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Consequent upon empowerment and rapid socio-economic progress of the ladies, their hopes and aspirations have also gone up, giving rise to new social equations. Moreover, many new gender-specific initiatives, such as prevention of Domestic Violence Act, reservation for women in various public bodies, awareness about gender discrimination, sexual harassment, gender equality, etc. have been taken up to rectify this age-old bias and gender imbalances in the society.

Editorial

AS our society undergoes rapid changes, many new challenges are emerging, warranting suitable responses. Any such change creates some or the other kind of challenge for the police as well. In this edition, we will focus on Gender Policing, which is one amongst many such critical challenges. Consequent upon empowerment and rapid socio-economic progress of the ladies, their hopes and aspirations have also gone up, giving rise to new social equations. Moreover, many new gender-specific initiatives, such as prevention of Domestic Violence Act, reservation for women in various public bodies, awareness about gender discrimination, sexual harassment, gender equality, etc. have been taken up to rectify this age-old bias and gender imbalances in the society.

While all such changes are a welcome step and a must for a better society, to match up to such societal changes, there has been a modest addition of women Police personnel in our Police Force, but it has not proved to be as effective. There still exists hiatus between police and women community, and a trust deficit characterizes their mutual relations. The induction of women personnel, training and general orientation about gender sensitivity issues, opening of special cells dealing with crime against women and other initiatives have also not proved to be as fruitful.

Though overall nature and organization of police and the socio-cultural milieu in which it has to operate do factor in handling of sensitive aspects, such as Gender Policing but, at the same time, larger role of patriarchy must not be overlooked. Before making any training programs and recruitment intervention in this regard, role of patriarchy and its conditioning must be given a serious consideration. Most feminists believe that traditional gender roles are oppressive for women. Their belief is based on assumption that female gender role was construed as an opposite to an ideal male, and thus helps to enable patriarchy. Without looking into patriarchy and its oppressive and rigid role in shaping the mindsets of the



society and its unit (individual), any lateral or horizontal addition and restructuring of organizational role and behaviour would not be effective so far as Gender Policing is considered.

In this issue of Indian Police Journal (October - December 2010), we will discuss various challenges, such as domestic violence, sexual harassment, dowry deaths and patriarchy, pornography, etc. and initiatives by police to counter such challenges.

We hope that our esteemed readers would appreciate our efforts. We would appreciate your valuable feedback.

(Gopal K.N. Chowdhary)
Editor

Most feminists believe that traditional gender roles are oppressive for women. Their belief is based on assumption that female gender role was construed as an opposite to an ideal male, and thus helps to enable patriarchy. Without looking into patriarchy and its oppressive and rigid role in shaping the mindsets of the society and its unit (individual), any lateral or horizontal addition and restructuring of organizational role and behaviour would not be effective so far as Gender Policing is considered.



The ultimate challenge is to prevent and eventually eliminate all forms of domestic violence and the immediate task is to support and offer choices to those women living in violent situations or who have suffered any form of domestic violence.

Abstracts & Keywords

Impact of Domestic Violence on Woman Victims

Dr. Darshan Singh & Vanita Dhingra

Keywords

Violence, Human Rights, Violation, Unequal Power Relations, Structural Adjustment, Empowerment Psychological, Physical Scar.

Abstract

As the Indian society is passing through a transition phase of social development, a lot of problems have emerged inevitably in the process and the domestic violence is also one of them. Domestic violence is the result of various socio-psychological, cultural and economic factors. Domestic violence against woman, whether physical or non-physical in nature, has far-reaching consequences and overall impact on gender identity formation. The ultimate challenge is to prevent and eventually eliminate all forms of domestic violence and the immediate task is to support and offer choices to those women living in violent situations or who have suffered any form of domestic violence. Keeping in view the complex and sensitive nature of the issue of domestic violence, the response to such violence is typically needed a combined effort from Law Enforcement Agencies, the courts, social service agencies, correctional agencies and the civil societies.

Sexual Harassment of Women at Workplace

Rufus, D. & Dr. Beulah

Keywords

Sexual Harassment, Victims, Victimization, Women, Workplace.

Abstract

The workplace is emerging as an increasing important site of sexual harassment encounters. "Sexual harassment at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated and there can be no compromise with such violations" – A.S. Anand, Former Chief Justice of Supreme Court of India. The Supreme Court judgement on sexual harassment, 14th August, 1997, for the first time (*Vishaka & Ors. v. State of Rajasthan & Ors.*), identified sexual harassment as a separate category of legally prohibitive behaviour. In contrast, a universally accepted definition of sexual harassment has not yet emerged.

The purpose of this research article is to gather and disseminate matters of importance with regard to sexual harassment at workplace, such as the definitions, nature and extent of the problem by investigating earlier studies in India and other countries, impact and consequences of sexual harassment, legal status in India, and to discuss how this problem is a violation of human rights. In final, the paper attempts to put forward the possible suggestion to protect the women from workplace harassment. On the whole, the authors are keen to generate a general awareness on seriousness of workplace sexual harassment through this article.

Secondary Victims: Understanding the Role of Mothers' Incarceration

Dr. Shereen Sadique

Keywords

Mother's Incarceration, Secondary Victim, Human Right Asset of Nation, National Charter for Children, Deprivation, Negative Impact.



Abstract

In India, female prisoners, whose children have not reached the age of six years, can keep such children along with them in prison. Such children stay in prison due to their tender age or because there is no one at home to look after them in the absence of their mother. Prisons are daunting places for an adult; they are probably far worse for children. The atmosphere in prison is not at all conducive to their growth and development during their formative years. They grow up in an environment of violence, insensitivity and abusive language. The children living with their mother in jails are being deprived of their basic rights, entitlements and amenities. The diet being provided to such children is insufficient and non-nutritional. Health services are very poor. There are no facilities for prenatal and post-natal care of mothers. Immunization is not provided on regular basis. There is no arrangement for pediatrician and nurse. Medicines for such children are not available in jails. There is no arrangement for elementary education of such children. Recreational facilities are almost nil. No facility of clothing and bedding is available to such children. Such children constitute a particularly vulnerable category.

Working Women and the Glass Ceiling

Dr. S. Sanyal

Keywords

Glass Ceiling, Patriarchy, Gender Pay Parity, Economic Participation, Empowerment.

Abstract

Talks of empowerment notwithstanding, the glass ceiling still exists for working women.

Most feminists argue that traditional gender roles are oppressive for women. They assume that the female gender role was constructed as an opposite to an ideal male role, and helps to perpetuate patriarchy. For the last 100 years or more, women have been fighting for equality. In the 1960s, the second wave of feminism and radical feminism, which are the most notable feminist movements, were able to bring changes to the traditionally accepted feminized gender role.

However, it is believed that much still needs to be done to bring a total gender equality.

Undoubtedly, with the demand for the empowerment of women, the labour market has seen a significant change with more and more women joining the workforce, yet the glass ceiling - the invisible barrier - stands. The pay gap between women and men still exists in most countries; women are also more likely than men to be found in the lower paid and least secure jobs; unemployment rates have been always higher in the case of women than men.

Women employees in India are still fighting an uphill battle for level pegging in areas such as equal pay for equal work. In a survey done by Sakshi on 2,400 men and women in a cross-section of workplaces and hierarchies, it was seen that 80% of respondents said sexual harassment existed at their workplace and 53% said men and women did not have equal opportunities at work. Frequently, managements pressured the victim to withdraw the complaint.

The present paper highlights, on the basis of some studies, the glass ceiling, which persists in the workplace and is repressive for women, and seeks to explore ways to break this invisible barrier, so that more success stories can be added.

For the last 100 years or more, women have been fighting for equality. In the 1960s, the second wave of feminism and radical feminism, which are the most notable feminist movements, were able to bring changes to the traditionally accepted feminized gender role.



A smooth liaison between ISPs and Law Enforcement Agencies is very much essential. Government's preferred option in relation to ISPs should be of self-regulation rather than control by legislation. ISPs should be encouraged to produce codes of practice to control access to illegal and unsuitable material.

Abstracts & Keywords

Regulation of Pornography on Internet-Issues

Krishna Sastry Pendyala & Anjana Sinha

Keywords

Cyber-pornography, Regulation, Self-regulation, External Regulation, BBS, P2P, TGP, ISP, IT Act, 2000.

Abstract

The production of erotic literature and drawings depicting women and children as sexual objects has existed through the ages. The advent of the Internet in the 1980s has escalated the problem of pornography. The widespread availability of pornography on the Internet has stirred up a "moral panic" shared by the Government, Law Enforcement bodies and public. The structure of the Internet, the uncertainties of jurisdiction, the lack of regulation, the differences in legislation, the know-how of criminals, rapid advancements in technology are posing challenges to Law Enforcement Agencies. If illegal and harmful content on the Internet needs to be regulated, then the question is, how should this be achieved? By no regulation or by self-regulation or by external regulation? Combating the problem of cyber - pornography requires a multifaceted defence. Indian approach to cyber - pornography is so far reactive, but not proactive. Due to limited resources, self-regulation is ideal for Indian environment. A smooth liaison between ISPs and Law Enforcement Agencies is very much essential. Government's preferred option in relation to ISPs should be of self-regulation rather than control by legislation. ISPs should be encouraged to produce codes of practice to control access to illegal and unsuitable material.

Dowry Deaths and Patriarchy in Punjab

Dr. Roop Kamal Kaur

Keywords

Patriarchy, Feminism, Womanhood, Heinous Crime, Green Revolution, Principal Actor.

Abstract

The officially reported incidents of dowry deaths in India have increased from 4,215 in 1989 to 7,026 in 2004, registering an increase of more than 67% in 15 years. How did it happen? How do we explain this aberration in an advanced society of the country?

Internet – A Dangerous Web for Women

B. Geetha & R. Pagutharivu

Keywords

Internet, Dangerous Web, E-governance, Internet-stalkers, Cyber-defamation, Cyber-stalking, E-mail Spoofing, Pronography.

Abstract

Women, as a section of the society, are always a vulnerable group. Development in the field of Information and Technology (IT) had created changes in the life of the women too. Number of women professionals in the field of IT is increasing day by day. The exact percentage of women at various levels in the Indian IT industry is not available due to the lack of gender disaggregated data in existing literature. National Association of Software and Service Companies (NASSCOM) (2001) estimated that women constituted 21% of the total IT workforce. IT field has given better scope for women to work at all levels of job. The development of IT in Asia has had a clear impact on women. The new cyber culture of Asia has brought about new relations between women and men neither in the workplace, nor in cyberspace. Communication via Internet is itself cultured and strongly shaped by the communication needs and styles of class and gender (Govind Kelkar, 2007). These are the icing side of the cake, but the flip side states women are victims of several problems created in the Information Technology era. Internet and cellular phones are some of the modern gadgets, which produce worse effect on women. Present paper analyses the young women's view about the crime and the violence against women through Internet and cellular phone.



Latent Fingerprints of Children: Effect of Nutrition Status on Development of Prints

O.P. Jasuja, Harsimran Kaur & Gagandeep Singh

Keywords

Forensic Science, Latent Fingerprints, Children, Nutrition.

Abstract

Fingerprints are considered one of the most important physical evidence at the scene of occurrence of crime. These need to be visualized when present in latent form, for which many physical and chemical methods are suggested. The visualization of these latent fingerprints depend largely on quantity of fingerprint residue deposits on the surface at the time of development, the type of surface on which these prints are present and the method used to make them visual. Quantity of the residue deposit at the time of development may be affected by the time elapsed between deposition of prints and time of development as well as on the individual who has deposited the prints. It may also depend upon the age of the depositor of the latent fingerprints. Several studies on this aspect have been published in which composition of latent fingerprint residue from children as well as adults was examined to see any difference. But, to the best of our knowledge, no systematic studies are available to report any effect of nutrition on the development of fingerprints with respect to certain methods of development, especially in case of children. Therefore, in present study, comparison of developed latent fingerprints of two different categories (poor nutrition and good nutrition) of children with two different methods has been carried out to report their response.

Dial Your SP-PPPP Tool of Governance

Dr. A. Ravi Shankar

Keywords

Communication, Catharsis, Dial, Grievances, Complaints, Maoists, Insurgents, Expenditure, Governance, Crime Mapping, Law & Order, Phone Call, Partnership, Linkages, Press, Media, Police, Interference, Discipline, Analyzed.

Abstract

Communication of Police with the citizens and listening to their woes has been the biggest casualty in the emerging law and order situation with 3/4th of the country being plagued with Maoist and insurgent activities, and the gap between Police and Administration on one side and people on the other, is widening. Thus, in a way, we were playing into the broader strategy of the outlawed groups.

Public have no channel to vent out their grievances without spending money, travelling, engaging a lawyer, foregoing a day's wages, applying casual leave, taking help of a powerful politician, known broker, mediator, going to Press or Media for investigative journalism. In Maoist-affected areas, people visiting Police Station ran the grave risk of being branded as police informers and getting killed. The connection with remote and rural areas was getting blurred in the eyes of Administration and Police. Visiting villages/remote areas regularly carried a lot of risk even for police and the administrative machinery. Corruption, lack of transparency, no feedback on complaints, no time-bound response, no checks and balances in police response, delay, role of mediators, effort and time involved in seeking justice, was leading to disillusionment. It was an imminent felt need of police and demand from public to bridge the widening gap.

Failure to collect the available evidence is perfunctory investigation and the failure to send the collected evidence to court is tainted investigation. Sub-standard investigation always is the contributing factor for letting the real culprits at large. Hence, a standard format has been formulated to guide the Investigating Officers as a measure to improve the standard of investigation.



Emotional Intelligence is seen as an important factor for enhancing leadership effectiveness because of its emphasis on people and interpersonal relationships. The psychological profile of Indian Policemen is, therefore, in need of repair. The sooner it is done, the better. This paper attempts to consider the need for the Indian Police to embrace EI.

Abstracts & Keywords

Under these demanding circumstances “Dial your SP” program was conducted in Guntur and Nizamabad Districts by giving wide publicity about the day, time and contact number. Making it convenient for common people to bring their problem to the notice of SP/DSP directly through a telephone call from anywhere, when the SP is dedicatedly available on phone for one full hour, every week exclusively to listen to complaints of the public in front of Press, Media & Police and solve their problem without the complainant running from pillar to post at the District Headquarters. Action taken is intimated to the caller; A Press note on action taken on all complaints is also issued before the next program.

Emotional Intelligence : Its Usefulness in Policing

Ajit Yadav

Keywords

Emotional Intelligence, Police, Motivation, PTO, PBL, Learning, Competencies, Stress, Attitude, Interpersonal Relationship.

Abstract

Any attempt to ascertain the psychology of police in the present context poses a big challenge. The reasons responsible for this are not far to seek. Actually, the factors are many and the nature of their involvement keeps changing with every significant crisis, which the police grapple with. Emotional Intelligence is seen as an important factor for enhancing leadership effectiveness because of its emphasis on people and interpersonal relationships. The psychological profile of Indian Policemen is, therefore, in need of repair. The sooner it is done, the better. This paper attempts to consider the need for the Indian Police to embrace EI.

Plea Bargaining – A New Trend in Criminal Justice System

Inderpreet Kaur

Keywords

Plea Bargaining, Public Exchequer, Unpredictable Trials, Malimath Committee, Criminal Justice System, Charge Bargaining, Sentence Bargaining, Fact Bargaining

Abstract

A suspect may be advised to admit part or all the crime charged in return for a specified punishment or rather than await trial with the possibility of either acquittal or a more serious punishment. Plea bargaining, as most criminal justice reformers believe, is more suitable, flexible and better fitted to the needs to the society, as it might be helpful in recurring admissions in cases where it might be difficult to prove the charge laid against the accused.

Improving the Standard of Investigation

K.P.S. Jeyachandran

Keywords

Investigation, Standard of Investigation, Successful Prosecution, I.O. (Investigating Officer), SOC (Scene of Crime), CD (Case Diary), MVI's (Motor Vehicle Inspector's) Report, Observations of Superior Courts, Mandatory Procedures.

Abstract

Investigation is the collection of oral and documentary evidences apart from the material objects and other relevant facts to prove the guilt of the accused. Exploring the crime with innovative common sense and keen observation are of prime importance in the detection of crime. Failure to collect the available evidence is perfunctory investigation and the failure to send the collected



evidence to court is tainted investigation. Sub-standard investigation always is the contributing factor for letting the real culprits at large. Hence, a standard format has been formulated to guide the Investigating Officers as a measure to improve the standard of investigation.

Criminal Administration in the Non-tribal Areas of Manipur

E. Pendra Moon

Keywords

CCP, Backward State, Legal Quibbles, Evasion, Tricks, Terrorist Movement, Communist, Conspiracy Case.

Abstract

This backward state of affairs is paralleled by the simplicity, if one may so put it, both of the accused and of the bar. Not that the Manipuris are innocent of crime. On the contrary, crime, including dacoity and murder, is fairly high and decidedly above the level of an average Assam district. The Manipuris, of whom there are sizeable communities in Cachar District and Tripura, are, in fact, noted for their comparative turbulence. But, the Manipuri criminal is generally a simple fellow. The net result is that if the police are vigorously led—as they have been since integration—criminal justice can be meted out in quite a straightforward and satisfactory manner.



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Keywords

Violence
Human Rights
Violation
Unequal Power
Relations
Structural Adjustment
Empowerment
Psychological
Physical Scar

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Impact of Domestic Violence on Woman Victims

Dr. Darshan Singh* & Vanita Dhingra**

Introduction

VIOLENCE against women is a worldwide phenomenon and considered as the most pervasive human rights violation in the world today. It is the manifestation of a historically unequal power relationship between men and women. It is a conditioned response and is not natural or born of biological determinism. In the olden days, violence against women was a result of the prevalent atmosphere of ignorance and feudalism. Violence against women in the present time seems to be an uncontrollable phenomenon, which is directly attributed to the rapid urbanization, industrialization and structural adjustment programmes initiated to change the socio-economic scenario of our country. In this land where non-violence has been preached as a way of life for thousands of years and where women have been worshipped in the image of Durga, Saraswati and Lakshmi, it is shocking to observe the brutal reality of women existence (Sharma, 2000).

Women have been subject to rape, teasing, mutilation, battering, burning and even murder, both within home and outside the boundaries of home. The data available regarding violence against women shows that there has been a considerable increase in the cases of domestic violence against women and the number is going up constantly. The National Crime Records Bureau says that in the year 2003, 50,703 cases of domestic violence were reported, which rose to 75,930 in 2007. Incidents of domestic violence have risen over the last five years by 67%. It is also reported that around 42% of the crimes against women being perpetrated by family members in India. Presently, 208 women on an average are reported to face domestic violence everyday in comparison to

139 women in the year 2003. It is an abnormal situation in the country like ours where women dignity was respected as goddess.

Definition

The draft of the United Nations Declaration on the Elimination of Violence against Women (1993) defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Whereas the Protection of Women against Domestic Violence Act, 2005 defines domestic violence as any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. Thus, the term domestic violence has a wider scope as it covers minor incidences of violence like verbal abuse to serious nature of offences like sexual abuse and honour killing, etc.

The role of the life partner in inflicting violence to women has become a major concern in public health in the present time. The incidences of violence against women is directly attributed to the loss of health among the women repeatedly subjected to violence. Their health - mental, physical and psychological, is badly damaged when they are battered and abused by their own or dear ones. The scares of bruises can heal, but emotional wounds specifically inflicted by family members last for ever (Nagda, 2002). Thus, the side effect of violence on women is not usually



Impact of Domestic Violence on Woman Victims

calculated when we estimate the impact of domestic violence. Domestic violence not only affects the health of women, but also has a very bad effect on the health of their children.

The demographic and health statistics related to women indicate that health conditions of Indian women are not as good as their counterparts. The sex ratio in India is only 933 women per 1,000 men. About 20 million Indian women are currently missing not because of nature, but deliberate acts of the people themselves. The incidences of maternal mortality and sex selective mortality are increasing in our country.

Physical & Psychological Effects

Domestic violence impacts women's health because it restricts their overall development directly and indirectly. In some instances, women suffer serious physical injuries, like fractures, major or minor cuts that have a major impact on women's physical and mental health. The consequences of violence can lead to depression and psychological breakdown. It also adversely affects the reproductive health of the women, such as unwanted pregnancy, the transmission of STI's/HIV, low birth weight babies, forced abortions and sex selective abortions.

Jaswal (2002) tried to link the relationship between violence and women's health by examining records at health facilities. A total of 12,987 cases in medical college-cum-hospital and community-based health facilities were analyzed. Women in the age-group of 18-30 years reported the most incidents of violence and women with chronic illness, such as tuberculosis, gynaecological morbidity were found to report a higher level of domestic violence. In another study, Nair (2000) found that it is expressed by both men and women that women suffered physical and psychological health problems due to violence. Several types of injuries, such as minor and major cuts, protuberances, swellings, fractures, body ache, pain in the abdomen, biddy bums, and pain and swellings as a result of coercive sex were mentioned. Women reportedly experienced

uneasy feelings and felt mentally disturbed because of continued violence. Many women reported self-neglect and even contemplated suicide. Moreover, WHO, 2002, in its report indicated that around the world, the women who suffered partner violence, has shown mental health problems, emotional distress and suicidal behaviour. The verbal emotional violence against women resulted in deterioration of their mental health and leaves a permanent scar on their womanhood and destroys the dignity of a woman. The dream of a better half changed into the reality of bitter half. The need for healthy food and good clothes are not fulfilled. The charming sexual desires change into the harmful sexual violence. The victims of domestic violence are more prone to the emotional and sexual abuse by their male colleagues. Sometime, the woman victims are labelled or compelled to indulge in unsocial activities like extramarital affairs, theft at home etc., which further aggravated their family life.

Domestic violence not only affects the women internally, but her external world is also affected. As a result of violence, she has to face restrictions on her right to spend money and even blocked for external help to fulfil the basic need of her own and the children. Neighbours and friends, who have sympathetic attitude towards the woman victims, try to refrain themselves to have close relations in the quarrelsome family. Thus, the incidences of domestic violence have not only physical and psychological consequences on women life, but affect them socially also.

