by an unknown man to come along to collect some papers, she went with him, knowing fully well that she hadn't met this man ever before.

She didn't fight back at the time of rape, can be well understood. The child of this age cannot understand the meaning of rape. After having his way with her, the culprit simply started to walk away and it was Gudiya, who caught his hand from back and told him to leave her to the place from where he had picked her up. The girl was in such a fearful condition that she approached her rapist to leave her to the previous place, knowing well that he was the one, who had caused her physical pain. When she was being picked up by the stranger, nobody noticed and while, dropping her off to the same place, no body known to her either from the market or neighbourhood saw them. She reached her house all alone in pain. Her parents were so occupied with their work in the house that nobody noticed how much time had passed, after Gudiya had left for the market at around 8 P.M. and had not returned even after forty five minutes past eight. The parents thought that she must have been playing with her friends in the colony. It was all these little things that could have been taken care of at appropriate time would have had saved the girl from falling prey to rape. The place was not very far off where she was raped. If someone had gone in search of her, the story would have been different.

The second case is a gruesome case. Seema, while walking home alone after tuition class was trapped and raped in a moving van. After rape, she had no idea when and where she was thrown, who picked her up and rushed her to the hospital. A girl of fourteen years was brutally raped by a middle aged man, almost equal to her father in age. Narela is such a crowded place, yet the girl was picked up from such a place without anyone noticing it, or nobody cared about anything taking place on the road and did not even care to inform the police.

The case highlights two things: People with criminal propensity have become fearless and the society, neighbourhood, and the police are

inefficient to combat such crimes. There must be someone who must have noticed, but did not come to help, may be fear for life or taking too big a risk by putting oneself in trouble was not possible for the person. All this while, when the van was moving, there was not a single check post or police patrolling who could have stopped the van for checking and would have had prevented the rape crime. When the culprit was throwing the girl in the park, nobody saw it. And someone who saw the body, it was already approximately 9.30 P.M. It cannot be depicted when the girl must have been thrown in the park just before that time when it was discovered or was lying much before that. If she was still in the van till this time, then, the accused must have been looking for a place to dispose off the body of the girl. When they found a suitable place, they got rid of it.

Female chastity in India is also a necessary condition for the marriage of a girl, and an unmarried girl who is known to have been raped, in most instances loses her chance for marriage (Jacobson & Wadley, 1977; Papanek, 1973; Yalman, 1963). Whatever the reasons, no body of any age is safe from rape. In India, as in other countries, rape on children is also quite common as there is a superstitious belief that gonorrhoea and syphilis can be cured by having sexual intercourse with a virgin (Modi, 1982). In both the cases, the girls were virgin, and the offenders involved were much older to them in age. Sanders (1984) stated that rape rarely occurred between 9 A.M. and 4 P.M. and the number of rapes invariably doubled after 4 P.M., when the girls generally returned home alone at that time after attending the school. Both the girls were raped after 4 P.M.

Stranger rape is generally thought to involve more force, display, and use of weapons, and physical harm but also more resistance by the victim (Ullman & Siegel, 1993; Koss, Dinero, Seibel & Cox, 1988). In both the cases, it was found to be absolutely true. Further resisting the rapist or fighting him to a great extent depends on whether the victim is a child or an adult (Peters et al., 1975), whether she is related closely to the offender (Amir, 1971) and whether the offender used any weapons (Burgess & Holmstrom, 1975; Gilmartin, et al., 1983). If the victim is a child, or if she is related to the rapist as a friend or as a relative, or if the victim is

being attacked by the rapist with a weapon, etc. one may expect them to show less resistance than one who is an adult, and who is being assaulted by a stranger and who is facing a rapist having no weapons to force her to submit (Peters et al., 1975). The findings in the present study support the above contention by showing that no resistance was shown by younger age victim, whereas the teenage victim had put up resistance towards the stranger.

Amir (1971) points out that even the most criminal personality only commits crimes in certain situations. The social situation must be one in which the criminal can neutralize social control and observability while maximizing opportunity. The two case studies points out the fact that both the females at that point of time were found to be vulnerable and were present in such area where the accused were convinced that they can commit rape easily without getting in to trouble. Gudiya was walking all alone at around 8 P.M. on a dim lit patch of road and Seema was walking all alone on the road made them an easy prey and their vulnerability caught the attention of the assailants and thereby attacked. The way the crime was committed by both the offenders shows that they are fearless of any legal sanction and are there to challenge the system. It is the acting out of power roles.

In both the cases, the parks were not well-lighted and were not well-maintained. It had so many bushes and trees grown in the boundary area that actually made the place more viable and gave good opportunity to the rapists to execute their crimes. In the cases, non-alertness and non-awareness among the family and the neighbourhood went a long way to cause this crime. More surveillance and vigilance by police can help prevent such heinous crimes. Some kind of physical training and sex education can play a positive role in avoiding getting in to trouble. Parents should devote more time in imparting knowledge necessary for growing up girls as well as have more compassion and love towards girl child. Alert neighbourhood, well-lit street and park which are not dense with trees, and police patrolling in the areas which are deserted, could have prevented the unknown persons from taking advantage of minor girls.

Conclusion

The situation plays an important role in stranger rape cases, as the vulnerable girls (especially those who are younger in age) are trapped by the unknown offenders in a place where no one can reach them or the offender knows that nobody will reach out to rescue them. Stranger rape cases are known to involve violence perpetrated by the accused and more resistance put up by the victim. The victims give out a mix response of shock and surprise, when confronted with a stranger. Stranger Rape is the most horrendous of the sexual offences, even more disastrous than the date rapes or acquaintance rapes. Its gravity is not in the injury to the body alone but in the injury to self-esteem and self-respect. The physical battling and assault, which accompany stranger rape are not only what constitutes rape but it is the injuries added to the insult. While all rapes result into total emotional devastation, child rapes particularly inflict gross physical damage on the victim. Victims of the stranger rape cases have survived a horrifying, humiliating, degrading, brutalizing, demeaning and dehumanizing experience. When the offence of rape occurs, the victim's sense of self as well as her body is abused without consent. She loses her most basic human right: Control of her physical and emotional self. The victim's psychological response to rape primarily reflects her reaction to violation of self. Therefore, they deserve to be treated with dignity and compassion.

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