The above discussion reflects that the incidences of domestic violence are on increase and have direct social and psychological consequences on the behaviour of the woman victims. As the women constitute the significant and vulnerable portion of our population, it is imperative to know the nature and magnitude of the problem of domestic violence and its impact on the woman victims. In the present paper, an attempt has been made to highlight the impact of domestic violence on woman victims. The incidence of domestic violence in the family not only damages the quality of life of the woman victims, but also

Abstract

As the Indian society is passing through a transition phase of social development, a lot of problems have emerged inevitably in the process and the domestic violence is also one of them. Domestic violence is the result of various socio-psychological, cultural and economic factors. Domestic violence against woman whether physical or non-physical in nature has far reaching consequences and overall impact on gender identity formation. The ultimate challenge is to



Impact of Domestic Violence on Woman Victims

prevent and eventually eliminate all forms of domestic violence and the immediate task is to support and offer choices to those women living in violent situations or who have suffered any form of domestic violence. Keeping in view the complex and sensitive nature of the issue of domestic violence, the response to such violence is typically needed a combined efforts from law enforcement agencies, the courts, social service agencies, correctional agencies and the civil societies.

the whole family. The experience of violence and the silent acceptance of violence by women undermine attempts to empower women and will continue to be barriers to the achievement of demographic, health and socio-economic development goal. Thus, the present study has been conducted to focus upon the following objectives:

Objectives

- To know the demographic profile of the respondents;
- To discuss the socio-economic and psychological impact of domestic violence on woman victims; and
- To suggest various measures to curb the problem of domestic violence.

Methodology

The universe of the present study entitled "Impact of Domestic Violence on Woman Victims and their Children" is the State of Haryana. The study is based upon primary data of 200 woman victims of domestic violence covering four Districts of Haryana, who have visited Family Counselling Centres for the redress of their familial conflicts. The sample was selected proportionately and randomly from each randomly selected Family Counselling Centre from four Administrative Divisions of Haryana State, i.e. Ambala, Rohtak, Gurgaon and Hissar.

Discussion

Violence of any sort usually leaves some marks behind; it may also cause long-term psycho-social and economic damages and problems depending upon the severity of violence. The incidences of violence are always painful for the victims and their family members. Women and children are the primary victims of the violence and, therefore, suffer the most. In the following discussion, attempt have been made to analyze the profile of victims of domestic violence, nature of impact of domestic violence on woman victims and their

children and remedies to prevent and reduce the incidences of domestic violence.

Table 1: Profile of the respondents

Background characteristics		No.	%age
Caste	SC	55	27.5
	BC	70	35.0
	Others	75	37.5
Locality	Rural	109	54.5
	Urban	91	45.5
Type of Family	Joint	107	53.5
	Nuclear	93	46.5
Age of the Respondents	Below 21 yrs.	15	07.5
	22 yrs. to 30 yrs.	139	69.5
	31 yrs. to 40 yrs.	41	20.5
	Above 40 years	05	02.5
Educational Level	Illiterate	84	42.0
	Primary	32	16.0
	Middle	38	19.0
	Matric	23	11.5
	Secondary School	21	10.5
	Above	02	01.0
Working Status	Housewife	159	79.5
	Working Outside	41	20.5

(N = 200)

The data presented in the above Table reveals that the women from non-scheduled castes formed the largest group (37.5%), followed by 35% and 27.50% woman victims, who belong to backward castes and scheduled castes respectively. The data further shows that around 12.50% woman victims were from the age group, of 31 to 35 years and only 7.5% were below the age of 21 years.

The data presented in the above Table reveals that 53.50% woman victims belong to joint families and 46.50% to nuclear families. 54.5% respondents belong to rural community and only 45.5% woman victims are from urban community. It shows that the problem is not confined to urban and educated people only.

The educational profile of women in the study reveals that 42% of the sampled woman victims



Impact of Domestic Violence on Woman Victims

of domestic violence are illiterate, followed by 19%, who have completed middle level schooling, 16%, 11.50% and 10.50% who have completed the education upto 8th, 5th, 10th and 10+2 level respectively. Only 1% can go beyond 12th standard. The woman victims with higher educational qualification were very few. Women with higher educational background are either capable of managing the affairs themselves and do not need external support.

The data in *Table 1* reveals a large number of women victims of domestic violence (79.5%) are involved in household activities. Only 20.5% women are involved in gainful outdoor activities like sweeperess, maidservant, labourers, etc. It is clear from the above analysis that the problem of domestic violence is not confined to any specific group of the society, but is practiced universally in all the sections.

Impact on Health of Women

Domestic violence affects the health of women, because directly or indirectly it restricts the overall development of women. Domestic violence has negative effect on reproductive health of a woman victim, such as unwanted pregnancies, transmission of STDs, forced abortions, or sex selective abortions. The demographic and health statistics of women revealed that maternal mortality and sex selective abortion rate is still higher in India. The studies in India have shown that about half of the women suffer from anaemia and two-thirds suffer from gynaecological diseases.

Table 2: Impact on health of women

	Impact on health	No.	%age
1.	Unwanted/unplanned Pregnancies	24	12.0
2.	Sex selective abortion	6	3.0
3.	Forced abortion	11	5.5
4.	Miscarriage	33	16.5
5.	Low birth weight babies	20	1.0
6.	Sexually transmitted diseases	4	2.0
7.	Anaemia	137	68.5
8.	Blood Pressure	131	65.5
9.	Body Pain	145	72.5
10.	Migraine	115	57.5

(Total number of Women - 200)

The data in the *Table 2* shows that anaemia, blood pressure whether high or low and body pain are the most prevalent health problems, faced by the two-third woman victims of domestic violence. Around 57.5% women are suffering from migraine, followed by 55% women, who were forced to abort the baby against their will. The reported severity of violence was so drastic that 16.5% women had to face the problem of miscarriage due to battering by their husband and other family members. It is also expressed by the 12% women that due to forced sex by their husbands they had unwanted or unplanned pregnancies and further 10% of the woman victims of domestic violence reported that their new-born babies were of low weight due to frequent abortions and miscarriage and lack of proper diet and care. It has been also expressed by the 3% women victims of domestic violence that they have faced the agony of sex selective abortions and they are of the firm view that they did not want such practice or social evil to continue to restore the natural and normal life in the society, and only 2% women were having sexually transmitted diseases. It is clear from the above analysis that the incidences of violence in the homes against women affect the physical health of the victims adversely and inhumanly, which make them realize their subordinate position in the patriarchal society.

Non-Fulfilment of Needs of Women

The institution of marriage is secret one, which assigned obligation on the part of the husband and the family members to properly look after and support the new member (bride) in their family. But, the picture in families of victims of domestic violence seems to be contrary to it. Women suffered from domestic violence are subject to ill-treatment in the hands of family members of their in-laws. Such incidences of domestic violence not only deteriorate health of the women, but also make them deprived of their basic and essential needs. The family members enjoy seductively by depriving the woman victims of their basic needs and also use it as method of harassment against them. Such behaviour of the family members leaves a permanent scar on the womanhood of the woman victims. They are made a bare instrument

The demographic and health statistics of women revealed that maternal mortality and sex selective abortion rate is still higher in India. The studies in India have shown that about half of the women suffer from anaemia and two-thirds suffer from gynaecological diseases.



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of sexual acts and often, this charming sexual desire changes into the harmful sexual violence also.

Table 3: Non-fulfilment of needs of women

	Needs	No.	%age
1.	Food	104	52.0
2.	Clothes	104	52.0
3.	Education	43	21.5
4.	Sexual need	58	29.0
5.	Health need	114	57.0
6.	Social and religious needs	67	33.5
7.	Recreational needs	111	55.5
8.	Any other	5	2.5

(Total Number of Women - 200)

The data in the above Table reveals that the basic needs of food and clothing of more than 50% of the women sufferer of domestic violence have not been fulfilled by their family members adequately. Around 57% of respondents reported that they have been deprived of medical treatment in cases of minor ailment, followed by 55.5% women, who complained that their husbands did not take care of their recreational needs and they are merely treated as an object of sexual use. They never showed interest to accompany their wives on any recreational activity/visit even with their children. Conflict among the family members particularly between husband and wife has direct bearing on their sexual life. In the present study, around 29% women, who are victims of family violence, has reported dissatisfaction with their sexual relationships with their husbands. Generally, the families, who are involved in the act of domestic violence, do not enjoy good respect among the neighbours. They try to restrict the movement of woman victims of domestic violence because of the fear of sharing the act of violence. The figure in the present study revealed that more than 33% women are of the view that they were restricted to go outside the home to visit their neighbourhood or any other religious or social gathering, especially by their mother-in-laws and because of the doubtful nature of the husbands. Thus, the deprivation of the basic and primary needs of the

woman at home is the cause and consequences of the phenomena of domestic violence in our society.

Psychological Impact on Women

Domestic violence not only affects the physical health of the women who suffered violence in the hands of their family members, but have some psychological consequences also. Women feel mentally disturbed, depressed or disgusted because of the experience of violence in the families. Feelings of guilt, sorrow, low self-confidence, loss of identity or self-worth are some other negative consequences of domestic violence. Around the world, mental health problems, emotional distress and suicidal behaviour are common among women, who have suffered partner violence (WHO, 2002). Domestic violence has a major impact on the mental health of the woman victims. The consequences of violence can lead to depression and psychological breakdown among the woman victims.

Table 4: Psychological impact on women

	Behaviour exhibited	No.	%age
1.	Confused	120	60.0
2.	Upset	161	80.5
3.	Angry	88	44.0
4.	Sad	148	74.0
5.	Trapped	20	10.0
6.	Feeling not trusted	50	25.0
7.	Guilty	38	19.0
8.	Revengeful	18	9.0
9.	Helpless	131	65.5
10.	Suicide	29	14.5
11.	Tension	166	83.0
12.	Stressed/Pressured	96	48.0
13.	Hopeful	32	16.0
14.	Determined to confront violence	22	11.0
15.	Fearful	82	41.0

(Total Number of Women - 200)

Every act of violence against the women in the family directly affects their feelings and emotions

Generally, the families, who are involved in the act of domestic violence, do not enjoy good respect among the neighbours. They try to restrict the movement of women victims of domestic violence because of the fear of sharing of act of violence.



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as women are considered more sensitive than their counterparts. They have the tendencies of non-exhibition of such feeling openly either in the family or outside. However, in the present study, it was reported by more than 80% of the respondents that they were upset and tensed after the incidences of violence exhibited against them by the family members and around 60 to 65% women affected by violence have developed the feeling of confusion and helplessness. They did not even understand what to do or what not to do in such situations. Around 48% victims are under stress and pressure of their family members to reconcile with the abuses. As much as 44% women are full of anger towards their husbands due to their drinking behaviour and abusive, language, whereas 25% women have lost trust over themselves and on their husbands because they, many a time, ask for forgiveness, but their entire behaviour is in vain. Due to the impact of domestic violence, around 14.5% women have tried to finish their lives by consuming some poison or by hanging them, but they were being survived by their relatives and neighbourhoods.

As much as 11% women have determined to confront the violence being committed by their husbands and in-laws. But, not more than 10% women felt that they were being trapped through marriage and now all doors were closed to them. On the other hand, 9% women were revengeful. They wanted a hard treatment to be meted out to their husbands for their violent acts.

More than 40% women are fearful about the status of their parental and matrimonial family that will go down during the proceedings of Family Counselling Centres. But, 19% women are suffering from guilt feeling as they bring this issue in Family Counselling Centres and their patriarchal norms did not allow them to do this. Whereas 16% women are still hopeful that they can revive their relationship with the help of these centres.

Economic Impact of Violence

Money is somehow or somewhere not the cause of violence as it comes as an effect of

violence. It can instigate domestic violence in the forms of dowry demands, husbands' or wives' employment/earnings, demand for alcohol/drugs purchase, etc. As an effect of violence the perpetrator doesn't give economic freedom to the victim of domestic violence.

Table 5: Economic impact of violence

	Economic aspects	No.	%age
1.	No freedom to spend money	138	69.0
2.	Grab money earned by you	62	31.0
3.	Snatch money or gifts given by your parents	53	26.5
4.	No custody of valuable items	51	25.5
5.	No money to fulfil basic needs of the kids and yours	77	38.5

(Total Number of Women - 200)

The data in the *Table 5* shows that around 70% of the woman victims did not have freedom to spend money at their own choices. She has to take permission for each of her need and necessity, followed by 38.5% women whose husband did not give money even to fulfil the basic needs of the kids and her own. She has to beg from her husband. Around 31% women complained that the money earned by them is grabbed by their husbands to fulfil the alcoholic or other needs. Whereas 26.5% women informed that their husbands and in-laws also snatched the gifts or money being given by their parents or relatives. More than 25% women do not have the custody of their gold ornaments or other valuable items in the house.

Impact on Social Life of the Women

Due to the domestic violence, not only the health of women got affected, but it made adverse effect on the social relationships and interactions of the women also. Around 50 to 60% of women victims told that so far as the friends and relatives got aware of the violence perpetrated against them, their attitudes became sympathetic towards them.

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Impact of Domestic Violence on Woman Victims

The problem of marital discord faced by the woman victims of domestic violence is quite complex in nature. They need different type of assistance and support and guidance to face the crisis in their life. There is a need to change the attitude of the people, so that the problem of domestic violence may be curbed from its root.

Table 6: Impact on social life of the women

	Aspects of social life	No.	%age
1.	Sympathetic attitude of the friends	102	51.0
2.	Emotional or sexual abuse by male colleagues or friends	9	4.5
3.	Sympathetic attitude of relatives	116	58.0
4.	Avoid public gathering	50	25.0
5.	Visits of guests are reduced	54	27.0
6.	Living alone	78	39.0
7.	Indulge in unsocial activities	10	5.0

(Total Number of Women - 200)

The data also shows that 39% women are now living alone and struggling for their livelihood, followed by 27% women told that due to the effect of violence they want to avoid public gathering as people would not ask of the violence in the family. The same number of women told that the visits of guests had also reduced in their homes. Due to the impact of violence, around 4.5% women were also emotionally or sexually harassed by their male colleagues or friends and some of the woman victims also got involved in unsocial activities, i.e. extramarital affairs.

The problem of marital discord faced by the woman victims of domestic violence is quite complex in nature. They need different type of assistance and support and guidance to face the crisis in their life. There is a need to change the attitude of the people, so that the problem of domestic violence may be curbed from its root. There is need to change the process of socialization of boys and girls. Social work profession can prove to be a healer in this direction.

Suggestions for Social Intervention

As the Indian society is passing through a transition phase of social development, a lot of problems have emerged inevitably in the process and the domestic violence is also one of these. Domestic violence is the result of various socio-psychological, cultural and economic factors. Domestic violence against woman whether

physical or non-physical in nature has far-reaching consequences and overall impact on gender identity formation. This has to do with the socialization process of the two sexes, right from birth. The outlook of the society determines the kind of treatment given to a boy and a girl, opportunities, both educational and employment, resource allocation within the family and sibling relationships. There is also need to understand at wider level, the societal set-up, mindset and attitudes of the people towards the girl child.

Keeping in view the complex and sensitive nature of the issue of domestic violence, the response to such violence is typically needed a combined efforts from Law Enforcement Agencies, the Courts, social service agencies, correctional agencies and the civil societies. The role of each has been brought more into public view, so that the mindset of the people, who treat domestic violence as a personal problem of minor consequence can be changed. Education is such a strong instrument, which may enhance the competencies, resources and coping skills among the womenfolk to deal with the problem of domestic violence more efficiently in their lives. Women will never escape violence as long as they are uneducated, remain financially dependent and derive their social status exclusively from their role as a wife and mother.

The ultimate challenge is to prevent and eventually eliminate all forms of domestic violence. The immediate task is to support and offer choices to those women living in violent situations or who have suffered any form of domestic violence. A domestic violence shelter or women's shelter should be set up where abused and battered women along with their children can go to seek refuge from their abusers. All the basic needs, including food and childcare, job, and other things needed to start a new life, should be made available in these homes. The professionals engaged in shelter homes should also help the abused and battered women in getting various services, including Legal help, Counselling, Support groups, Services for their children, Employment, Health-related services, Educational opportunities and Financial assistance. The trauma of domestic



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violence can stay with her even long after her escape from the abusive situation. Counselling, therapy, and support groups for domestic abuse survivors can play an important role in helping the women to build new healthy relationships. After the trauma, the woman victim of violence may struggle with upsetting emotions, frightening memories, or a sense of constant danger and she may feel numb, disconnected, and unable to trust other people. But the treatment and support from family and friends can speed up the recovery from emotional and psychological trauma.

However, to check the phenomena of domestic violence in the society, strict implementation of 'The Protection of Women against Domestic Violence Act, 2005' is the need of hour. To assist the Protection Officer, a village level committee

of the feminist outlook persons should be constituted, who will work as snipers and help in the identification of potential cases of domestic violence. It will facilitate the Protection Officer to work with such families and extend help at the initial stage of the conflict.

Apart from it, there is need to change the mindset of the people towards women and provide equal opportunities to them in decision-making at the family, neighbourhood and community level, so that people can mutually understand the problems and appreciate the abilities of each other. This can only be achieved through generating awareness/education among the masses. The principle of non-violence towards women can bring heaven on the earth and let us make it a reality through our collective efforts. ■

REFERENCES

1. Ahuja, R. (1998). *Violence against Women*. New Delhi: Rawat Publishers.
2. Campbell J. *et al.* (2002). Intimate partner violence and physical health consequences. *Archives of Internal Medicine*, 162: 115771163.
3. Crime in India. New Delhi: NCRB, Government of India. (2007).
4. International Centre for Research on Women (ICRW), 2004, Violence against Women in India, A review of trends, Patterns and Responses.
5. International Institute for Population Sciences (2005-06). National Family Health Survey (NFHS-3), India.
6. Jaswal, S. (2000). Health Records and Domestic Violence in Thane District, Maharashtra, in *Domestic Violence in India 2: A Summary Report of Four Record Studies*. Washington DC.
7. International Centre for Research on Women and the Centre for Development and Population Activities.
8. Krug, EG *et al.*, eds. (2002). *World report on violence and health*. Geneva: World Health Organization.
9. Madhurima (1996). *Violence Against Women: Dynamics of Conjugal Relations*. New Delhi, Gyan Publishing House.
10. Mahajan, Amarjit & Madhurima (1995). *Family Violence and Abuse in India*. New Delhi: Deep & Deep.
11. Nagda, B.L. (2001). *Health Dimensions of Empowerment*. PRC Sukhadia University, Udaipur.
12. Nair, Usha (2000). *Domestic Violence and its impact on the health of women - experience from rural Vadodara, Gujarat, SORT, Vadodara - A Monograph*.
13. Sharma, Poonam (2000). Women's Rights and Human Rights. *Social Welfare*. 47 (9): 40.
14. World Health Organization (2005). *Multi-Country Study on Women's Health and Domestic Violence*. Geneva: World Health Organization.



To check the phenomena of domestic violence in the society, strict implementation of 'The Protection of Women against Domestic Violence Act, 2005' is the need of hour. To assist the Protection Officer, a village level committee of the feminist outlook persons should be constituted who will work as snipers and help in the identification of potential cases of domestic violence.



Keywords

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Sexual Harassment of Women at Workplace

Rufus, D.* & Dr. Beulah**

Introduction

SEXUAL harassment is an important legal issue affecting women. Sexual harassment, a term that came into use in 1976, is recognized as a form of sex discrimination (Mackinnon, 1978). It includes variety of overtly sexual behaviour, such as touching, teasing and making comments about a woman's appearance (Gregory, 2003, p.150). Some analysts contend, for example, that rapid changes in economic, social and political structures have had a 'de-masculinizing' effect on men, thus creating a crisis in masculinity. As a result, men may turn to other means to affirm their masculinity, such as reckless sexual behaviour and violence. Women and children become easy targets in these circumstances as they represent vulnerable groups in many social constructs (Cleaver, 2000).

Working class women in offices, factories and at their workplaces are victims of insult, comments behaviours of co-workers and their authorities. But, most of these offences go unreported. Approximately, fifteen years back, the women police workers of Bangalore Central Jail reported sexual torture by some of the superior officers ('Sambad' – Oriya daily, 1995) and women announcers of airport also reported misbehaviours by their managers at the workplace ('Pragatibadi' – Oriya daily, 1995).

In one of the landmark judgements in India's judicial history, the Supreme Court of India on August 13, 1997 recognized sexual harassment of women at their workplace as a pervasive experience and brought the violation within the purview of human rights law. International covenants and instruments, such as Convention on the Elimination of All Forms of Discrimination

against Women (CEDAW) were recalled by the Hon'ble Court to promote the object of Constitutional guarantee (Gupta & Hajra, 2007).

The word 'sexual harassment' has become a "silent epidemic", with more and more cases of molestation and sexual assault being reported from college campuses and workplaces. "It's a very complex issue, involving legal, cultural and psychological aspects. It requires a multidimensional response. Part of the problem in India, is that there is no specific legislation dealing with sexual harassment except some criminal laws dealing with rape and sexual assaults (Chand, 2009). The major purpose of this theoretical research article is to generate a general awareness on seriousness of workplace sexual harassment.

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Two Forms of Sexual Harassment

The vulnerability of women, low wages, poor economic conditions prevalent at homes, insecurity of jobs, absence of legislative measures and a host of other reasons are responsible for victimization of working women due to sexual harassment

- **Quid pro quo:** Simply put, it means 'this for that'. *Quid pro quo* harassment occurs if something is given or promised in exchange for sexual favours (for example, giving promotion or other work benefits in return for sex).
- **Hostile work environment:** Less clear, and undoubtedly more pervasive is the situation in which sexual harassment simply makes the workplace unbearable. Though '*Quid*



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pro quo and hostile work environment' are two specific forms of sexual harassment, they do not occur in isolation and one may (and very often does) lead to another. It is, therefore, the responsibility of the employers to ensure that their workplaces are free from sexual harassment.

Definition

What amounts to sexual harassment? According to Vishaka guidelines (1997), sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- Physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remarks;
- Showing pornography; and
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Nature & Extent of Sexual Harassment

The following illustrative reviews would cover the essential understanding of nature and extent of the problem of sexual harassment in India and other countries. According to an All India Survey conducted on behalf of the National Commission for Women, even a year after the Supreme Court ruling, 84.97% of the respondents were still unaware that such a means existed. Only 11.47% of the respondents were aware that they could seek help. Around 46.58% of the women suffered mental agony at work as a result of such sexual harassment, while 25.17% were subjected to unwanted physical contact (Sikri, 1999). The following harassments are illustration of power imbalance: On October 20, 2004, students beat up an Anatomy Professor from Versova, Andheri, for alleged sexual misconduct ('The Indian Express', Mumbai Newslines). Sexual harassment by the Senior Manager of Infosys (Nair, 2003), the Medha Kotwal petition on Sexual Harassment of a Ph.D. student by her guide at M.S. University, Vadodara, complains against a Senior Professor at Lucknow University ('The Times of India', 2003).

Infochange news online (2005) noticed that some noteworthy complaints of Sexual Harassment at Workplace (SHW) that came into the national limelight were as follows:

- Rupan Deol Bajaj, an IAS Officer in Chandigarh, against 'super cop' K.P.S. Gill.
- An activist from the All India Democratic Women's Association, against the Environment Minister, in Dehra Dun.
- An air hostess against her colleague Mahesh Kumar Lala, in Mumbai.
- An IAS Officer in Thiruvananthapuram, against the State Minister.

Thus, incidence of sexual harassment has been committed against women at workplaces, including the educational institutions.

In their research work conducted in Tirunelveli City, Rufus & Beulah (2009) found that 70% of (respondents) the women workers in private ward hospitals were sexually harassed at their workplace. Statistical figure like this is really a hostile one to the women empowerment. 53.75% of the respondents were sexually harassed within a year from their joining. 16.25% of the respondents were victimized even after their completion of first year in work. 27.5% of the respondents faced sexual harassment victimization 6-10 times, followed by 18.75% respondents faced victimization 2-5 times and 10% of the respondents faced innumerable endless harassment incidents. 92.5% of the respondents had no awareness on Supreme Court guidelines on prevention of sexual harassment, that is, *Vishaka v. State of Rajasthan* (1997). According to an article by Chand (2009), in the year 2009, Jawaharlal Nehru University, which is one of the most progressive Indian university campuses with a mixed-gender residential community of nearly 5,000, saw 30 cases of sexual harassment reported to the complaint committee and the actual cases of sexual harassment are, however, must be higher, as victims do not approach the authorities for a cluster of reasons, ranging from fear (when the harasser is faculty) to cultural inhibitions rooted

Abstract

The workplace is emerging as an increasing important site of sexual harassment encounters. "Sexual harassment at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated and there can be no compromise with such violations" – A.S. Anand, Former Chief Justice of Supreme Court of India. The Supreme Court judgement on sexual harassment, 14th August, 1997, for the first time (*Vishaka & Ors.*



v. State of Rajasthan & Ors.), identified sexual harassment as a separate category of legally prohibitive behaviour. In contrast, a universally accepted definition of sexual harassment has not yet emerged.

The purpose of this research article is to gather and disseminate matters of importance with regard to sexual harassment at workplace, such as the definitions, nature and extent of the problem by investigating earlier studies in India and

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in patriarchal Indian Society. Thus, university institutions, where many scholars do their research works, are not an exceptional place of sexual harassment incidences.

A study with the sample size of 120 among the women workers in building construction sites revealed that the major type of harassment prevailed at the construction sites were sexually coloured remarks (19.2%), demand/request for sexual favours (16.7), followed by physical contact or advances (10%), unwelcome body languages (9.2%) and showing pornographies (5%), (Rufus and others in their presentation, 2007). Karthika & Jaishankar (2008) in their study identified that scaring, feeling of life as useless, depression, feeling of revenge against harasser, resigning the present job, lack of performance in job, feeling of humiliation, shock, nervousness, helplessness the various impacts found among the victims of sexual harassment in Brick Kiln Industry.

In another study among the women workers in retail shops, conducted by Rufus & Beulah (2006) found that 66% victims made complaint to their workplace inchargers like Manager, boss and other similar percentage of victims (each 17%) reported to their family members and friends respectively. No one came to lodge a complaint in the Police Station. The reasons for the non-reporting of harassments to the police were: not want to approach Police Station or Court (30%), 20% felt that that exposure of victimization would affect their marriage if they lodge a police complaint; other 20% were hurdled by their co-workers and were made not to lodge a complaint. 15% of them felt that there may be secondary victimization by family members/husband. 5% of them said that they had no emotional and physical support from the outsiders. 10% of them felt that exposure of sexual harassment victimization is a shame for the lifetime in front of the neighbours, relatives and society, etc. These are the general reasons, so that the victims of sexual harassment refused to lodge a police complaint.

Bhanwari Devi, aged 38, a Sathin (village-level worker) in the State Government-sponsored Women's Development Program (WDP) very

seriously tried to dissuade Ram Karan Geyar from marrying of one-year-old daughter in the summer of 1992. Bhanwari reported the matter to the WDP authorities, they turned the matter to police. But, as a consequence to her social work, she was allegedly raped by a gang (Rajalakshmi, 1995). This was the causal case, which provided the guidelines for prevention of sexual harassment at workplace by the Supreme Court of India in *Vishaka v. State of Rajasthan* (1997).

A Sakshi survey throws up some worrying statistics on sexual harassment in which 80% of respondents said that sexual harassment existed in their workplace, 49% had encountered cases of sexual harassment, 41% had either experienced it or knew women, who had faced sexual harassment, 53% said that men and women didn't have equal opportunities at work, 53% said that women were treated unfairly by supervisors, employers, and co-workers, 58% hadn't heard of the SC's 1997 ruling on sexual harassment (also known as Vishaka judgement), 20% said that their organization had implemented the guidelines ('Business Today', 2002). In addition to that, Indianewsonline (2006) noticed, a research study conducted in Kolkata, West Bengal, with 135 in-depth interviews of women employees in two Government and two private hospitals made known the fact in which several doctors and nurses, including senior staff members, revealed that sexual harassment in hospitals is quite common.

A World over Phenomenon

European Industrial Relations Observatory online (2004) revealed a survey on sexual harassment in the workplace ever conducted in Greece. In April 2004, the Research Centre for Gender Equality (KETHI) presented the results of the first nationwide survey on sexual harassment in the workplace in Greece. Younger women up to the age of 25 are more frequently victims of sexual harassment at work than older women over 25. A study in the US found that 42% of women and 15% of men had been victims of harassment in the preceding 24 months (Davidson and Cooper, 1992). 'Sambad'- Oriya daily, 1995 reported that "nearly 81% of the working women, while going



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or returning from their workplace, are sexually exploited in Sri Lanka”, this survey was done by the conference of public service trade union. According to The Report of Commission of Inquiry (1997) noted that the sexual harassment in public or the workplace is fairly common in Pakistan. A survey conducted of women in different fields concluded that 73% of women felt insecure due to the remarks and gestures by men at work and in public places.

Brown and Heidensohn (1996) collected data among women Police Officers from two international conferences and in large number of forces within the British Isles. 56% of the women reported that they were most likely to experience discrimination. Only 20% said they had never experienced sexual harassment from a male colleague or supervisor. The survey also revealed that officers from US and Canada are most likely to report being the subject of discriminatory treatment or harassing behaviour.

Thus, the available literatures give an ambit of sexual harassment at workplace and make us to accept this as a world over phenomenon of a form of sexual crime, prevalent at all spheres of workplaces in which women are employed.

Impact and Consequences of Sexual Harassment

The sexual harassment victimization and incidences in workplace create the physical, psychological impacts on individual level and also it results in adverse consequence on the organization.

- (a) **On the Organization:** Lower productivity and employee morale; Increased expenses to hire and train new employees; High legal costs, fines and poor public image are the dire consequence.
- (b) **On the Individual and Organization** Decrease in work efficiency; Loss of motivation; Absence at work; Missing out on training/promotion/resignation/dismissal.

(c) On the Individual:

- **Emotional:** Revulsion, Anger, Disgust, Fear, Shame, Guilt, Confusion, Powerlessness,
- **Psychological:** Anxiety, Nervousness, Depression, and Low Self-Esteem
- **Physical:** Sleeplessness, Headaches, Nausea, Ulcers, High Blood Pressure.

This is to note that the above symptoms may not be generated only from harassment, but can be the cumulative result of the harassment, retaliation, backlash, and/or blaming that an aggrieved woman may endure (Gupta & Hajra, 2007).

According to Beecher, Abel & Skinner (1979), undoubtedly, however, women who have been sexually assaulted bear victimization and more pervasive personal effects and Kim Lane (1983) pointed out that they often view their violation as invading not only themselves, but also their families. Women will often radically change their perception of danger, particularly if the assault occurs in a place they previously considered safe. So, it can be understood, how the sexual victimization plays the destructive role in the life of women. Additional research has documented decreased morale and absenteeism, decreased job satisfaction, damage to interpersonal relationship at work or school (Gutek & Koss, 1993). The consequences of harassment for employees' and students' emotional well-being include depression, helplessness, extreme sadness, strong fear reaction, loss of control, worry, disruption of their lives and decreased in motivation (Dansky & Kilpatrick, 1997; Gutek & Koss, 1993; Samoluk & Petty, 1994). Psychological harassment can involve relentless proposals of physical intimacy, beginning with subtle hints and leading to overt requests for dates or sexual favours. Psychological harassment, such as exhibitionism can endanger the individual's performance or undermine her sense of personal dignity (Saheli, 1998).

The following physical symptoms have been reported in literature concerning workplace and academic sexual harassment: headaches, sleep

other countries, impact and consequences of sexual harassment, legal status in India, and to discuss how this problem is a violation of human rights. In final, the paper attempts to put forward the possible suggestion to protect the women from workplace harassment. On the whole, the authors are keen to generate a general awareness on seriousness of workplace sexual harassment through this article.



Victims may need various types of counselling services to help them through their recovery period. Some of these services, such as individual counselling, pharmacological and family therapy, group therapy or peer support, spiritual counselling, expressive art, etc., may need to be sought out as outside referrals.

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disturbance, eating disorders, nausea, weight loss or gain, and crying spells (Dansky & Kilpatrick, 1997; Gutek & Koss, 1993). Victims of sexual harassment can exhibit a “post-abuse syndrome characterized by shock, emotional numbing, reconstruction of effect, flashbacks and other signs of anxiety depression (Fitzgerad, 1993; Salisbury, Ginoria, Remick & Stringer, 1986). Victims may need various types of counselling services to help them through their recovery period. Some of these services, such as individual counselling, pharmacological and family therapy, group therapy or peer support, spiritual counselling, expressive art, etc., may need to be sought out as outside referrals (Sandra, 1957). So, it is expected from the society to provide such assistance to the victims. Thus, in the above passages, the facts of sexual harassment at workplace and its impact on victims has been discussed elaborately.

Legal Position with regard to Sexual Harassment in India

According to the Protection of Human Rights Act, 1993, “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India. It is necessary and expedient for employers as well as other responsible persons in workplaces or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women, so as to live with dignity, since it is a human right guaranteed by our Constitution. There is no specific legislation/ Special Act dealing with sexual harassment except some criminal laws dealing with rape and sexual assaults. But, the Supreme Court guidelines in *Vishaka v. State of Rajasthan* will be treated as law under Article 141 of Constitution of India.

Laws under which a Sexual Harassment case can be filed:

Section 209, IPC deals with obscene acts and songs and lays down: Whoever, to the annoyance of others –

(a) does any obscene act in any public place or

(b) sings, recites or utters any obscene song, ballad or words in or near any public place.

Section 354, IPC deals with assault or criminal force to a woman with the intent to outrage her modesty and lays down that “whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or both”.

Section 509, IPC deals with word, gesture or act intended to insult the modesty of a woman and lays down that “whoever intending to insult the modesty of any woman utters any word, makes any sound or gesture, or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or both”.

Under the Indecent Representation of Women (Prohibition) Act, 1987, if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing “indecent representation of women”; they are liable for a minimum sentence of 2 years. Further Section 7 (Offences by Companies) holds companies where there has been “indecent representation of women” (such as the display of pornography) on the premises guilty of offences under this Act, with a minimum sentence of 2 years.

Supreme Court Guidelines on Sexual Harassment (Vishaka Case)

Employers’ responsibility:

Without prejudice, all employers should take appropriate steps to prevent sexual harassment.

- Express sexual harassment is prohibited at workplace - Notify, Publish, Circulate.
- Prohibition of sexual harassment and penalties should be included in Rules/ Regulations of Government/public bodies.



Sexual Harassment of Women at Workplace

- For private employers: Prohibition of sexual harassment should be included in Industrial Employment (Standing Orders) Act, 1940.
- No hostile work environment: Provide leisure, health and hygiene.
- No women employee should be disadvantaged in her employment.
- Employer should create awareness of sexual harassment to employees: Prominently notify the guidelines.

Criminal Proceedings and Disciplinary Actions

- Employer shall initiate appropriate action by making complaint under IPC or other law.
- Employer should ensure safety of victims & witnesses while dealing the complaint.
- Victim should have the option to seek perpetrator's transfer or own transfer.
- Disciplinary action should be taken by the employer under service rules.

Complaint Mechanism

- Complaint mechanism should be created for redress of victims. Time-bound treatments should be ensured.
- Complaint mechanism = Complaint committee + A special counsellor/support agency + Confidentiality maintenance.
- Committee should be headed by a woman and not less than half of its member should be women.
- To prevent undue pressure of influence, complaints committee should involve a third party, either NGO or other body familiar with the sexual harassment issue.
- Complainants or witnesses should not be victimized or discriminated.
- Annual report on 'complaints and action taken on them' to the concerned Government Department by the complaint committee is a must.

Surely, there is a question about the awareness of these guidelines and implementation of these among the workplaces in India. The present Civil and Penal Laws in India do not adequately provide specific protection of women from sexual harassment at workplaces. So, the enactment of such a specific legislation for sexual harassment at workplace is very essential at this time.

Sexual Harassment : Violation of Woman's Right?

To a substantial extent, the sexual harassment attacks the dignity and self-respect of the victim, both as an employee and as a human being. In another view, it is abuse of power also, since in some cases, the people with authority in the workplace abuse their woman employees by making fear of no-promotion, demotion or dismissal on groundless reasons. It is a form of discrimination based on sex. It is also the sexual exploitation of women. Sexual harassment incidences are the obstacles for women to work since these create the hostile working environment for women. Hence, it violates the right to work. All UN convention or treaties strongly prohibit any form of discrimination, exploitation, abuse or torture against any person. Thus, sexual harassment at workplace is absolutely a violation of woman right. The aggrieved victim may follow the following recommended methods to deal with sexual harassment:

- (a) Direct approach:** Confront the harasser and tell him that the behaviour is not appreciated, not welcomed and that it must stop. Stay focused on the behaviour and its impact.
- (b) Indirect approach:** Send a letter to the harasser stating the facts, personal feelings about the inappropriate behaviour and expected resolution.
- (c) Third party:** Request assistance from third person. Ask someone else to talk to the harasser, to accompany the victim, or to intervene on behalf of the victim to resolve the conflict.

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Due to non-reporting character of the crime, the sexual harassment does not come to the social light. So, these are considered as the "Dark figures of crime" and "Noiseless crime". These figures point out the seriousness of the danger to woman workers at workplace.

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- (d) **Report to next hierarchy:** Report the behaviour to immediate supervisor or others in chain of command and ask for assistance in resolving the situation.
- (e) **File a formal police complaint** against harasser/perpetrator.
- (f) **Approach the women's activist,** explain the sufferings and get the assistance to file a complaint in Women's Rights Commission, for your redress.

Conclusions and Suggestions

The present article has the major objective to explore the facts of sexual harassment among the working women. Due to non-reporting character of the crime, the sexual harassment does not come to the social light. So, these are considered as the "Dark figures of crime" and "Noiseless crime". These figures point out the seriousness of the danger to women workers at workplace. In any civilized society, it is the fundamental right of people to be able to lead their lives with dignity, free from mental or physical torture. To ensure this, transgressors must pay for their unsolicited sexual advances. So, in recommendations, a Special Law should be enacted and implemented against the sexual harassment at workplace, including the places of organized/(Government & public) and unorganized private sectors. The sexual harassment complaint committee should be formed in all sectors. The NGOs should monitor this kind of social evil and can collect the details of sexual harassment when discussing in the women's forum. This will make the women workers to seek redressal without fear. Thus, they can be made aware of this kind of 'Dark' figures of harassment among them. The awareness

regarding Supreme Court guidelines should be spearheaded by the voluntary organization and self-help groups. The posters about guidelines should be stuck in the public places like ration shop, markets, private/Government hospitals and bus stops, Railway Station. Media, such as TV and Radio should telecast the awareness program on Supreme Court guidelines. The gender sensitization counselling should be given to the male workers of all working sectors. As is the case in many developed countries, basic training programs should be given to the women employees, to encounter the workplace sexual harassment, such as how to react with the harasser's act, how to describe the incidents, how to record and report the sexual harassment victimization to organization's authority and Police. The training programs should include the Police and Lawyers, as to how to carry out the complaints of sexual harassment without affecting the victim, the complete legal awareness course on these issues, promotion of gender sensitization to avoid the secondary victimization by Criminal Justice System.

The Protection of Women against Sexual Harassment at the Workplace Bill, 2007 should immediately be passed by the Government as a law. In any civilized society, it is the fundamental right of people to be able to lead their lives with dignity, free from mental or physical torture. A Special Law should be implemented against the sexual harassment at workplace, including both the places of organized/(Government & public) and unorganized private sectors. Stringent punishment and prompt redressal should be covered. The victims should be provided with necessary medical, material, psychological, financial and legal assistance as a form of victim assistance. ■

REFERENCES

1. Beecher, J.V., Abel, G.G. & Skinner. L.J., "The impact of a sexual assault on the victims' sex life", Robert Eliaas, *Victimology*, 4 (1979). In the politics of victimization, Oxford University Press, 1986, p.117.
2. Brown, J.M. & Heidensohn, F. (1996). Exclusion Orders. *Policing Today*, September, 20-24. In S.E. Martin & Nancy C. Jurik (Eds.), *Doing Justice, Doing Gender* (p. 98). London: Sage Publishers.
3. 'Business Today', 1st September, 2002, 35.



Sexual Harassment of Women at Workplace

4. Chand, M. (2009). Indian and American Students for Safety on Campus, SPAN, January/February 2010, p. 22.
5. Cleaver, F. (2000). "Do Men Matter?" Insights, 35. December. pp.1-2, in Ellen Borte and Doku Aryeetey (eds.), Coming to Terms with Sexual harassment in Ghana, University of Ghana Publication, Institute of Statistical, Social & Economic Research, 9.
6. Dansky, B. & Kilpatrick, D. (1997). Effects of sexual harassment. In W.O. Donohue (Ed.), Sexual harassment theory, Research and practice. Boston: Allyn & Bacon., In Michael *et al.*, Sexual Harassment in Education and Workplace: A view from the field of Psychology, The psychology of sexual victimization: A Handbook, Greenwood Press, USA.
7. Davidson, M.J. & C.L. Cooper (1992). Shattering the Glass Ceiling: The Woman Manager. London, Paul Chapman Publishing Ltd.
8. Fitzgerald (1993). In Michael *et al.*, Sexual Harassment in Education and Workplace: A view from the field of Psychology, The psychology of sexual victimization: A Handbook, Greenwood Press, USA.
9. Gregory, R.F. (2003). Women & workplace discrimination. In S.E. Martin & Nancy C. Jurik (Eds.), Doing Justice, Doing Gender (p. 9). London: Sage Publishers.
10. Gupta, S.S. & Hajra, A. (2007). Prevention of Sexual harassment at Workplace: A Handbook, Calcutta: Sanhita Publication. pp. 5, 25-28.
11. Gutek, B. & Koss, M.P. (1993). Changed women changed organization: Consequences of and coping with Sexual harassment. Journal of vocational behaviour, pp. 28-48. In Michael *et al.*, Sexual Harassment in Education and Workplace: A view from the field of Psychology, The psychology of sexual victimization: A Handbook, Greenwood Press, USA.
12. Karthika, R. & Jaishankar, K. (2008). Victimization of labourers in Brick Kiln Industry. In P. Madhava Somasundaram, K. Jaishankar and S. Ramdoss (Eds.), Crime Victims and Justice. New Delhi: Serial Publication. pp.195-197.
13. Kim Lane Scheppele & Pauline, B. Burt, "Through women's eyes: Defining danger in the wake of sexual assault", Journal of Social issues, 39(1983), 1. In the politics of victimization, Oxford University Press, 1986, p.117.
14. Mackinnon, C. (1978). Sexual harassment of working women. New Haven, CT: Yale University Press.
15. Nair, Meera (2003). The Seamier Side of Office Life – This Women's Day Let's Do Away With the Groping, Lecherous Advances Made by Male Colleagues at the Workplace, 'The Indian Express', 6th - 12th March.
16. 'Pragatibadi' (Oriya) daily dated 19th December, 1995 at page 1. In Tripathy, Prabhat Chandra (1998), crime against working women, New Delhi: APH Publishing Corporation, p. 233.
17. Rajalakshmi (1995), T.K., "Justice Denied: Banwari's unending agony", published in 'Frontline', 1995 December, 29 at p. 103. In Tripathy, Prabhat Chandra (1998). Crime against working women, New Delhi: APH Publishing Corporation, p. 233.
18. Rufus, D. & Beulah S. (2009). A Noiseless Crime: Sexual Harassment against Women employees at private hospitals in Tirunelveli City - An empirical analysis. Indian Police Journal, Vol. LVI-No.1, January - March 2009. pp. 59, 60.
19. Rufus, D. & Beulah, S., "Prevalence of Sexual Harassment at Workplace Among Women Workers in Retail Shops: A Study in Tirunelveli", published by Kanniyakumari Academy of Arts and Sciences (KAAS) (December 2006) Proceedings. Political Science, pp. 13-19.
20. Rufus, D., Manju J. & Beulah, S. in their paper presentation entitled on "Sexual Harassment of Women Workers at Building Construction Sites in Tirunelveli : An Assessment" in 1st International and 30th All India Criminology Conference of the Indian Society of Criminology (ISC), held at Department of Law, University of Calcutta, West Bengal during 23rd – 25th February, 2007.
21. Saheli (1998). Another Occupational Hazard: Sexual Harassment and the Working Women. New Delhi : Saheli Women's Resource Centre.
22. Salisbury, J., Ginoria, A., Remick, H. & Stringer, D. (1986). Counselling victims from sexual harassment. Psychotherapy, p. 23, 316-324.

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Sexual Harassment of Women at Workplace

23. 'Sambad' (Oriya) daily dated 29th November 1995. In Tripathy, Prabhat Chandra (1998). Crime against working women, New Delhi: APH Publishing Corporation, p. 233.
24. 'Sambad' (Oriya daily) dated 5th September, 1995 publication. In Tripathy, Prabhat Chandra (1998), crime against working women, New Delhi: APH Publishing Corporation, p. 233.
25. Sandra, L.B. (1957). Counselling victims of Violence. A Handbook for helping professionals, Minnesota, Bang printing, 32, 33.
26. Sikri, Rehana (1999). Women and sexual exploitation - Harassment at work, Kanishha Publishers, New Delhi, p. 39.
27. The Report of the Commission of Inquiry for Women in Pakistan (1997), p. 81.
28. Times News Network (2003), 'Disclosures – What is Sexual Harassment?', 'The Times of India', 15th June, 2003.

ONLINE REFERENCES

1. URL: <http://www.infochangeindia.org/analysis100.jsp>. Retrieved on 30-05-2007: The article titled "A brief history of the battle against sexual harassment at the workplace" by Vibhuti Patel 'InfoChange News & Features, November 2005'.
2. URL: <http://www.indiaenews.com/health/20061106/27654.html>. Retrieved on 19-03-2008: The article titled "Doctors, Nurses face Sexual harassment at workplace", 'Health', November 2006.
3. URL: <http://www.eurofound.ie/2004/07/feature/gr0407103f.html>. Retrieved on 12-01-2007.





Secondary Victims: Understanding the Role of Mothers' Incarceration

Dr. Shereen Sadique*

Introduction

DEVELOPMENT is vital for creation. It has made possible for man, which was once a quadruped, to move forward to great achievement. It refers not much to rapid increase of the material aspect of life, but an improvement of the quality of life as such. It aims at the overall development of human being from the individual point of view as well as from the point of view of society. (Iyer, 2000).

The idea of development as a human right was introduced into the international debate in the 1950s and 1960s. In 1986, it was adopted in the Declaration on the Right to Development. By definition, "The right to development is an inalienable human right by virtue of which every human person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human right and fundamental freedom can be fully realized." (<http://library.fes.de/pdf-files/iez/global/50288.pdf>). The discovery of the Self of the infinite human potential dwelling in each is the finest expression of the "Right to Development". (Iyer, 2000). This all-inclusive right percolates to children as well. Children are assets of nation. They are the seed of the future. Children are to be given opportunities and facilities to develop in a healthy manner and in a condition of freedom and dignity. There are many rights, which are provided for the development and betterment of the children. Some of the rights are provided by the Constitution of India, Universal Declaration of Human Rights, 1948 and National Charter for Children, 2003. Article 15(3) of the Indian Constitution provides that State can make special provision for women and children for their welfare. Article 21-A provides for free and compulsory education to all children

of the age of six to fourteen years. Article 39(1) directs State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are to be protected against exploitation and against moral and material abandonment. Article 45 says that State shall endeavour to provide early childhood care and education for all children until they complete the age of six years [Singh (ed.), 2007].

National Charter for Children

India acceded to the UN Convention on the Right of the Child in 1992 and the UN General Assembly Special Session on Children in 2002 with the objective of giving every child the right to survival and development in a healthy and congenial environment. To secure for every child the right to enjoy a happy childhood and to address the root cause that negate the health, growth and development of children, the Government of India announced the National Charter for Children, 2003. The Charter provides for life and liberty of all children, promoting high standards of health nutrition, assuring basic needs and security, play and leisure and all-round development of personality, including expression of creativity. Another step in this direction has been the enforcement of the Commission for Protection of Child Rights Act, 2005. The commission is empowered to look into matters relating to children in need of special care and protection, including children in distress, marginalized and disadvantaged children, children without families and children in conflict with law and to recommend remedial measures. (<http://infochangeindia.Org/200512245533/women/Judicial-InterventionsWomen/Looking-after-children-of-women-prisoners.html>)

Keywords

Mother's Incarceration
Secondary Victim
Human Right
Asset of Nation
National Charter for
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Negative Impact

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Abstract

In India, female prisoners whose children have not reached the age of six years can keep such children along with them in prison. Such children stay in prison due to their tender age or because there is no one at home to look after them in the absence of their mother. Prisons are daunting places for an adult; they are probably for worse for children. The atmosphere in prison is not at all conducive to their growth and development during their formative years.

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But, these rights are not availed by the children whose mother is in prison either as an undertrial or as a convict. There are three categories of such children:

- Children (below six years) who accompany their mother when she is in prison, or those who are born in prison because the mother was imprisoned when she was pregnant.
- Children taken into (below six years) penal custody with their mother, but who have been sent outside the prison once they reached the age of six years, while the mother remains incarcerated.
- Children left outside when mother is taken into custody.

Children below Six Years

Justice Iyer's Committee looked into the living conditions of children of women prisoners. The committee observed that children of women prisoners were callously placed in prisons in general, except in a few central jails for women where the childcare was satisfactory. The committee also stated that education and recreational facilities for such children were almost neglected. Emotional need of children was not properly cared for. Sometimes, children of 8 to 9 years were also living with their mothers in the prison in the absence of children homes. The committee further observed that prevalent arrangements for looking after of these children were quite inadequate. (<http://planningcommission.nic.in/reports/sereport/ser/stdy-jailwm.pdf>)

REPORTS & OBSERVATIONS

A report by the Tata Institute of Social Sciences on the provision of facilities for minors accompanying their mothers in prison was prepared. The report says :

Prison environments are not conducive to the normal growth and development of children. Many children born in prison have never experienced normal family life up to the age of four-five years.

The socialization pattern of children gets severely affected due to their stay in prison. Their only image of a male authority figure is that of the Police and prison officials. They are unaware of the concept of a 'home'. Boys, sometimes, talk in the female gender, having grown up only among women in the female ward. Sights like animals on roads frighten these children because of lack of exposure to the outside world.

Children get transferred with their mother from one prison to another. This unsettles them. Such children, sometimes, display violent and aggressive, or withdrawn behaviour in prison. (<http://infochangeindia.org/200512245533/women/Judicial-Interventions-and-Women/Looking-after-children-of-women-prisoners.html>)

As Inspector-General, Prisons, Tihar Jail, Dr. Kiran Bedi observed that children living with their mother in prisons lacked virtually everything, which was required for a healthy childhood. Throughout the day they had nothing to do except to be imprisoned with their mothers. All of them were illiterate and knew nothing about school; among themselves they discussed crime, Courts and Judges. They had no outing. There was no system which took care of them. Many of the children were underdeveloped. "There were no special provisions for the children. Except for the extra milk the mother was entitled to, which very often, I saw the women selling the child's share, to other women inmates, only to get some money, to buy their toiletries..." (Bharucha, 2005).

A study undertaken by the National Institute of Criminology and Forensic Sciences, New Delhi, 2000 came out with the following facts:

- Most children were living in difficult conditions and suffered deprivation relating to food, health care, accommodation, education and recreation.
- There were no programs for the proper bio-psycho-social development of children in prison. Their welfare was mostly left to the mothers.
- Most mother prisoners felt that the stay in jail would have a negative impact on the



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physical and mental development of their children.

- A crowded environment, lack of appropriate food and shelter, deprivation of affection by other members of the family, particularly the father, were perceived as a stumbling block in the development of these children in their formative years. (<http://planningcommission.nic.in/reports/sereport/ser/sty-jailwm.pdf>)
- Project on Women Prisoners and their Dependent Children undertaken by G.B. Pant Institute of Studies in Rural Development, Lucknow, 2006, reported that the facilities for education, recreation, health, nutrition, rehabilitation, etc. were found to be poor and proper development of young children in jails is always doubtful (Pandey & Singh, 2006). Children in prison constitute a particularly vulnerable category. They are the main victims as they are at no fault of their own.

Children above Six Years

The most disturbing part is that after they have reached the age of six, they cannot be kept in jails with their mother. Their relatives generally do not prefer to take them back or adopt them. They are admitted to Government-run institute and are, thus, separated from their mother. Such children have spent the past years of their life intimately with their mother. They have been together virtually every hour. Suddenly, the children have to lose their mother and live among a 'bunch of strangers'. They are too young to understand the separation and they wonder at the tears and anguish of their mother. They are told that they would be going out for a day to a new school and would meet new friends. Thus, there is no need to cry for such a wonderful outing. In their excitement they often do not realize that they are not going to stay with their mother ever again. If they are lucky they might meet their mother for an hour or two once every month and if they are really unlucky, maybe not even once in a year. Henceforth, they will not have their mother to protect, tend, play and

comfort them. Their entire life turns upside down. More than the physical pain it is the mental scare of the separation that torments them (Bharucha, 2005).

In *Shadows and Cages* (2005), R.N. Bharucha describes his conversation with such children, who had been admitted to Assisi Convent, Noida, "For a while, the girls around me all spoke about their mothers and how each child's mother met her while the little girl slept. Even in sleep, the mind worked and the body and heart craved for the mother" (p. 141).

There are some children, who just cannot cope with life without their mother around. They are psychologically shattered and go on weeping and craving for her. At such a tender age, they are facing a different kind of imprisonment. The problem is that the institutions, which admit children of women prisoners, are outside the city in which the mother is imprisoned. It could be hours journey from the prison in which the mother is kept. The children are, sometimes, transferred from one institution to the other for various reasons. Sometimes, all the institutions in the city where the mother is imprisoned are already packed to capacity. At other times, the child is kept in a particular institute because it is felt that the child might be able to learn a particular craft that would be advantageous in the future. That particular craft might be taught in only few of the institutions and all such institutions might be outside the city in which the mother is imprisoned. The institutions are often short of staff or short of cash or both. Logically, children should be kept in institutions that are within the city in which the mother is imprisoned. But, there is no law enforcing this (*Ibid.*).

Judicial Intervention

Indian Judiciary has always remained concerned with the plight of women under trials languishing in various jails. The Apex Court in his judgement in April 2006 [Reported as *R.D. Upadhyaya v. State of A.P.*, 2006 (4) Scale 336] issued directions and guidelines to ensure that certain minimum standards are observed with respect

They grow up in an environment of violence, insensitivity and abusive language. The children living with their mother in jails are being deprived of their basic rights, entitlements and amenities. The diet being provided to such children is insufficient and non-nutritional. Health services are very poor. There are no facilities for pre-natal and post-natal care of mothers. Immunization is not provided on regular basis. There is no arrangement for pediatrician and nurse. Medicines for



such children are not available in jails. There is no arrangement for elementary education of such children. Recreational facilities are almost nil. No facility of clothing and bedding is available to such children. Such children constitute a particularly vulnerable category.

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to the children of women prisoners. Some of the directions are as follows:

- A child shall not be treated as an under trial/convict while in jail with his/her mother; such a child is entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right. Female prisoners shall be allowed to keep their children with them in jail till they attain the age of six years.
- Upon reaching the age of six years, the child shall be handed over to a suitable surrogate as per the wishes of the female prisoners or shall be sent to a suitable institution run by the Social Welfare Department. As far as possible, the child shall not be transferred to an institution outside the town or city where the prison is located in order to minimize undue hardship on both mother and child due to physical distance.
- Children kept under the protective custody in a home of the Department of Social Welfare shall be allowed to meet the mother at least once a week.

Indian Judiciary, however, does not have any mechanism by which it can cross-check the implementation of its judgement. (<http://infochangeindia.org/200512245533/women/Judicial-Intervention-and-Women/Looking-after-children-of-women-prisoners.html>)

Children Left Outside

The most painful separation is when children are left outside. They do not stay either with their mother in prison or in the institutes. In such cases, grandmothers, sisters, relatives and (rarely) fathers look after the children. The separation of mother from her children on being arrested and subsequently imprisoned, leads to a series of rapid changes in their life. It is certainly one of the worst aspects of the imprisonment of mother. Such children have to put up with lots of difficulties especially in families where there is no responsible adult person to take care of them.

Those living with relatives are at the mercy of their kin, who have their own families and children to look after. They are separated from their siblings and miss them, while their mother is in prison. To add to the misery, the father may remarry or take to alcohol. Children have to put up with stepmother and, sometime, stepbrothers and sisters are also introduced in their life. Suvarna Cherukuri in her book 'Women in Prison' (2008) quotes the response of a woman inmate, "Children miss me, I am sure. I have no one else otherwise on my side. My in-laws don't want me anymore. My daughter is alone. She just became a 'big girl'. He does not take care of her. He just drinks and sleeps. He doesn't do much work. My daughter works and he lives off her money. Poor girl - these are her days to be happy and merry" (p. 117). The child may find himself without a real home and is likely to fall prey to juvenile delinquency, early employment, school dropout, exploitation by others, poverty, childhood abuse and early emancipation from adult care. Incarceration of the mother is destabilizing and affects the children disproportionately. (<http://www.voicesforchildren.ca/report-Dec.2004-I.html>)

If the children are present at the time of arrest, the forcible and sudden separation from the mother is traumatic for them. They feel confusion, isolation, loneliness, abandonment and grief. Women are not informed that rules permit them to take into custody with them their children, who are below six years of age. So, infants and toddlers are also left behind. They may be cut off from breastfeeding too early; their routines are disrupted and they have to cope up with a new caretaker. The interruption in the mother-child relationship can lead to distress and withdrawal among the children. There is a great chance of the caretaker being abusive or neglectful. Babies would be bound with the caretaker and not remember their mother. Even after a mother returns home, children are changed forever, simply because of the insecurity that she might leave them and go again. Thus, the mother-child bond is damaged permanently (*ibid.*).

Family members encourage the children not to disclose the arrest and imprisonment of their

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mother to friends and teachers. It is to be kept secret. This adds to their already existing sense of stigma. Moreover, this deprives them from the support of their friends and teachers, which they are in dire need of. Most often, children are reminded by relatives and friends of the crime committed by their mother. This causes psychological and emotional numbing. Very often, children engage in justifying or denying the charges of their mother. (*ibid.*). They feel stigmatized as children of 'jail birds'.

Family makes no effort to bring the children to meet the mother. In some cases, it cannot bear the cost of the transport, while in others, it is not worth taking the trouble (Cherukuri, 2008). "Not. Once they came. But there is no one to bring them. They are with my mother-in-law. My mother-in-law only filed this case against me. They don't bring my children here. It cost money also..." (*ibid.* 117). Children are thus not likely to remember or recognize their mother.

These are important features of the pathways that can bring such children into conflict with the law.

Unhealthy Coping Strategies

Forced by these circumstances, children develop ways to cope with their situation that can, later in their life, take the form of or lead to criminal behaviour. Children of all ages develop unhealthy strategies to deal with the hurtful situation. In order to cope with their anxiety, shame, insecurity, poverty, inappropriate care or negligence; they often resort to anger, self-blame, escape, alcohol and drug (dependence). These techniques may help them to get through the bad times but, in the long run, may lead them to criminal behaviour.

Children do not readily accept that their mother has committed a crime. They want to preserve her image of a good person. In an effort to do so, they begin to believe that she must have been forced by circumstances. Thus, they perceive crime as the last and the final choice in a situation of helplessness. They blame the "system" for not understanding and being unfair. They are unable to establish the relation between crime and

punishment and focus on the consequence. They blame the Police or the Judge for taking away that which was precious and dear to them. Children begin to see the Criminal Justice System as a system that victimizes the weak and vulnerable. Some will even believe that going to prison is 'in' the family and thus unavoidable or even a matter of honour. These beliefs may cause children to rationalize their own antisocial behaviour.

Children have to live in poverty. Poverty causes them to reside in areas of high crime rate, have poor nutrition and an ever-present sense of want. Growing up in this context is a challenge, which brings with itself stresses and strains. Without adult supervision and guidance, young people may struggle in school and eventually drop out, experience job difficulties and become involved in abusive or exploitative relationships. This will encourage children to adopt criminal behaviour. Children take on adult roles prematurely, such as being a practical and emotional caretaker for younger siblings. They might drift away from the care of adults and begin to live with exploitative adults and friends. Some might distance themselves emotionally from mother who has disappointed them. (<http://www.voicesforchildren.ca/report-Dec.2004-1.html>)

What can be done to minimize the Harm?

Most of the women in prison are mothers. Large parts of it are victims of circumstances and pose no risk to the community. Incarceration can actually raise the chance of recidivism for women. In our effort to hold them accountable by relinquishing their freedom, we make their children the secondary victims (*ibid.*). Children of incarcerated mothers are the most vulnerable and traumatic in the community. Families can be kept intact and stable by adopting non-carceral ways to hold offenders accountable. Besides the concern for children, the approach is useful in many ways. Alternatives such as admonition, fine, conditional sentence (with a threat of imprisonment if there is non-compliance), victim compensation, confiscation, some combination of these measures and lately community service can

In order to cope with their anxiety, shame, insecurity, poverty, inappropriate care or negligence; they often resort to anger, self-blame, escape, alcohol and drug (dependence). These techniques may help them to get through the bad times, but in the long run, may lead them to criminal behaviour.

Secondary Victims: Understanding the Role of Mothers' Incarceration

REFERENCES

1. Bharucha, R.N., *Shadows in Cages Mother and Child in Indian Prison*, Fusion Books, New Delhi, 2005.
2. http://infochangeindia.org/20051224_553_3/women/Judicial-Interventions-and-Women/Looking-after-children-of-women-prisoners.html
3. <http://library.fes.de/pdf-files/iez/global/50288.pdf>
4. <http://planningcommission.nic.in/reports/sereport/ser/stdy-jailwm.pdf>
5. <http://www.voicesforchildren.ca/ireport-Dec.2004-1.html>
6. Iyer, V.R.K., *The Dialectics and Dynamics of Human Rights in India: Yesterday, Today and Tomorrow*, Eastern Law House, 2000.
7. Pandey, S.P. & Singh, A.K., *Women Prisoners and their Dependent Children*, Eastern Book, Delhi, 2006.
8. Singh, S.C. (Ed.), *Rights of Child*, Serials Publications, New Delhi, 2007.
9. Sreekumar, R., *Handbook for Prison Visitor*, CHRI, 2003.
10. Suvarna Cherukuri, *Women in Prison. An Insight into Captivity and Crime*, Cambridge University Press, New Delhi, 2008.



Prison gates need to be open to NGO's visitors and volunteers, who can provide great service by attempting to address real problems associated with prison life. Further, each one of us can contribute in our own small way to make the life of some individuals meaningful.



Keywords

Glass Ceiling
Patriarchy
Gender Pay Parity
Economic Participation
Empowerment

Working Women and the Glass Ceiling

Dr. S. Sanyal*

Introduction

THE glass ceiling may occur in the workplace or in politics. However, with the achievement of educational parity and changes in social attitude towards men and women roles, it was assumed that women would quickly move up the career ladder. This has proved hard to achieve and more so at the top, where the prevalence of male executive tends to precipitate the glass ceiling and where women find themselves without the right mix.

Most feminists argue that traditional gender roles are oppressive for women. They assume that the female gender role was constructed as an opposite to an ideal male role, and helps to perpetuate patriarchy. For approximately the last 100 years, women have been fighting for equality (especially in the 1960s with second wave feminism and radical feminism, which are the most notable feminist movement) and were able to make changes to the traditionally accepted feminized gender role. However, most feminists today say there is still work to be done.

Numerous studies and statistics show that even though the situation for women has improved during the last century, discrimination is still widespread: Women earn a smaller percentage of aggregate income than men, occupy lower ranking job positions than men and do most of the housekeeping work. Some women, such as the editors of the Independent Women's Forum¹ dispute this claim. They argue that women actually earn 98 cents on the dollar when factors,

such as age, education and experience are taken into account. However, feminists believe these factors are not independent of gender. In fact, gender socialization informs the kind and length of education women receive, as well as the age in which women enter the workplace and the time spent working. There is a permanent belief that female gender role is dichotomized into either being a "stay-at-home mother" or a career woman. In reality, women usually face a double burden: the need to balance job and childcare deprives women of spare time. Whereas the majority of men with university education have a career as well as a family, only 50% of academic women have children. The double burden problem was introduced to scientific theory in 1956 by Myrdal and Klein² in their work "women's two roles: Home and work", published in London.

Viewpoints of Social Scientists

In the social sciences and humanities, a gender role is a set of behavioural norms associated with males and with females, respectively, in a given social group or system. Gender is one component of the gender/sex system, which refers to "the set of arrangements by which a society transforms biological sexuality into products of human activity, and in which these transformed needs are satisfied" (Reiter, 1975; 159).³ Every known society has a gender/sex system, although the components and working of this system vary widely from society to society.

Most researches recognize that the concrete behaviour of individuals is a consequence of both

¹ http://en.wikipedia.org/wiki/Gender_role

² Myrdal and Klein (1956). Women's two roles: Home and work", published in London.

³ (Reiter, 1975; 159) http://en.wikipedia.org/wiki/Gender_role

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socially enforced rules and values, and initial disposition, whether genetic, unconscious, or conscious. While some emphasize the objective social system, others stress on the subjective orientations and dispositions. Moreover, such creativity may, over time, cause the rules and values to change. Though, all social scientists recognize that cultures and societies are dynamic and may change, there have been extensive debates as to how fast they may change. Such debates are especially intense when they involve the gender/sex system, as people have widely differing views about glass ceiling.

The glass-ceiling phenomenon is proving peculiarly persistent. The top corporate ladder remains stubbornly male, and there are few women, who remain significantly less than the men when they join there. This is despite the fact that companies are trying harder than ever to help them to climb higher. So, they introduced “diversity programme aimed at promoting minorities as well as women”.

Present Scenario

In recent decades, the increasing number of women workers have brought about a sea-change in the workplace. Understanding the work environment is crucial to understanding what occurs there. Sexual behaviour at work takes place in an organization having its own culture, its own norms and regulations, It includes hierarchy of job classifications, and diverse tasks carried out by a variety of people. While organizations differ along these dimensions, some have a rigid hierarchy, while others have fewer normal levels of command or are organized along a matrix - other aspects are relatively similar across companies. For example, people are more likely to think of an affair as taking place between a male manager and a female secretary than between a female manager and a male secretary because women tend to work as secretaries, men as managers. This is true in all kinds of organizations - hierarchical and non-

hierarchical, for example. Men and women are not randomly distributed throughout organizations. Explaining how men’s and women’s jobs differ shows how sex role spillover operates and provides a context for understanding the nature of social-sexual experiences between the sexes.⁴

Focus at research identified four aspects of the work environment that are important for understanding sex in the workplace. The *first* is the segregation of sex at work. That work is sex segregated is widely known, yet its importance to sexuality has not been recognized. The *second* aspect is the difference in status, prestige, and power of men and women at work. The *third* is the nature of the working conditions. And, the *fourth* is the extent to which some personal characteristics of job holders, such as physical attractiveness are emphasized on the job. All four of these aspects of the work environment reflect sex role spillover.

Women predominate in a few traditionally female jobs: for example, about 42% of employed women aged twenty to twenty-four were in clerical work in England in the year 1977, Barrett, Laws (1979)⁵ noted that in 1970, jobs were so sex segregated that 69% of men (or women) would have to change occupations to eliminate sex segregation of work. In the past ten years, the situation has remained essentially the same.

Gender and Economic Participation

The status of any given section of population in a society is intimately connected with its economic position, which itself depends on rights, roles and opportunities for participation in economic activities. The economic status of women is now accepted as an indicator of a society’s stage of development. This does not, however, mean that all development results in improving women’s economic status. The emancipation of women and their equality with men are impossible and must remain so as long as women are excluded from socially productive work and restricted to house work, which is private.

Abstract

Talks of empowerment notwithstanding, the glass ceiling still exists for working women.

Most feminists argue that traditional gender roles are oppressive for women. They assume that the female gender role was constructed as an opposite to an ideal male role, and helps to perpetuate patriarchy. For the last 100 years or more, women have been fighting for equality. In the 1960s, the second wave of feminism and radical feminism, which

⁴ Rehana, Sikri (1999). Women and sexual exploitation - Harassment at work, Kanishka Publishers, Distributors.

⁵ Barrett, Laws (1979) in page No.143 of Rehana, Sikri (1999). Women and sexual exploitation - Harassment at work, Kanishka Publishers, Distributors.



are the most notable feminist movements, were able to bring changes to the traditionally accepted feminized gender role.

However, it is believed that much still needs to be done to bring a total gender equality.

Undoubtedly, with the demand for the empowerment of women, the labour market has seen a significant change with more and more women joining the workforce yet the glass ceiling - the invisible barrier - stands. The pay gap between

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It is in the interest of the society to make full use and most effective use of its human resources. The full benefit of development can only be realized with people's participation and the economic role of women cannot be isolated from the total framework of development. In a UN Declaration on "Elimination of Discrimination against Women" in 1967, it was stated that discrimination against women is incompatible with human dignity and the welfare of the family and society, prevents their participation on equal terms with men in the political, social, economic and cultural life of their countries and is an obstacle to the full development of the potentialities of women in the service of their countries and humanity.⁶

The consequence for the women is that their work, domestic labour, has been consistently depreciated within the community, the economy and the political system. The traditional tasks of housework and child-rearing have not been considered in relation to production because they do not represent a source of surplus value.

Socio-economic and political change creates a need to extend the spheres of knowledge and activity of all members of a society. Modern trends in demographic and social changes call for a redefinition of women's roles in family and society. Changes in the age of marriage, size of families, urbanization, migration, rising costs and standards of living and the call for greater participation in the decision-making process within the family and the society at large all lead to subtle but major changes in roles and responsibilities. These have to be recognized and provided for in order to avoid social crises. Absence of adequate opportunities and the inability of women to meet these challenges because of social handicaps present obstacles to a balanced and smooth adjustment to the process of social change.

Opposition to Women Participation

The opposition to increasing opportunities for women's participation in economic activities springs firstly from a conservative view regarding

women's proper role in society, where the word proper imposes clearly, and often rigidly defined limits to the activities that women may or may not perform. For example, the elite classes in most societies limited the activities of women to the home only. In the same societies, women of the labouring sections did participate extensively in economic activities outside the home, but their spheres were often clearly defined by a customarily accepted division of labour between the sexes. The patterns of this division have, however, varied, not only from society to society, but among different sections of people within the same society (Margret Meads, 1950 and Ester, 1970).⁷

Secondly, this opposition comes from situations of chronic unemployment or apprehensions of unemployment, where the prospect of a large-scale entry of women in the labour market is regarded as a potential cause of economic disorganization. A typical manifestation of this attitude is the theory of women's marginal role in the economy. According to an International Labour Conference (1963) on Woman Workers in a Changing World, the concept of women as a sort of balancing force in the family or in national economy has a whole series of practical implications, which have the net effect of making it difficult for women to become integrated as a permanent part of the workforce and of rendering them particularly susceptible to unscrupulous or discriminatory treatment in the employment market.

Gender Roles & Behaviour

Gender roles can influence all kinds of behaviour, such as choice of clothing, choice of work and personal relationship. Talcott Parsons (1953) developed a model of the nuclear family. It compared a strictly traditional view of gender roles with a more liberal view. Parsons believed that the feminine role was an expressive one, whereas the masculine role, in his view, was instrumental. He believed that expressive activities of the woman fulfil 'internal' functions, for example, to strengthen the ties between members of the family. The

⁶ Dr. Anita Arya (1963). Indian women work and development, published by Gyan House.

⁷ Margret Meads (1950) & Ester (1970). In Linda Weight article: 'Shattering the Glass Ceiling'.



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man, on the other hand, performed the 'external' functions of a family, such as providing support.⁸

It is undeniable that there exists physiological differences between men and women. This truth is used to justify the unequal treatment of women on all levels of human interactions. The uneven treatment is clearly reflected in the attitude, for instance, of the American Legal System towards the female gender. The prevailing historical attitude of men towards women would have the society to believe that physiological differences limit women in their choice of career, their intellectual maturity, their credibility, as well as their ability to be effective contributors to the advancement of human society and that these differences warrant that women be treated differently.

Thus, this attitude defines a view of women in which their 'role' is that of keeper of hearth and home, while that of the man is to provide for and protect this 'weaker sex', a view which continues to define different social roles for men and women. In that spirit protective legislation for women was born out of *Muller v. Oregon* in 1905. The case involved a Laundromat owner who was fined \$10.00 for requiring a female employee to work more than ten hours. He appealed this fine to the Supreme Court, which ruled against him on the ground that a woman's physical structure and proper discharge of her maternal functions justified legislation to protect her from greed as well as the pain she receives. The feminist believe that protective laws seem to be more advantageous to male interests than female interests. Leo Kanowitz would disagree on this, for he is of the opinion that the lack of similar protective legislation for men is injurious to their health and accounts for the greater number of widows than widowers. Women, who are not able to pursue a career or who do not earn enough to maintain an adequate standard of living, are dependent on their husband or Government agencies for financial support.⁹

Studies on Glass Ceiling in India

The study done by 'Best Practices Foundation, Bangalore' and titled "Women Workers' Inequalities at Work" found that bias against women included wage and non-wage discrimination as well as qualitative differences in the nature of work offered to women. Although more and more women are working, much remains to be done. In addition to the "glass ceiling", the "pay gap" between women and men is still significant in most countries. Women are also more likely than men to be found in the lower-paid and least secure jobs.

In India, in spite of the Constitutional right of equal pay for equal work, women are not given the same wage for their labour. At the construction sites, women workers are openly discriminated and their work is categorized as unskilled work. Women employees in India are still fighting an uphill battle for level pegging, in areas, such as equal pay for equal work. Sakshi an NGG did a survey of 2,400 men and women in a cross-section of workplaces belonging to different hierarchies found that 80 percent of respondents said sexual harassment existed at their workplace and 53% said men and women did not have equal opportunities at work. Frequently managements pressured the victim to withdraw the complaint.

Unemployment rates have almost always been higher for women than men. Discrimination can occur at every stage of employment, from recruitment to education and remuneration, occupational segregation, and at time of lay-offs. Men and women tend to work in different sectors of the economy and hold different positions within the same occupational group.

Women tend to be employed in a narrower range of occupations than men, and are more likely to work part-time or short-term. They also face more barriers to promotion and career development.¹⁰ Captions her article as "A Lady or an Office" with a question mark. She mentions that women may

women and men still exists in most countries, women are also more likely than men to be found in the lower paid and least secure jobs, unemployment rates have been always higher in the case of women than men.

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⁸ Taqicott Parsons (1953) in http://en.wikipedia.org/wiki/Gender_role.

⁹ <http://feminism.eserver.org/the-glass-ceiling.txt>

¹⁰ Jyoti Sharma (2006). 'The Times of India', Thursday, 22nd July.



harassment existed at their workplace and 53% said men and women did not have equal opportunities at work. Frequently, managements pressured the victim to withdraw the complaint.

The present paper highlights on the basis of some studies the glass ceiling, which persists in the workplace and is repressive for women, and seeks to explore ways to break this invisible barrier, so that more success stories can be added.

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have been inducted in the Army since 1991, but the men are still to accept them as fellow officers and she asks whether it is even possible to envisage combat roles for women in this scenario. After the suicide of Lt. Sushmita Chakrabarty, the question of how women are perceived in the forces has been much talked about one. It is strongly believed that though women are ready to fight yet the risk factors involved with them are so high that the force is wary in sending them to rough areas. Only as a last resort they are assigned the duty to go to fight. A recent incident of a married woman captain committing suicide because of job harassments further sparks a volley of questions on the security of women in the Army.

Women in the Indian Economy

A review of the economic roles played by women in India reveals certain clearly distinct trends. The traditional village community in India consisted of the cultivators, the artisans and those performing menial services. In each of these, the women played a distinctive and accepted role in the process of earning a livelihood for the family, putting in sometimes more, sometimes less and often, an equal amount of labour in both production and marketing of products of agriculture and handicrafts.

A CII study on women empowerment in the workplace has thrown up many startling facts.¹¹ For instance, the study reveals that instances of women leaving an organization were only 7% against the whopping 59.5% for men. Yet, only 45% women reached the junior management level, while only 25 became senior managers. Surprisingly, recruitment of women employees is at par with the men in most companies. So, why do so few women reach the top? According to Anu Aga, Director, Thermax, and Chairperson of CII's National Committee on Women Empowerment, it's not just plain discrimination. "One of the biggest factors listed by our respondents was family", she said. Not that discrimination doesn't exist. Organizations

accepted that women were not preferred for specific departments. A staggering 75% didn't want women in production factions, while 24.5% felt sales was not women's forte. And, while the reasons for this ranged from security concerns to company policy, the most revealing one was Human Resource's conception that women were just not competent enough. But, perhaps for them, the most shocking revelation is the lack of a sexual harassment policy in a majority of companies. As many as 56% of the companies admitted there was no policy or regulation in place for sexual harassment faced by their women employees. A staggering 75% didn't even consider clients or vendors as potential causes of sexual harassment. Efforts are being made from time to time to mitigate such incidences and one such effort is that of Maharishi Dayanand University, Rohtak, which has constituted a standing committee to check the menace of sexual harassment and violence against women at their workplace. This is akin to the Supreme Court order for treating any activity objectionable to the modesty of a working women, as a punishable offence. Yet, the question remains as to how many women victim, who experienced sexual harassment, have come forward to testify against the accused.

In India, nearly 95% of the women bringing a case refuse to make a formal complaint to anyone at work because they felt there was no one they could complain to. They were too embarrassed, they feared that they would not be believed or they thought they could handle it for the sake of their careers.¹² As a result, they prefer to remain hidden victims. We must, however, not treat such cases in isolation because if the number of these harassed women is in majority in the lower ladder of the work spectrum, stray cases are heard among the elites and in the celebrity world. The difference is that while the latter occasionally gets the attention of the media, the former is too weak to cry.

¹¹ Rumu Banerjee/TNN (No harassment policy in most COS), 'The Times of India'.

¹² Shyamal Majumdar (16th July, 2004). From glass ceiling to pay gap. <http://us.rediff.com/money/2004/jul/16pec.html>



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Unbroken Glass Ceiling

An article titled “No Mother’s Day for Women Workers-Sex Discrimination in Mexico” received attention in this paper. The article says that women are punished for pregnancy because no pregnant worker can be sure to retain her job once her pregnancy is discovered. The Human Right Watch interviewed some workers who said that when they became pregnant punitive working conditions, heavier physical labour, jobs requiring long hours of standing and obligatory overtime were used to pressurize them into resigning. Women here cannot opt for motherhood and the worst part is they can neither opt for abortion.¹³

Among the many factors responsible for the glass ceiling, the upbringing, mindset and the attitude of the woman herself contribute to their victimization in the workforce and this relates even to the developed countries. It is said that they may be good at promoting their children’s interests, but research claims women lack the negotiation skills to get themselves to the top. Catherine Jones (2003)¹⁴ affirmed that shy women lose thousands by not asking for promotion. The Economic Professor Linda hereby mentioned that women are far less likely to initiate talks - from asking for a job promotion to getting men to help in the home and often demand far less than men. Prof Babcock supports the statement. She says, “Our society has created a psychological straitjacket for women that confines them from doing some things.” This statement raises a doubt over the intention of the woman whether she has any ambition.

A paper in a daily quoted a former Human Resource Director of an investment bank saying: “Some women are just not interested in making the sacrifices because they don’t value what they get it...” If a woman is asked

straightaway whether she is ambitious she will bluntly say ‘No’ or a long speech utterly confusing where the meaning stays undefined.¹⁵ It has been argued that “ambition has been confused with narcissism, a rise above others at the expense of others”.

In other words, women themselves were hesitant to accept the challenges of the male-dominated world. They preferred soft jobs. The in-built rivalry between the male and the female also prevented the women to make much progress in the workforce. The dual role of the home and the workplace hindered the decision-making of the woman.

Arguments on Glass Ceiling

Women, who boast the pride of their feminist views are fast to use the glass ceiling or gender gap idea in order to explain why they can’t get jobs or move ahead based on their own personal merit. The glass ceiling and gender gap ideas cannot ever be tried theories because they do not exist. McNutt (2002)¹⁶ asserts that the idea of a glass ceiling that oppresses women is absurd for many reasons. Supporters of this idea say, glass is clear so those forced under this ceiling would probably not even notice, at first, they were under such a restriction. But, if they tried to go through the glass, they would see quickly that the ceiling prohibited any rise to higher levels. This analogy is their only defence offered as to why the ceiling exists. Supporters say that it is a clear case of discrimination, which can only be resolved through affirmative action. Therefore, they are justified by using immoral and unfair tactics, such as denying a higher qualified person admission into college, in order to attain their allegedly constructive goals.

Many believe that culture imposes gender roles since childhood and this continues to affect the behaviour of the individual in spite of being

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¹³ Guadalupe, Hernandez Espinosa (2000). No Mother’s Day for Women Workers in Mexico, p. 215 in No Paradise Yet The World Women Face the New Century, edited by Judith Mirsky & Marby Radlent PANOS/ZRD.

¹⁴ Catherine Jones (25th August, 2003). The Western Mail <http://icwales.icnetwork.co.uk/O100news/0200wales/content>

¹⁵ Madelina Bunting (2008) (China Daily) file: [//C:/DOCUME-11Temp/itriJFCDJ.html](http://C:/DOCUME-11Temp/itriJFCDJ.html)

¹⁶ Lindsay McNutt (17th December, 2002). The Glass Ceiling: It can’t be shattered if it doesn’t exist ifeminists.com



An effort is made by a Women Association in America to shatter the pension glass ceiling. The association exerted that the minimum wage increase is very important for working women, which will make women to come forward not only to work, but also to accumulate something for their retirement.

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aware that there are two genders, which should be treated equally. Murphy¹⁷ said that the term “stay at home dad” doesn’t get a second thought nowadays and it is common for women to hold upper management positions. However, there is still room for improvement on how women are viewed in the professional world, since there exists still the aggressive and passive roles by which each gender has been identified till date. Murphy believes that though the number may seem low yet, women are making vast strides in corporate America. For a progressive society, it is important for both men and women in the industry to appreciate and recognize the work habits and demands that differentiate the gender.

Suggestions for shattering the Glass Ceiling

The message is clear that if a company chooses to continue to exclude women having abilities and adequate qualification from the workforce, then they are definite to lose out on the competition in the market. Even women should aptly be equipped to face the challenges and crash the glass ceiling. They need to know what they want and must clearly define their priorities. Besides, they must also not shy away from talking out their desires and goals and establishing relationships with others in the company. They must improve their credibility by taking on challenging assignments that are visible to upper management. Without sitting on their failures and regressing back, they must work on the feedback of their performances from others and objectively evaluate their personality, loyalty and knowledge. Prominent US Researcher Dr. Carol Gallagher has advocated an approach to the glass ceiling which said, “Instead of trying to break the glass ceiling, women need to find their own personal windows to climb through it.”¹⁸

To continue with the effort to bring women to the top, the management must learn to recognize and appreciate gender differences as positive qualities, which can serve as assets for the organization. McNutt suggests that women have been accepted into the job market, college educational settings and as vital parts of society. The only glass ceiling that might have existed before was one that women had put up themselves by measures like affirmative action by extreme feminist groups. The only way to break the glass ceiling is to keep striking harder and harder, but you have to strike with the fragments of the extreme groups that need to be dismantled.

An effort is made by a Women Association in America to shatter the pension glass ceiling. The association exerted that the minimum wage increase is very important for working women, which will make women to come forward not only to work, but also to accumulate something for their retirement. Women in America tend to be part-timers and rise in the pension would benefit them in their shorter job tenures, thereby providing shorter vesting periods and increased benefit insurance. It would also ease pension rules that are particularly hard on women.¹⁹

Some Success Stories

Everything is not dim and there are enough success stories, which can be set as examples for women, who are still striving to rise on the top. In Britain²⁰, it is found that female Directors now account for 13% of all Boardroom posts and the number of women in other senior leadership roles has also grown. The glass ceiling is crumbling as women win at work. Their earnings are growing faster than their male counterparts. Likewise, some Scots women have cracked the glass ceiling. Alastair²¹ surveyed that working

¹⁷ Murphy, E. Martin (2008). Gender roles breaking through the glass ceiling. CPCU, SVP of The Jacobson Group and Barbara Taylor and Jane Lowenstein of Jandara & Associates.

¹⁸ Carol Gallagher Dealing with the Glass Ceiling: Practical Strategies in APESMA Professional Women’s Network.

¹⁹ Shattering the Pension Glass Ceiling (6th February, 2008). US Department of Labour Office of the Secretary www.dol.gov

²⁰ Glass ceiling crumbles as women win at work 15th September, 2004.
<http://www.management-issues.com>

²¹ Alastair Jamieson, How some Scots women cracked the glass ceiling (January 2005).
<http://newsscotsman.com/scotland.cfm?id=17022005>



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women in East Lothian have smashed through the glass ceiling, making it the first area in Britain where female workers earn more than their male counterparts. In the Caribbean Islands, women in large numbers are joining the Police Force. In India, the corporate sectors are trying to give space to women to rise to the top. And there are entrepreneurs, though few in number, who have come a long way to be role models for others. Swati Deshpande writes in TNN that a lady Lawyer named Indu Malhotra pierced the glass ceiling by becoming the second senior Advocate designated by the Supreme Court in over five decades of its existence. The first was Leila Seth, who later went on to become India's first Chief Justice. The first woman Police Officer of India Dr. Kiran Bedi²² had something to say to the aspirant women that the more a woman takes on responsibilities the more coping skills she has to develop and evolve. When she claims to work as men do, she is trying to merge into a complete woman and then, she is no longer restricting herself to the roles related to her gender. Moreover surveys do indicate that women in certain developing countries seem to experience fewer difficulties than others in obtaining managerial jobs. This is because smaller proportion of this population has obtained higher education, so the skills and knowledge of qualified women are in demand.

An enterprising survey in Jamaica found that women had more years of schooling before joining the labour force than men and they advanced more quickly than men at middle management level, but it took significantly longer for women to reach top-level management position. (Geishenbeig, 1994, p. 321)²¹. Challenging the gender inequality Jamaican immigrant women representation in formal leadership increased in both long-standing and newly-created positions as the women union began to emphasize the leadership development issues. Women staffers realized the feminist value of empowering women in specific goals to develop leadership among women members

in sex integrated committees. Crawford asserted that it is time to leave Machismo behind.²³

A Sample Survey

A spot survey was made to understand how women in India feel about glass ceiling and how they plan to shatter the barrier. It was a purposive sampling and the subjects were the women with whom the author came in contact from time to time. With the intention to obtain a cross-sectional opinion, the sample was stratified. Women from the executive ranks, including CEOs, Managers from Corporate sectors and administrative heads from Government offices formed one group, clerks, stenographers and receptionists were included in the second group. The third level is that of academicians from various colleges in Delhi.

The sample size was thirty, ten from each group. Besides the work factor and the sex, no other variable was controlled. All the subjects were working women with the minimum age of 30 and maximum 55.

Responses were collected with the help of some questions. Three questions were asked without giving the subjects time to think and their immediate responses were studied.

Four close-ended questions were asked to all the women in the three categories. These were:

- | | | |
|-----|---|--------------------|
| (a) | Are you aware of the word 'The Glass Ceiling'? | Yes, No, Can't Say |
| (b) | Do you as a women experience the glass ceiling in the work-place? | Yes, No, Can't Say |
| (c) | Do you feel disappointed with the glass ceiling? | Yes, No, Can't Say |
| (d) | Do you intend to break the glass ceiling? | Yes, No, Can't Say |

An enterprising survey in Jamaica found that women had more years of schooling before joining the labour force than men and they advanced more quickly than men at middle management level, but it took significantly longer for women to reach top-level management position.

²² Kiran Bedi (1995). Tough choices becomes tougher in Theme Paper on Gender Issues in Civil Services, presented in the Academy of Development Administration, Pune.

²³ Crawford, 1. Cynthia (June 2007). Challenging Gender Equality in an Immigrant Union. University of Toronto, Vol. 21, No. 3.



Working Women and the Glass Ceiling

All the responses related to each item are placed in *Tables 1, 2 & 3*.

The responses obtained proved to be interesting. Women occupying senior posts expressed their awareness about the glass ceiling. They labelled it as a gender-biased approach by the opposite sex, which inhibit their progress. Yes, they often have experienced this obstacle in the workplace, but instead of sitting back and feeling distressed, 7 out of 10 women accepted it as a challenge and met their employers to discuss their feelings. High education and an ambitious move enabled them to shatter the glass ceiling. Three out of 10 in this group were extremely disappointed and thought of submitting their resignation. Moving applications and seeking intervention from the headquarters helped them to overcome the barrier and move ahead. All without fail have said that they are extremely disappointed with the glass ceiling. The intention to break the glass ceiling was acute in 30 to 45 age-group, but cooled down as they grew in age. Those in 50-55 seemed to have accepted it as their destiny and decided to live with it. They are unable to see above their glass any more.

Another group of women, who have chosen teaching as their profession, commented that academic areas are known to be unbiased, but the inside story is different. The glass ceiling is there, all accepted except with a slight difference. The younger teachers, who are in early thirties, have silently nurtured humiliations and even harassments of all sorts from male colleagues and their seniors. Those who have managed to break the glass ceiling and get the next promotion consider it as part of the workforce and also take delight in achieving their goals. These numbers are few only (4 out of 10). No doubt all have somewhere or the other in the form of hurdles in the projects by the male teachers or otherwise have felt the gender-biased approach. Replying to the last question of efforts being made to break the glass ceiling, elderly teachers, who have put considerable years of experience, said that to avoid the glass ceiling women teachers like to choose girls colleges or even decide to

leave. It is felt, however, by all the teachers in general that compared to other professions the feeling of glass ceiling is not as prominent in the universities.

In the case of the third and the last group women employees, who were studied, of the 10, 5 belonged to Government offices and 5 were working in private sectors. They were in the age-range of 30 to 55. *Table 3* indicates, as seen earlier, irrespective of the work culture all the women were aware of the glass ceiling. Unanimously, they also accepted that they have in some form or the other experienced the gender-biased approach from their colleagues. It was thought that women in the Government offices may respond differently because their environment is more organized, but it was not so. Only it is seen that 2 women one each in the age-range of 30-34 and 35-39 stated that they were not disappointed of this ceiling because for them, it will brighten their energy to accept challenges to break the invisible barrier. In the end it is inferred that while younger age-group women were ready to break the glass ceiling the enthusiasm declined as the age increased. While 2 women in the age-range of 40-44, immediately said "Can't Say", 2 in the age of 45-49 and 50-55 clearly said 'No'. it is the projection of cynicism, which comes with age where a respondent finds herself helpless and gives up the fight for equality with their male colleagues.

A Comparative Chart containing the responses of the total population to the four questions have been presented in the form of frequencies. The results show that among the 10 senior officers in the 1st category, 35 responses had been in the affirmative towards all the questions and five times the replies were 'No'. Among teachers, 28 replies were in the affirmative and 12 responses were negative. Likewise, the third category of women employees had also mainly accepted all the questions, only 5 disagreed and 2 had no answer. A microscopic view can be obtained that women studied were aware of the phenomenon of the glass ceiling and they readily agreed to fight it since they were disappointed with the discrimination attributed to them. Except for a small number, who either was not clear or did not give any reply, there

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was not much difference in the replies in spite of them being in various jobs. Altogether, it can be inferred even from this small sample that women, no matter what status they hold are aware of the invisible, but real glass ceiling and it mainly depends on their outlook how to combat it.

Concluding Note

Every aspect has a positive side, let us also look at it. The glass ceiling need not be taken always

as a negative phenomena. According to Russell Madden (2005)²⁴, Glass ceiling allows people to see through the world above them. Because the glass is clear those existing under such ceiling might not notice at first that the barrier is separating them from higher level. The moment they pass through it they understand that this ceiling prevented any such rise. Therefore, it proves as an ongoing challenge for a working woman to move up the ladder and crash the glass ceiling. ■

Table 1: Responses obtained from the senior lady officers to the 4 items

Items	Response	30-34	35-39	40-44	45-49	50-55	T	Key
A	Yes	1	2	2	3	2	10	Are you aware of the word 'The Glass Ceiling'?
	No	0	0	0	0	0		
	Can't Say	0	0	0	0	0		
B	Yes		1	2	3	2	8	Do you as a woman experience the glass ceiling in the workplace?
	No	1	1				2	
	Can't Say							
C	Yes		2	2	3	2	9	Do you feel disappointed with the glass ceiling?
	No	1					1	
	Can't Say							
D	Yes	1	2	2	3		8	Do you intend to break the glass ceiling?
	No					2	2	
	Can't Say							
T		4	8	8	12	8	40	

Table 2: Responses of the teachers to the questions

Items	Response	30-34	35-39	40-44	45-49	50-55	T
A	Yes	1	1	4	3	1	10
	No						
	Can't Say						
B	Yes			1	3	1	5
	No	1	1	3			5
	Can't Say						
C	Yes			2	3	1	6
	No	1	1	2			4
	Can't Say						
D	Yes	1	1	3	2		7
	No			1	1	1	3
	Can't Say						
T		4	4	16	12	4	40

²⁴Russel Madden (2005). Shattering the Glass Ceiling http://home.earthlink.net/~rdmadden/webdoc/Shattering_the_Glass_Ceiling.html

accepted it as their destiny and decided to live with it. They are unable to see above their glass any more.

A microscopic view can be obtained that women studied were aware of the phenomenon of the glass ceiling and they readily agreed to fight it since they were disappointed with the discrimination attributed to them. Except for a small number, who either were not clear or did not give any reply, there were not much difference in the replies in spite of them being in various jobs.



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Glass ceiling allows people to see through the world above them. Because the glass is clear those existing under such ceiling might not notice at first that the barrier is separating them from higher level. The moment they pass through it they understand that this ceiling prevented any such rise.

Table 3: Responses of women employees in Government and private sectors

Items	Response	30-34	35-39	40-44	45-49	50-55	T
A	Yes	2	2	3	2	1	10
	No						
	Can't Say						
B	Yes	2	2	3	2	1	10
	No						
	Can't Say						
C	Yes	1	1	3	2	1	8
	No	1	1				2
	Can't Say						
D	Yes	2	2	1			5
	No				2	1	3
	Can't Say			2			2
T		8	8	12	8	4	40

Table 4: A comparative chart of the responses of the women of three categories

Respondents	Response	30-34	35-39	40-44	45-49	50-55	T
Officers	Yes	2	7	8	12	6	35
	No	2	1	0	0	2	5
	Can't Say						
Teachers	Yes	2	2	10	11	3	28
	No	2	2	6	1	1	12
	Can't Say						
Employees	Yes	7	7	10	6	3	33
	No	1	1		2	1	5
	Can't Say			2			2





Regulation of Pornography on Internet - Issues

Krishna Sastry Pendyala* & Anjana Sinha**

Introduction

THE Internet and other telecommunications technologies are promoting advances in virtually every aspect of society and every corner of the globe: fostering commerce, improving education and health care, promoting participatory democracy and facilitating communications among family and friends, whether across the street or around the world. Unfortunately, many of the attributes of this technology like low cost, ease of use, and anonymous nature, among others, make it an attractive medium for Financial crimes, Pornography, Cyber-bullying, Cyber-terrorism, etc.

The production of erotic literature and drawings depicting women and children as sexual objects, has existed through the ages. However, pornography in the modern sense began with the invention of camera in the early nineteenth century. The advent of the Internet in the 1980s has escalated the problem of pornography by increasing the quantity & quality of material available, the efficiency of its distribution, the ease of its accessibility anonymously and inexpensively. The widespread availability of pornography on the Internet has stirred up a "moral panic" shared by the Government, Law enforcement bodies and public. *Cyber-pornography is defined as "pornography that is distributed by means of various sectors of the Internet, primarily via websites, peer-to-peer file sharing, or Usenet newsgroups"*¹. There is no settled definition of pornography, either in India or in the multinational environment of the Internet, where cultural, moral and legal variations all around the world make it difficult to define "pornographic content" in a way acceptable to all. What is considered simply sexually explicit, but not obscene in India, may well be obscene in many other countries; conversely, what is considered lawful, but not pornographic in

Australia, may well be obscene under the current Indian legislation. In both a social and a legal sense, it is important to differentiate between online child porn, which is illegal in the United States and elsewhere and online adult pornography, which is not necessarily illegal, unless the contents exceed the community's standard.

As per 2007 statistics, the pornography is more than \$100 billion industry and the revenues are more than that of the top technology companies combined: Microsoft, Google, Amazon, eBay, Yahoo, Apple, Netflix and EarthLink². Few important statistics are:

- The number of pornographic websites are 4.2 million, which is 12% of total websites.
- Number of pornographic pages on Internet are 420 million & 89% pages are from USA.
- The daily pornographic search engine requests are 68 million (25% of search engine requests).
- 42.7% Internet users view pornography.

India ranked fourth in the number of Internet users in the world. As on 31st December, 2008, India has 13% of Internet users in Asia and 7.36% that of the world. 85% of the Internet users in India are in the age-group of 14-40 years. 14% of school going kids and 21% of college students are Internet savvy. Most of the users use net for e-mailing (95%), next is job searching (73%), followed by chatting sites (62%), and social networking sites (51%). According to National Crime Records Bureau (NCRB), cyber crimes under the Information Technology (IT) Act recorded a whopping 50% jump in 2007 over the previous year. The maximum cyber crime cases,

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Abstract

The production of erotic literature and drawings depicting women and children as sexual objects has existed through the ages. The advent of the Internet in the 1980s has escalated the problem of pornography. The widespread availability of pornography on the Internet has stirred up a “moral panic” shared by the Government, Law enforcement bodies and public. The structure of the Internet, the uncertainties of jurisdiction, the

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about 46%, were related to incidents of cyber-pornography³.

If illegal and harmful content on the Internet needs to be regulated, then the question is: how should this be achieved? The Internet is a complex, anarchic, and multinational environment where old concepts of regulation, reliant as they are upon tangibility in time and space, may not be easily applicable or enforceable. This is why the wider concept of governance may be more suitable. Debates about combating pornography on the Internet tend to come down to two fundamental questions:

- Whether to regulate?
- What should be the regulation strategy: No regulation/Self-regulation/ External regulation?

Pornography on the Internet is available in different formats. These range from pictures and short animated movies, to sound files and stories. The various methods used for distribution of pornography on Internet were discussed in Section 2. The structure of the Internet, the uncertainties of jurisdiction, etc. are posing some unique challenges for Law Enforcement Agencies. The various challenges faced by the Law Enforcement Agencies were discussed in Section 3. USA, UK and India took various measures, technical & legal, encompassing self-regulation and Government regulations to combat cyber pornography. The various legal measures taken by these countries were discussed in Section 4. The measures taken in India are mostly reactive with efforts concentrating mostly from legal angle. But, the need of the hour is a proactive approach, self-regulatory strategy with stress on technical solutions and cooperation from various stakeholders.

Methods used for Distribution of Cyber-Pornography

Pornography on Internet has several advantages. It permits access to vast quantities of pornographic images from around the world, makes pornography instantly available at any time or place, facilitates direct communication and image sharing among

users. Other benefits include production of images that are of high digital quality, do not deteriorate, which can be conveniently stored and produced in a variety of formats (pictures, videos, sound), as well as the potential for real-time and interactive experiences. Cyber-pornography also permits access to digital images that have been modified to create composite or virtual images (morphing)⁴.

- **Newsgroups:** Pornography newsgroups provide members to discuss their sexual interests and to post pornography material and also helps in exchange information about new sites. Most commercial servers block access to such sites, while some provide access to them at user’s risk by capturing the details of the credit card payments required for access, or by keeping the record of IP address (IP spoofing). However, many users are accessing these newsgroups by using techniques that hide their identity by concealing the true IP address. Some of these groups appear on reputable servers and are swiftly shut down when they are detected. However, they may use code names or camouflage child pornography images among legal adult pornography to prolong their existence.
- **Bulletin Board Systems (BBS):** Bulletin Boards may be used legally to host discussions that provide advice to seekers of pornography, including the URLs of child pornography websites and ratings of those sites. These Bulletin Boards may be monitored by system administrators to exclude bogus or irrelevant postings.
- **World Wide Web (WWW):** Most of the pornographic content is available through web pages. Pornography websites may be created, or child pornography images may be embedded in general pornography sites.
- **Chat rooms:** Chat rooms may be used to exchange pornography and locate potential victims. Open chat rooms are avoided by seasoned pornographers because they are often infiltrated by undercover Police. Some chat rooms are password protected.



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- **E-mail:** E-mail attachments are sometimes used by professional distributors of child pornography, but more frequently they are used to share images among users, or these are sent to a potential victim as part of the grooming/seduction process. This method is considered risky by seasoned users because of the danger in unwittingly sending e-mails to undercover police posing as paedophiles or as potential victims.
- **Peer-to-peer (P2P):** P2P networks facilitate file sharing among pornography users. These networks permit closed groups to trade images. The state of P2P programs are rapidly changing to include heavy encryption and anonymity features. The largest of these networks is facilitated by programs called "Share", "Winny". These applications introduce additional complexity for the detection and identification of cyber-porn, for encrypted payloads tend not to be susceptible to surveillance techniques.
- **Web cam:** With the increase in the bandwidth capacity by ISPs and with the processing capability of computers images of abuse may be broadcast in real time. Today, viewers of pornography can make online requests for a particular sexual act to be carried out by the victim.
- **TGP:** Most common form of adult content is a categorized list (more often, it's a table) of small pictures (called "thumbnails") linked to galleries. These sites are called a Thumbnail Gallery Post (TGP). As a rule, these sites are sort out by category and type of content available on a linked gallery. Sites containing thumbs that lead to galleries with video content are called MGP (Movie Gallery Post). The main benefit of TGP/MGP is that the surfer can get a first impression of the content provided by a gallery without actually visiting it.
- **Structure of the Internet:** The structure of the Internet makes control of pornography very difficult. The Internet is a decentralized system with no single controlling agency or storage facility. Because it is a network of networks, even if one pathway is blocked, many alternative pathways can be taken to reach the same destination. Similarly, if one website or newsgroup is closed down, there are many others that can instantaneously take its place. The decentralized nature of the Internet, and resultant difficulties in restricting the distribution of pornography, is exemplified by P2P networks involving direct connections among computers without the need for a central server.
- **Uncertainties of jurisdiction:** The Internet is an international communication tool that crosses jurisdictional boundaries. A strong cooperation among Law Enforcement Agencies is very much necessary to track offenders across jurisdictions and to harmonize resources. Equally problematic is the issue of who is responsible for investigating pornography on the Internet when there is no clue as to where the images originate. There is a potential for pornography crimes to go uninvestigated because they do not fall within a particular law enforcement jurisdiction.
- **Lack of regulation:** By its nature, it is very difficult, but not impossible to regulate the Internet. But, many jurisdictions are reluctant to introduce laws that might help control Internet use. There are debates about the appropriate weight to be given to the community's protection on the one hand, and to freedom of speech and commercial interests on the other. There is also legal ambiguity about whether ISPs should be liable for prosecution or not. The arrest of Mr. Bajaj, head Baze.com in Delhi public school MMS case has brought this issue into forefront. The end result is that ISPs' legal obligations with respect to Internet pornography are often unclear and, for the most part, the emphasis has been on self-regulation.

Challenges in controlling Internet Pornography

Internet child pornography presents some unique challenges for Law Enforcement Agencies. These include:

lack of regulation, the differences in legislation, the know-how of criminals, rapid advancements in technology are posing challenges to Law Enforcement Agencies. If illegal and harmful content on the Internet needs to be regulated, then the question is, how should this be achieved? By no regulation or by self-regulation or by external regulation? Combating the problem of cyber-pornography requires a multifaceted defence. Indian approach to



cyber-pornography is so far reactive, but not proactive. Due to limited resources, self-regulation is ideal for Indian environment. A smooth liaison between ISPs and Law Enforcement Agencies is very much essential. Government's preferred option in relation to ISPs should be of self-regulation rather than control by legislation. ISPs should be encouraged to produce codes of practice to control access to illegal and unsuitable material.

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- **Differences in legislation:** Efforts to regulate Internet are hampered by cross-jurisdictional differences in laws and levels of permissiveness regarding pornography. *In some countries, pornography in any form is banned, whereas in some countries adult pornography is allowed, but not child pornography and also what is considered harmful will depend upon cultural differences.* The definition of child varies from country to country, for example, in USA a child is defined as someone under 18, whereas in Australia, the age is 16.
- **Know-how of criminals:** Criminals vary in the degree to which they employ elaborate measures to avoid detection. A few possess high levels of technological expertise. In reality, the trap and trace operations of Police succeed so far only in catching inexperienced, low-level criminals.
- **Rapid advancements in technology:** The criminals are using technologies like stenography, digital compression, encryptions for circulation of pornographic material on internet. In addition to P2P networks, criminals are also using re-mailers (servers that strip the sender's identity from e-mail) and anonymous mailers for communication.
- **Volume of Internet activity:** The task of tracking down every person, who visits a pornography site is impossible due to sheer amount of Internet traffic. Realistically, the chances of being caught are quite remote.

Regulation of Internet

Much of the heat in the debates surrounding regulation of Internet content arises from the meaning, which different interest groups assign to "regulation". Supporters of Internet regulation argue that content and availability, on Internet should be regulated on the lines of regulation strategies adopted to other Media like print, radio, film and broadcast. However, ISPs and Internet industry groups see regulation as a heavy-handed response, which will impose unnecessary costs

and hardships without meaningfully addressing the problem. Industry groups in particular argue that regulation mistakenly targets Internet Service Providers and that the focus should be on the producers of pornography and not on the distributors, who are only a "medium" in data transmission, and unaware, what a "data packet" contains. Regulation of Internet for cyber pornography comes in three forms, namely, "no regulation", "self-regulation" and "external regulation"⁸.

- **No regulation:** Supporters of this theory are of the view that rather than implementing a new Internet-specific regulatory mechanisms, Government should enforce existing laws, support the development of voluntary codes of conduct, establish hotlines to enable people to report instances of illegal material or conduct and support community education to promote awareness of safe Internet use.
- **Self-regulation:** It involves establishing a system, which encourages responsible behaviour among Internet Service Providers, web page developers and programmers, supports the voluntary development and use of filtering technologies, gives to parents and other responsible adults the key role in protecting children from harmful content, provides an industry-based complaints handling mechanism, supports measures to develop international agreements governing online content. Self-regulation involves the users, parents, ISPs and organizations. Users can try to avoid exposure by using system filtering softwares, which are available at free of cost on several websites. Parents can educate children about safe Internet usage and monitor their Internet behaviour. Organizations can regulate the Internet usage of their employees by adopting and enforcing workplace codes of conduct, auditing computer usage, and formulating ethical codes and make use of web filters. In terms of self-regulation, ISPs have a crucial role. These include, removal of illegal content, setting up of Internet



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sites or hotlines that allow users to report illegal practices, filtering browsers and search engines by using filtering softwares, maintaining records of IP logging, caller ID, web hosting; verifying the identities of people/organizations, who open Internet accounts. Other self-regulation measures include boycotting sites by advertisers and blocking the credit card transactions by credit card companies.

- **External regulation:** This includes all or most of the measures listed above as well as the establishment of an independent online content regulatory authority, a licensing system for Internet Service Providers, uniform legislation on the production and classification of Internet content, criminalizing sexual exploitation, which is carried out via the Internet, the development of a technical standards and accreditation scheme for filtering technologies and mandatory codes of conduct. External regulation is done by the Government and it is meant to protect the society from pornography and exposure to explicit material. But, external regulation has to be done with much care. Not only is it a problem to regulate a medium that has a “borderless” character and is very unstructured, it is also important to secure the freedom of speech. Thus, regulating the Internet is a great challenge.

Since it is the technology that makes pornography so easy to access, people hope that technology itself can offer protection. ISP has started building filters in search engines that can recognize websites with offensive content. The three different sources on which filtering techniques work are: Text, Meta-data and Image. Sometimes, a combination of all is used. With filtering based on text or meta-data the most commonly used approaches are list-based and keyword-based. With list-based filtering, providers keep blacklists of URLs of web pages that are said to have pornographic content. But, keeping these lists up-to-date, is a big challenge. The keyword-based approach, however, suffers from overblocking. Health pages, for example,

may get blocked because keywords occur in it, which are contained in the keyword dictionary. Secondly, porn sites might use anti-recognition techniques like deliberately misspelling important keywords. Image filtering is totally different based on model feature and region recognition. In jurisdictions that heavily restrict access or outright ban pornography, various attempts have been made to prevent access to pornographic content. The mandating of Internet filters to try preventing access to porn sites has been used in some nations, such as China and Saudi Arabia.

Legal Measures taken in USA, UK and India for Regulation

Some areas of legal concern regarding pornography are:

- Prohibiting certain or all types of pornography that are illegal within a Government’s jurisdiction.
- Preventing those under the legal age (for most this means a minor under 18 or 21) from accessing pornographic content.
- Enforcing laws designed to ensure that performers in pornography are of legal age.

UK Cyber-child-porn Legislation

Obscene Publications Act, 1959 and 1964, are the two major statutes, which constitute the major legislation to combat pornographic material of any kind in the UK. Under Section 2(1) of the Obscene Publications Act (OPA), it is an offence to publish an obscene article or to have an obscene article for publication for gain. UK passed Protection of Children Act, 1978, in response to the growing problem of child pornography. The definition of “photograph” given in Section 7(4) of the 1978 Act was extended to include photographs in electronic data format. The Criminal Justice and Public Order Act, 1994 (CJPOA) introduced the concept of “pseudo-photographs” of children. Pseudo-photographs are technical photographs, but these are created by computer software manipulating one or more pre-existing pictures. Under Section 160 of the Criminal Justice Act,

Since it is the technology that makes pornography so easy to access, people hope that technology itself can offer protection. ISP has started building filters in search engines that can recognize websites with offensive content.



*In India, adult & child pornography both are criminal offences. There are several provisions in Indian Penal Code, 1860 and Indian Information Technology Act, 2008 to deal with pornography. **Section 354 of IPC** deals with assault or criminal force to woman with intent to outrage her modesty.*

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1988, as amended by Section 84(4) of the CJPOA, 1994, it is an offence for a person to have an indecent photograph or pseudo-photograph of a child in his possession⁶.

US Cyber-child-porn Legislation

In the United States, child pornography is a category of speech not protected by the First Amendment. The federal legal definition of child pornography can be found at 18 U.S.C. § 2256. Sexual Exploitation of Children Act, 1978 is the First Federal Law specifically dealing with child pornography, which prohibited the manufacture and commercial distribution of obscene material involving minors under 16. By Child Protection Act, 1984, the age of minor covered by child pornography legislation was raised to 18, and the distinction between child pornography and obscenity codified. The definition of child pornography came from the 1996 Child Pornography Prevention Act (CPPA). The Children's Online Privacy Protection Act (CIPA), 2000, applied to the online collection of personal information from children under age 13. The rules detailed what a website operator must include in a privacy policy, when and how to seek verifiable consent from parents or guardians, and what the responsibilities an operator has to take to protect children's privacy and safety online. It is important to note that these Internet safety policies required the use of filters to protect against access to visual depictions considered as obscene or harmful to minors⁶.

Pornography Legislation in India

In India, adult and child pornography both are criminal offences. There are several provisions in Indian Penal Code, 1860 and Indian Information Technology Act, 2008 to deal with pornography. **Section 354 of IPC** deals with assault or criminal force to woman with intent to outrage her modesty. **The Indecent Representation of Women (Prohibition) Act, 1986**, an Act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and also prohibits of publication or sending by post of books, pamphlets, etc., containing indecent representation of women in

any form. **The Indian Penal Code, 1860, Section 293** also specifies the law against sale, etc. of obscene objects to minors. As per the IPC Act, Section 293 - "Sale, etc. of obscene objects to young persons - whoever sells, hires, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object, shall be punished for a term which may extend to three years." As per **IPC, 1860, Section 292**, a book, pamphlet, paper, writing, drawing, painting representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest. India enacted Information Technology Act in 2000 popularly called IT Act, 2000 and subsequent amendments were made in December 2008 to deal with pornography and child pornography. **Section 67 of IT Act** deals with publishing or transmission of information, which is obscene in electronic form is punishable up to five years and in the event of a second or subsequent conviction with imprisonment, which may extend to ten years. **Section 67A of IT Act** provides for punishment for publishing or transmitting of material containing sexually explicit act in electronic form. **Section 69A** empowers the Central Government to issue directions for blocking of websites. With the rapid misuse of mobile phone cameras and web cameras, amendments were made in 2008. **Section 66E** deals "with intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that persons, shall be punished with imprisonment, which may extend to three years or with fine not exceeding two lakh rupees, or with both". This section also defines the meaning for the terms like "transmit", "capture", "private area", etc. **Section 67B deals with Child Pornography**, and reads as "Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form" and "creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or cultivates, entices or induces children to online relationship with



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one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource". Chapter XII, concerned with Network Service Providers has been renamed as "Intermediaries not to be liable in certain cases" in the 2008 amendment. Section 79 in this chapter sets out conditions explicitly under which an intermediary will not be liable. **Section 79 of IT Act** deals with ISP liability and specifies that intermediaries would not be liable for the prosecution unless they are found to have "conspired and abetted in the act". Their liability comes only when they fail to act after being notified^{5,7}.

Recommendations & Conclusions

Internet pornography is a clear and existing danger to all the civilized societies across the globe. The social costs of this type of crime are very high. Differences in the definition of cyber pornography have been complicating the prosecution of cyber pornographers around the globe, and the reality is that jurisdictional problems will likely to continue for a while longer. All the countries and international community must initiate immediate steps to control this crime. This crime needs to be fought on many fronts and cooperation between all concerned agencies like Governments, Law Enforcement Agencies, ISPs, NGOs, etc. should go a long way in combating this heinous crime. Combating the problem of cyber-pornography

requires a multifaceted defence, including balancing citizens' freedom of speech with causing intended violence to minors, educating the likely targets (children and women) in society about protecting themselves, while interacting online, and developing technological approaches for identifying online pornographers.

Indian approach to cyber pornography is so far reactive, but not proactive. No sincere effort has been made so far to bring the stakeholders together. External Regulation is difficult due to limited resources like trained Law Enforcement officials, lack of filtering tools with the Government, etc. Therefore, the best viable and ideal option for Indian Government is self-regulation. Government, industry and Law Enforcement Agencies should work as a team to combat this menace by developing filtering softwares, regulating cyber café, etc. It is not possible to access the Internet without the services of an ISP, and thus, the role of ISPs in content regulation of the Internet is very crucial. A smooth liaison between ISPs and Law Enforcement Agencies is very much essential. Incidents like arrest of Mr. Bajaj of Baze.com should not happen again. Government's preferred option in relation to ISPs should be of self-regulation rather than control by legislation. ISPs should be encouraged to produce codes of practice to control access to illegal and unsuitable material. ■

REFERENCES

1. Krishna Sastry Pendyala, Computer crimes and computer forensics (2001), Selective Publishers, New Delhi, India.
2. Available at: http://www.familysafemedial.com/pornography_statistics.html. Accessed on 21-03-2009.
3. Available at: www.ncrb.gov.in. Accessed on 22-03-2009.
4. Richard Wortley, Child Pornography on the Internet. Available at: www.cops.usdoj.gov. Retrieved on 22-03-2009.
5. Rohas Nagpal. Available at: <http://www.asianlaws.org/library/cyber-laws/cyber-pornography-indian-law.pdf>
6. Eko, L.S. (2006, June). Regulation of Online Child Pornography under European Union and American Law. Paper presented at the annual meeting of the International Communication Association, Dresden International Congress Centre, Dresden, Germany Online. Retrieved on 2008-4-22. <http://cybercrime.planetindia.net/it-act-2000.html>
7. Wells, M., Finkelhor, D., Wolak, J. & Mitchell, K. (2007). "Defining Child Pornography: Law Enforcement Dilemmas in Investigations of Internet Child Pornography Possession" (PDF). Police Practice and Research 8 (3): 269–282. doi:10.1080/15614260701450765. <http://www.unh.edu/ccrc/pdf/CV96.pdf>. Retrieved on 1st July, 2008.

Indian approach to cyber pornography is so far reactive, but not proactive. No sincere effort has been made so far to bring the stakeholders together. External Regulation is difficult due to limited resources like trained Law Enforcement officials, lack of filtering tools with the Government, etc.



Keywords

Patriarchy
Feminism
Womanhood
Heinous Crime
Green Revolution
Principal Actor

Dowry Deaths and Patriarchy in Punjab

Dr. Roop Kamal Kaur*

Introduction

THE land of the five rivers is known for its brave people, both men and women, who can do any amount of hard and difficult task to make their lives better and comfortable. Situated at the doorway to the historically developed and prosperous country, the people of Punjab had to face many ordeals. They had to encounter big and small expeditions and invasions from outside, all throughout their history. These conditions made them into hardy people, who are fond of eating and making merry. In such a society under such circumstances, it was natural for men to take the reigns of society in their hands. Hence, the domination of men in Punjabi society and the role of the patriarch in consolidating a society that was amenable to attacks from outside. Patriarchy as a system of thought, as a value in society took roots here and flourished too. This means obviously that women are relegated to background as far as all important decisions in the family and the society are concerned.

As a student of Sociology and Social Anthropology, I had always understood the Punjabi society as a strongly patriarchal one where women's voice is not heard. The emergence of feminism and its condemnation of patriarchy have further sensitized all of us, especially the educated ones, about the menace of this mode of thought in the present society. There is no doubt that this appears so manifestly. But, when I started working on my topic of research to see how women are made victims in a patriarchal society to an extent that they are made to commit such crimes that they are behind the bars. And the nature of crimes involves not only petty thefts etc., but as serious a crime as murder. I met a woman in the prison, who as a girl, had committed five murders. When I first went to

the prison to obtain some information about the number of women lodged there, who would be my subjects of research, I was really shocked to hear about this case. As a woman myself, I had always thought that women are kind-hearted, sensitive, emotional and full of compassion for others. But, when I came out of the prison on my very first day, I was really dazed. I kept wondering about all the nice qualities of womanhood. What happened to these women, who committed such heinous crimes? Did they commit it on their own or else at some one's instance?

Patriarchy & Crime

Under the influence of the feminists that patriarchy is deeply rooted in this part of the world I rationalized that women cannot commit such crimes. It must be the role of men, who must have incited them or as patriarchy forced them to do so. It was quite a plausible explanation as we see women doing all sorts of odd jobs to please their husbands. There are cases where not only wives, even daughters are made to do prostitution to run the households. The patriarchy as husband and father acts as a middleman, a *dalla* in the colloquial terminology.

With such impressions in my mind, I started working on my problem of research as to why and how women commit crime and get lodged behind the bars. The most important thing that I discovered is that the role of the patriarch is not the way we have imagined it to be, or at least as it has been made out to be. I shall take below three cases of dowry deaths among many more and examine how the male heads of the households have placed themselves in relation to these cases of dowry deaths. To my utter surprise, in all the cases of dowry deaths, the patriarch has

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always stood against it. Sometimes, he openly defied it and at other times if he could not do so effectively, he remained a mute helpless witness and kept warning the perpetrators of violence of the dire consequences of their actions. Then, who were those, who were involved in committing the crime? Surprisingly, it was the woman in mother-in-law, who were involved in the act of murder. Before giving the details of the cases let me give a small introduction to the concept of dowry itself.

Stridhan to Stri Se Dhan

It is not that dowry is a new phenomenon that is afflicting the modern Indian society. It is an old concept, which referred to the gifts given to a daughter at the time of her marriage. Since there were never so many sources of income that people would accumulate wealth for themselves and for gifts to their daughter, only essential items for the household were given as a token of love or may be as her share in the parental house. Therefore, there was no compulsion to dictate terms of dowry as we have it today. People gave according to their economic and social status. It was never demanded. That is why it is called *stridhan*, means lady's wealth. It is only now that the essential spirit and purpose of dowry got lost and it has become a commercial activity like a business deal. That is why people now call it *stri se dhan*.

The officially reported incidents of dowry deaths in India have increased from 4,215 in 1989 to 7,026 in 2004, registering an increase of more than 67% in 15 years. How did it happen? How do we explain this aberration in an advanced society of the country?

In the Punjabi society, greed for more dowry has consistently risen since the onset of Green Revolution and the cases of dowry deaths, which I studied also, reveal the same. Prior to that, dowry was never an issue in the settling or the success of marriage. On the contrary, there was a widespread practice of bride price in which the boy's parents would pay to the girl's family for accepting her hand. And where this did not happen it was called

punn da viah. But, in the recent years, lust for dowry has increased so much that it has crossed all the barriers of sensibility and decency.

I have examined the cases thoroughly by first inquiring from the convict the details of her case, then looking into the FIR and the copy of judgement to see for myself how the witnesses were examined and the cases decided by the Judges. I did not stop there, instead went to the native places of the convicts to hear the voice of the people. How do people look at the crime and the criminal woman itself? The information collected and matched at all the levels was used as inputs to explain the case comprehensively.

Patriarchy in absentia

In all the cases of dowry deaths, I have seen that the crime was committed by the mother-in-law and the sister-in-law in connivance and often with active participation of the daughter-in-law's husband. It is not really an important issue if these actors were directly involved in the murder of the girl or forced her to commit suicide. They created such conditions that it had become unbearable for the girl to survive. She preferred death to anything. It is really disturbing to note that in one case, the girl was done to death, then dragged into the bathroom, kerosene was poured on her and set to fire, so that it might appear as a case of suicide. In another case, the mother-in-law and the sister-in-law hatch a conspiracy with the girl's husband and strangulate her in the bed at night. They tried to cut her into pieces and bury in the courtyard itself. As this could not be done, they tried to drag her out of the house to throw the body in the nearby canal. The Police *naka* deterred them to do so. Finally, they made her sit in the kitchen after evacuating the kitchen of all essential goods, poured kerosene on her and set to fire, so that it might appear as a case of suicide. It is simply amazing to read into such cases that just for the lust of money or goods, women of the house could go thus far to eliminate the weaker sex brutally.

It is interesting to note in all the cases of "dowry deaths" that the father-in-law remained out of

Abstract

The officially reported incidents of dowry deaths in India have increased from 4,215 in 1989 to 7,026 in 2004, registering an increase of more than 67% in 15 years. How did it happen? How do we explain this aberration in an advanced society of the country?



*Punjabi society too has given space to such cultural practices where the routine values and norms of behaviour are reversed to provide catharsis to those occupying the role positions that remain subordinate. The players of such roles do their catharsis in numerous ways through verses that are commonly called as **bolian** in Punjabi parlance.*

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the picture. In this patriarchal Punjabi society, in all the three cases, the patriarch has remained not only absent, but actually intervened to stop the family members from committing such a dastardly act. In one case, the father-in-law did not allow them to do so, that is why this heinous crime was committed on a day when he and his younger son, who also has “asked his brother not to commit such a crime”, were not at house. In another case, when the police came to pick up the whole family, the village people asked the Police “to leave him (the father-in-law) as he has no such role to play in the case. As a matter of fact, his inclusion would actually weaken the case”.

Insider v. Outsider Matrix

The principal actors in “dowry deaths” are the mother-in-law and sister(s)-in-law, who usually start the project from petty household issues on one pretext or another and try to show her down in the eyes of her husband. They often cajole her husband of discriminating against them or not caring about them in “their own home”. As per the Indian/Punjabi culture, it is absolutely intolerable for a son or a brother to hear such things from his mother or a sister(s). It is also a case of outsider versus insider, where the former is trying to dominate the latter. It is unthinkable in a patriarchal family system that someone from outside the family could start dictating terms to the members of the family. The rising number of everyday complaints generates poison in the mind of the poor lady’s husband.

The demand for dowry thus serves two functions, it gets new consumer goods into the family and also tortures the daughter-in-law and her parental family. If the demands are met, well and good, if not, then there is a reason to maltreat and harass her to such an extent that she may leave them on

her own. It would open the way for a new marriage and more dowry.

It is not surprising that the demand for dowry has increased considerably since when the Indian economy has been liberalized during the early 1990s. The markets especially in Punjab are flooded with goods, both Indian and imported and the TV commercials are inducing people to give themselves to crass consumerism.

Conclusion

There is perennial and traditional conflict between the mother-in-law and daughter-in-law, which is so very common in this part of our country. The relation between mother-in-law and daughter-in-law remains always strained. In the three cases of dowry deaths, it has been observed that the problem of harassment, physical and mental torture was made the central issue. The conflict between the two in routine life is given vent to when we look into the domain of culture.

As Victor Turner talks of the anti-structure, we find that the Punjabi society too has given space to such cultural practices where the routine values and norms of behaviour are reversed to provide catharsis to those occupying the role positions that remain subordinate. The players of such roles do their catharsis in numerous ways through verses that are commonly called as *bolian* in Punjabi parlance. For instance: ‘*main sas kutni kutni sandukan ohley*’ (I will thrash my mother-in-law behind the boxes) and the other one is ‘*bari barsi khatan gaya si khatt ke liandi jun, sase kanjariye main nee teri nuuh*’ (one who went out to earn her livelihood brings the lice in return and while abusing her mother-in-law, she refuses to her daughter-in-law). ■

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Internet – A Dangerous Web for Women

B. Geetha* & R. Pagutharivu**

Introduction

NOW the society is in the era of Information and Technology. Advancement in the science and technology makes the world a global village. The information travels faster than light and sound. IT revolution creates both positive and negative consequences on the society. Web connects people and they grab each and every piece of information from it. Today human beings start their day-to-day activities which are dependent on the scientific devices like Internet. Utility of internet are in the form of purchase of consumer products, to book tickets in trains and flights and even to take tickets for cinema show. E-governance is also becoming popular, and industries and related spheres are going for it. In the teaching field, e-learning and digital teaching practices are introduced. This leads the society to a stage where Internet and computers become inevitable in the individual's life. But, technology has its own demerits like misusing the technology for power and money. Unwanted and damaging information and motion picture are uploaded in the net, which affects mind and soul of youths, who are the pillars of the next generation.

It is shocking that an information about cyber crime states that "63,000 Internet-stalkers travelling the information superhighway, stalking approximately 4,74,000 victims at any given time" (nitawriter.wordpress.com). Cyberspace has so much of side effects on the society.

Women, as a section of the society, are always a vulnerable group. Development in the field of Information and Technology (IT) has created changes in the life of the women too. Number of women professionals in the field of IT is increasing day-by-day. The exact percentage of women at various levels in the Indian IT industry is not

available due to the lack of gender disaggregated data in existing literature. National Association of Software and Service Companies (NASSCOM) (2001) estimated that women constituted 21% of the total IT workforce. IT field has given better scope for women to work at all levels of job. The development of IT in Asia has had a clear impact on women. The new cyber-culture of Asia has brought about new relations between women and men neither in the workplace, nor in cyberspace. Communication via Internet is itself cultured and strongly shaped by the communication needs and styles of class and gender (Govind Kelkar, 2007). These are the icing side of the cake, but the flip side states: women are victims of several problems created in the Information Technology era. Internet and cellular phones are some of the modern gadgets, which produce worse effect on women. Present paper analyses the young women's view about the crime and the violence against women through Internet and cellular phone.

Following were the objectives of the study:

- To identify the respondents' view about different types of crime against women through Internet and cellular phones.
- To study the effects of those crimes on women from respondents' perspective.
- To suggest solutions to overcome these problems.

Methodology

Fifty young women were selected through convenient sample, who have regular access to Internet and who possess cellular phone. The age-group of the respondents was from 18 years to 24 years. The respondents are students of graduation

Keywords

Internet
Dangerous Web
E-governance
Internet-stalkers
Cyber-defamation
Cyber-stalking
E-mail spoofing
Pronography

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Abstract

Women, as a section of the society, are always a vulnerable group. Development in the field of Information and Technology (IT) had created changes in the life of the women too. Number of women professionals in the field of IT is increasing day by day. The exact percentage of women at various levels in the Indian IT industry is not available due to the lack of gender disaggregated data in existing literature. National Association of Software and Service

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and higher education. Dindigul District of Tamil Nadu was the selected study area. Dindigul was famous for its small-scale industries especially the lock industries and it is a developing city. Data were collected from the girl students while they came to the computer centre for browsing. Interview guide, focus group discussion and observation method were employed for the collection of primary data. This facilitated the researcher to gain more first-hand information and knowledge about the topic under study. The collected data were analysed and interpreted qualitatively. Information from different websites were used to collect the secondary sources.

Internet and Cellular Phones

In the early stages of development, discovery of fire, wheel and electricity changed the human thoughts, way of life, style, culture and civilization. But, in the modern age, invention of Internet occupied the whole world. In 1979, Marshal Maclogan was interested to change the world as a global village. In late 1990s, his dream came true with the invention of World Wide Web. Today, Internet bridges the gaps between the individuals/societies and emerges as a tremendous highway in the IT world. Internet brought changes in the societies, both structurally and functionally. No other media has emerged with global dimension that is accessed by everyone. Through Internet, a person with web connectivity can have online contacts with anyone in the world whether he/she belongs to developed or developing or underdeveloped country. It makes the world as global market and anyone can easily sell and buy here. The usage of Internet in India is growing rapidly. Good and bad are the two sides of the same coin. Likewise, Internet has its own advantages and disadvantages. Today, computers are misused for illegal activities like e-mail espionage, credit card fraud, spam, software piracy and so on. Criminal activities in the cyberspace are on the rise. Unrestricted free websites and the Internet have undeniably opened the space for exploitation. For these activities, computers, cyberspace and the World Wide Web are utilized. In India too, such usages are increasing day by day.

“Cyber crimes in India are slowly evolving from a simple e-mail crime (sending obscene materials over

e-mail) to more serious crimes like hacking and source code theft. ...there are also cases involving sending obscene e-mails to women colleagues from their male counterparts...usually such messages are sent out from cyber cafés. However, with the help of Internet Service Providers, the police can trace where these mails have been sent from.” (www.financialexpress.com)

The cellular phone [also called a mobile, wireless, mobile phone, cellphone, or hand phone(hp)] is a short-range, portable electronic device used for mobile voice or data communication over a network of specialized base stations known as cell sites. The first commercial phone of this sort was launched in Japan by NTT in 1979, and by November 2007, mobile phone subscriptions had reached 3.3 billion, or half of the human population (although some users have multiple subscriptions, or inactive subscriptions) in the world. This shows that the mobile phone is the most widely spread technology and the most commonly used gadget in the world. Cellular phone provides voice function of a telephone along with many additional services, and accessories, such as SMS for text messaging, e-mail, packet switching for access to the Internet, gaming, Bluetooth, infrared, camera with video recorder and MMS for sending and receiving photos and video (www.wikipedia.com). These provisions in the cellular phone have adverse effect on the society. Women are one of the most affected. Women are being sent vulgar messages and double-meaning textings are some of the discomforts created for women through cellular phones.

Crime against Women through Internet

Women, the easily exploited section in the patriarchal society, are exposed to the latest technologies, which also have adverse effect on them. Latest technology, Internet let open the women to evils like cyber-defamation, cyber-stalking, e-mail spoofing, pornography, harassments, sexual abuse, etc. It is to be noted that the women, who are affected by these crimes, are unaware of the fact they are in the clutches, till it takes the fullest shape. The crimedoer utilizes this unawareness of women. The interest and the curiosity that women have towards the unknown things is the first step to their graveyard. The



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crimedoers approach the women in such a way that the women are gripped with anxiety and they won't be able to come out of it. Internet systems are used for harassing, threatening or intrusive communications, from the traditional obscene e-mail to its contemporary manifestation in "cyber-stalking", in which persistent messages are sent to an unwilling recipient. UGC senior research fellow at Panjab University, Jyoti Rattan, along with Vijay Rattan, presented a paper on cyber crime against women which lamented the absence of judicial activism and deficient cyber laws against the fast-spreading scourge of cyber violence against women which could not be ignored. Digital revolution was proving to be a double-edged weapon against women. "On one side, it is providing tremendous benefits to women. On the other, its misuse is violating their human rights. It is aggravating conventional forms of violence like trafficking and female foeticide" (Express News Service, 2008).

The use of computer networks to produce and distribute child pornography has become the subject to increasing attention. Today, these materials can be imported across national borders at the speed of light (Grant, David and Grabosky, 1997). Child pornography is considered as a social problem while the abuse of women on the Internet and other telecommunication devices is not that much at all looked upon. But, several cases are reported in the newspaper articles like a man allegedly stole nude photographs of his former girlfriend and her new boyfriend, posted them on the Internet, with her name, address, and phone number. The unfortunate couple received phone calls and e-mails from strangers as far away as Denmark, who said they had seen the photos on the Internet. Investigations also revealed that the suspect was maintaining records about the women's movements and compiling information about her family.

Yet another case about crime against women in cyberspace was: a rejected suitor posted invitations on the Internet under the name of a 28-year-old woman, the would-be object of his affections, which said that she had fantasies of rape and gang rape. He then communicated via

e-mail with men, who replied to the solicitations and gave out personal information about the women, including her address, phone number, details of her physical appearance and how to bypass her home security system. Strange men turned up at her home on six different occasions and she received many obscene phone calls. While the woman was not physically assaulted she would not answer the phone and was afraid to leave her home and lost her job (Miller and Maharaj, 1999).

Crimes against women in the cyberspace were becoming common because of the regular usage of computers and Internets for the daily needs. In India too, few such cases were being reported. Due to hesitation and unwilling to spoil the name, most of the women are not taking the issue to the Police or media. This attitude makes the unanimous offenders to safely continue their activity.

Different Types of Cyber Crimes against Women

Focus group discussion was conducted among the respondents on few issues related to the title. The discussions were informative and heated. They listed some of the harmful effects of Internet and cellphones, which prevail among women of their age-group in similar social environment. Even some of the cases they came across were cited and few cases that they read in print and other media also were the theme for their discussion.

Mostly women are utilizing the Internet for three purposes as follows :

- Collecting information through websites.
- Sending and receiving messages and images through electronic mail.
- Communicating with others through e-chatting.

While collecting information, sending or receiving messages or images and communicating, women

Companies (NASSCOM) (2001) estimated that women constituted 21% of the total IT workforce. IT field has given better scope for women to work in all levels of job. The development of IT in Asia has had a clear impact on women. The new cyber-culture of Asia has brought about new relations between women and men neither in the workplace, nor in cyberspace. Communication via Internet is itself cultured and strongly shaped by the communication needs and styles of class and gender.



These are the icing side of the cake, but the flip side states: women are victims of several problems created in the Information Technology era. Internet and cellular phones are some of the modern gadgets, which produce worse effect on women. Present paper analyses the young women's view about the crime and the violence against women through Internet and cellular phone.

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are aggressively harassed by the society. The most known and important cyber crimes today those distressing women are:

- E-mail/instant messaging;
- Identity theft;
- Building hate websites;
- Posting false profiles;
- Hacking;
- Posting fake sex ads/images of victim online;
- Provoking attacks against the victim by others;
- Posing as the victim and attacking others;
- Contacting victim's family or employer;
- Posting in a newsgroup or on a bulletin board, online; and
- Following the victim from site to site.

Chatting – Dangerous Platform for Women

The respondents considered Chatting as one of the most dangerous areas in the Internet, which tempts women, to get into the web. It is quite interesting that women, who are the initial visitors to the chatting room, saw it as the interesting affair. For the women, who are regular visitors to chatting, are aware of the negative impacts of chatting. The discussion had varied views; some girls see Internet and chatting as fun. For entertainment and enjoyment they go for net surfing. Some girls told that they were chatting for longer period, but they did not have any problem out of it. But, there were girls, who stated that initially they also had same type of grace towards chatting, but the adverse effects of it made them to maintain limits in its usage. An engineering girl stated that she chatted along with her friends in an Internet café with a group of boys. She was attracted by a boy in that group, who was so smart and was an exemplary intelligent. They

started chatting in person, this developed a feeling of nearness within them. They shared the most personal things too while chatting. This continued for more than a year. This made a feeling of love in the mind of the girl. But, the boy said bye to her when he had an opportunity at foreign university and stated that he had more than half a dozen of such girlfriends. This affected her studies and she was able to clear her arrears only in the final year and also she took more than six months to come out of her depression. Even her personality had damaged, she was very aggressive towards boys and she now has the perception that men used to see women as their object of entertainment. Her experience has created aversion towards men.

E-mail – A Trap for Women

E-mail is the most influential mode of communication. Today, the mailing postal letters are reduced and person at any part of the world can communicate to others in a matter of time and space because of e-mail. But, this mode of communication has demerits too. The trafficking, distribution, posting and dissemination of obscene material, including pornography and indecent exposure, are some of the cyber crimes that are after-effects of e-mail. The respondents during personal interview stated both the use and misuse of the e-mail. As the mode of communication they considered it as part of their life they use it for sending messages and even they get reading and source materials from their friends through mail. Mailing obscene materials, inducing mails and messages with double meanings and the links to the pornography web pages are some of the intolerable things posted in the mails. Some higher education scholars stated that they use mail for sending articles and research papers, which they do not find in the libraries. But, their mailboxes were filled with junks, which irritated them, and sometimes without their awareness they were taken to the websites of third rate. They deemed it as hassle, which disturb their daily affair. They felt even though they had opted for filtration in their mail page they were not able to maintain privacy in their page.

A respondent came out with a pitiable incident of



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her friends through mail. Her friend was put up as a student in the reputed college of that area and she used to mail many friends and maintain decent mail relationships with higher-level persons, who helped her in studies for her dream of becoming a civil servant. But, at some point, she was ill-treated by the friends. One of her friends called her over phone and enquired why she was mailing insulting information to others. She came to know about the problem what was in front of her only then. Somebody misused her mail id for damaging her reputation. Identity theft took place and this pushed her into stress and her career was spoiled. Her ambition of becoming IAS Officer was smashed by this mail. She cleared competitive exams and posted nearby, but her passion to become an Administrative Officer at higher cadre was flawed. So, the respondents expect more privacy and protection in e-mailing. E-mail not only affects the career, but in few occasions, character of the girls were destructed.

Exploitation through SMSs and MMSs

Short Message Service (SMS) is a communication protocol allowing the interchange of short text messages between mobile telephone devices. SMS text messaging is the most widely used data application on the planet, with already 2.4 billion active users, or 74% of all mobile phone subscribers sending and receiving text messages on their phones. The SMS technology has facilitated the development and growth of text messaging. "SMS" is used colloquially as a synonym for a text message from another person or the act of sending a text message. MMS is the Multimedia Message Service where visuals can also be sent.

The interview about SMS and MMS revealed that women are provoked through messages. In few cases, girls are initially sent thought-provoking SMSs, then messages on friendship and then it goes to the level of jokes and slides into the A-jokes. This slow movement in the sending SMS won't be recognized by the girls till it reaches its peak. Till then, they enjoy it and, at times, they even long for it. The longing makes them mad and they start losing their concentration and are not able to cope

up with the day-to-day activities. Actually, some of the incidents were stated by the respondents where the girls did not even know from where and whom they were getting SMSs. Girls are tempted to go and meet the person who sends SMS and, on a particular occasion, the boy with a gang of his friends, ill-treated the girl and luckily, she came back safely. Such experiences are seen among girls of the study area, which is more a rural-based one. This revealed the fact that mobile phones have penetrated every where, irrespective of the locality.

Hazardous Web Pages

Outcome of the interviews state that there were hazardous web pages that were against women. The technology was developed to such an extent that even a person with basic computer knowledge can create a web page of their own and they can upload the information they have in hand. This was really risky on the part of women. Some boys were blackmailing the girls that they would post girls' photos of different posture in the web page. The discussion state that it was reality and some girls were there, who were forced to yield to such situation and got into the hands of this blackmailers. There were few adventurous cases in which blackmailers were punished.

Case-I

Meenakshi (pseudo name) was engineering student doing IT specialization. She was daughter of a Government servant and her mother was a homemaker. She was put up in the hostel. Her village is far away from the college and also village lacks transportation facility. She was a smart girl, who secured more than ninety percent in her Higher Secondary exam. In the first two years, she was a regular student to the class. When she met her boyfriend (Mahesh), she started losing her concentration. He used to talk to her daily over phone for hours together. He regularly sent SMS to her and she would be depressed without talking to him. Once Mahesh tried to misbehave her and his friends also acted indifferently with her, which she didn't like. This made her to think and she started collecting information about him and

The SMS technology has facilitated the development and growth of text messaging. "SMS" is used colloquially as a synonym for a text message from another person or the act of sending a text message. MMS is the Multimedia Message Service where visuals can also be sent.



In the study area the respondents have two types of perception about the crime against women in the cyberspace. One group of women felt that it was the responsibility of the society to find out the cause and effect of the problem and to take necessary action to put an end to it. Another set felt that the women were to be cautious while using the latest gadgets and women were the worst affected in any sphere of life.

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she got the details that he was a playboy and had many girlfriends. So, Meenakshi started avoiding him and moved away from him.

Mahesh, who was a flirt, knows the attitude of the girls and he started blackmailing Meenakshi that he would upload the photos he had taken with her. Actually, he already uploaded some photos in few sites, which were not Meenakshi's. These are the outcome of the advancement in digital technology. This information reached Meenakshi through some of the true friends and relatives, which stunned her totally. Being a first generation professional graduate, her family expected a lot from her. But, their family's dreams were shattered. As her parents are not exposed to these websites, she was able to deal it without the family being aware of it. Her friends helped her a lot and collected back the CDs and the photographs he possessed. The uploaded information were also deleted with the help of some servers.

Inference: *Fantasy and the excitement girls have towards Internet push them into well where their future ambitions and goals are buried. Ignorance and the innocence of the girls are exploited with the support of latest technology. The technology should be utilized for production and not for destruction.*

Case-II

Priya (pseudo name) was a beautiful young girl, who was doing graduation in Mathematics. She was from an affluent family whose father was a businessman. She used to come to college by her own two-wheeler and she always had peer group around her. She was a mobile user. She used to send and receive messages. She used to enjoy the messages and forward it to her friends. Sometimes, she used to receive SMSs from unknown numbers and if she did not respond it would stop; it was usual occurrence. A person regularly used to send her message and attracted her attention and later, started talking to her and impressed her as a good friend. Her friendship developed through cellular phone and she did not know who/where/how he was? One day, he called her to Chennai, but she denied. In another occasion, she was forced

to go over there and met him. There, in Chennai, he spent entire day with her and even used her and had taken photographs and her anxiety and curiosity towards youthfulness was exploited. She came back safely, but after few weeks, she did not have any call or SMSs from him; when she tried he avoided her. Later, he started blackmailing her that the photos taken at Chennai would be posted in the web pages and to stop that she had to give money. This case was taken to her parents and they paid money for that and got back the photos and CDs.

Inference: *Value system of young girls wobbles when they are exposed to a liberated and modern situation. They face an ambivalent situation, their youthfulness chooses modernity and the attitude of "nothing is wrong" come up to their mind. Youth should be oriented/socialized in such a way to cope up in the modern IT world, which is filled with full of latest technologies.*

Views on Cyber Crime against Women

In the study area the respondents have two types of perception about the crime against women in the cyberspace. One group of women felt that it was the responsibility of the society to find out the cause and effect of the problem and to take necessary action to put an end to it. Another set felt that the women were to be cautious while using the latest gadgets and women were the worst affected in any sphere of life. A respondent stated that in First World War, the women were the silent victims and in the period of modernization too, women were overburdened. Likewise, Internet and cyber crime also have adverse effect on women than any other section of population, so they have to work and seek it out. They stated that creating awareness among women is the need of the day.

Effects of the Crime and Consequences

Respondents considered cyberspace as the wonderful tool in the hands of the human being for the collection of information with the help of different websites. In this regard, they did not make any problems and they even feel it as a gift of the latest technology where their needs were



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met in their desktop itself. As these respondents were students, they were in need to visit various libraries which was reduced because of their exposure to web world. Unrestricted free websites create problem where everything whether it is right or wrong are uploaded in the websites. The sex-related messages and images are freely available in the web. They consider this as the real web for the entire society and the youth in particular.

Sometimes, privacy and the personal interest stimulate them to open those websites and make them to surf on and spread to the peer group. Then their age and excitement force them to have a discussion on it. This attitude provokes them to have sexual desire. This pulls women into the world of fantasy. This leads them to state where they are at high risk of being exploited by menfolk. Too much of exposure to computers and technological devices put women in an ambivalent situation where they are not able to decide what is right and what is wrong. The family, neighbourhood and immediate society states something as tradition and culture, while what they see in the websites and e-mails are something in contrast to that. This confuses women and ends in wrong decisions. Moreover, present-day women have started inculcating the

attitude of 'nothing is wrong' and 'what is wrong in this?' This Western attitude and too much of liberty in gender relationships are the consequences of IT revolution. Value systems of the individuals are altered because of boom in cyberspace. What once considered as taboo has been ignored and altered.

Apart from this, respondents have stated some of the health issues, which are the after-effects of this computer revolution. According to them women face health problems arising out of looking into monitor in a single posture. This creates spine problem for them at very young age. Eye defects are also created due to continuous usage of computers. Some girls, who were studying computers at engineering and graduation level, stated that they used to get menstrual problem because of their full-time work before computers. They said that mobile phones had the effect on their hearing.

Ways and Means to overcome the Problem

The women, who have exposure to Internet and cellular phone, give some dos and don'ts to its female user, so that they can overcome from such problems.

Sometimes, privacy and the personal interest stimulate them to open those websites and make them to surf on and spread to the peer group. Then their age and excitement force them to have a discussion on it. This attitude provokes them to have sexual desire.

Dos		Don'ts	
1.	Use special e-mail address for cyber contact.	1.	Do not share personal information online.
2.	A good anti-virus program.	2.	Do not fill out profiles on websites.
3.	Save all communications on your computer.	3.	Do not use gender-specific or provocative screen names or e-mail addresses.
4.	Report cyber-stalking to the Police. It is a critical and crucial matter, so take it seriously.	4.	Do not flirt or argue online. Do not chat with unknown.
5.	Save the numbers from which the anonymous SMS and call are coming.	5.	Do not share your passwords even with dears and nears.
6.	Report to the cyber crime officials if continuous calls, SMS or MMS come from the same number.	6.	Do not reply to cyber-stalkers both through Internet and cellular phones.
		7.	Do not respond to the anonymous SMS/MMS/calls.



Cyber crime is the by-product of IT revolution. It is to be sought out and the secrecy of the crime makes people of all level to involve in it. As it affects the youth, women and the value system of the society, the problem should be brought to the limelight and restrictions and censorship should be placed to reduce the problem and, in due course, put an end to these problems.

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Conclusion

P.N. Grabosky and Russell Smith (1998) stated that it is difficult to control pornography and offensive content in cyberspace. Sexually explicit material can be placed on and downloaded from the Internet. 'Cyber-stalking' can pose not only virtual, but real threats to online users. It would be a mistake to regard the young world diverting from the social norms and values into a negative light. Crime committed in the cyberspace is done for several reasons, but the offenders do it because, as Deputy Commissioner (Detective Department) of Kolkata Police Gyanwant Singh states, "The Internet somewhat gives a sense of anonymity to the person. Hence, the tendency is more to commit cyber crime" (blogs.ibibo.com). "It is alarming that women are the biggest victim of such attack accounting for nearly 40% of cases registered", says Deputy Superintendent of Police (Cyber Crime) of Tamil Nadu (*ibid.*).

From the young women's view, we the women, should recognize the depth and width of the problem and should overcome it. Cyber crimes against women are taken in feminist perspective and knowledge and awareness about the issue is important and women should protest against it to overcome. It is also considered as the societal problem and the society has to find solutions for these issues. Cyber crime is the by-product of IT revolution. It is to be sought out and the secrecy of the crime makes people of all level to involve in it. As it affects the youth, women and the value system of the society, the problem should be brought to the limelight and restrictions and censorship should be placed to reduce the problem and, in due course, put an end to these problems. Cyber crime threatens the growth/development of the younger generation and leave irreparable scars and injury on the younger generation, if not controlled. ■

REFERENCES

1. Grabosky, P.N. & R.G. Smith (1998). *Crime in the Digital Age: Controlling Telecommunications and Cyberspace Illegality*. The Federation Press.
2. Grant, Anna, Fiona David & Peter N. Grabosky (1997). 'Child Pornography in the Digital Age' in the *Journal Transnational Organized Crime*, Vol. 3, No. 4.
3. Miller, G.D. Maharaj (1999). *Los Angeles Times*.
4. Kelkar, Govind (2007). 'Women in the Digital Era: Gender and Culture' in Sukhvinder Kaur Multani ed. *Empowerment of Women Perspectives and Experiences* Hyderabad: The Icfai University Press.
5. <http://www.indianchild.com/cyber-stalking.html>
6. <http://blogs.ibibo.com>
7. *Express News Service*. 20th February, 2008.
8. <http://nitawriter.wordpress.com/2007/01/31/cyber-stalking>
9. "IT Industry in India", NASSCOM, Delhi at: http://www.nasscom.org/it_industry/indic_statistics.asp.





Latent Fingerprints of Children Effect of Nutrition Status on Development of Prints

O.P. Jasuja*, Harsimran Kaur** & Gagandeep Singh***

Introduction

FINGERPRINTS are the only means of absolute personal identification in crime scene investigations. In course of these investigations, fingerprints are more than often encountered in the latent form, which essentially is the most problematic version of the fingerprints as physical evidence. Latent fingerprints are named so as the same are invisible to the naked eye and are formed by apparently colourless glandular secretions (eccrine as well as sebaceous). Latent fingerprints must be developed for exploring their evidentiary value. Latent fingerprints are made visible with various physical and chemical methods, but practically, just a small percentage of prints could be visualized because of their latent nature. Latent fingerprints are affected by factors, such as type of donor, variations in constituents, nature of surface, environmental factors etc.^{1,2} These factors are also the overriding determinants for formulation and choice of technique(s) for development of latent fingerprints. Out of all these, donor parameters are of utmost importance as they determine the original quality of the fingerprints at the time of deposition, which significantly affects the resultant developed fingerprint quality.³

A latent fingerprint in a crime scene condition could be deposited by a possible perpetrator (suspect) as well as victim and if the victim happens to be a child (in cases of abduction and kidnapping), then the development of latent fingerprints can be even more problematic. This fact has been complimented in the literature that latent fingerprints deposited by children (in the vehicles used in their kidnapping or other

belongings) could not be developed even after a short time lapse as compared to adults.⁴ In Indian context, this matter is of grave importance as the cases of child abduction/kidnapping are ever increasing. According to the National Crime Records Bureau Report for 2007, 27,561 cases of kidnapping/abduction were reported with meagre 25% conviction rate, which is indeed a very low figure.⁵ In addition, authors could not find any research publication regarding the latent fingerprint development taken up in such cases.

The development of latent fingerprints in case of children has been found difficult as it has been observed that rate of evaporation of the latent fingerprint residue in case of children (complete within 48 hours) is far higher as compared to that of adults (could be retained for week or longer).⁶ Early evaporating components of the children's latent print residue have been cited as carboxylic acids, which are volatile, low molecular weight, free fatty acids.⁷ Major examples of these lipid components are cholesterol, cholesterol esters, fatty acids, including saturated acids, such as stearic acid, palmitic acid etc. In addition, lesser quantity of the deposited latent print residue in children as compared to adults has also been reported in earlier studies.⁸ Skin surface lipids, such as unsaturated fatty acids have been found to be dependent upon age and sex, and the amount of these fatty acids increase during puberty and decrease during the old age.⁹ Above-mentioned factors contribute significantly towards relatively less stable latent fingerprint residue in case of children.

Diet of an individual can also have effect on the total ammonia concentration in the sweat.¹⁰

Keywords

Forensic Science
Latent Fingerprints
Children

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Abstract

Fingerprints are considered one of the most important physical evidence at the scene of occurrence of crime. They need to be visualized when present in latent form, for which many physical and chemical methods are suggested. The visualization of these latent fingerprints depends largely on quantity of fingerprint residue deposits on the surface at the time of development, the type of surface on which these prints are present and the

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However, effect of diet on the body metabolism is inevitable in case of children as well as adults. As the body metabolism is directly related to glandular secretions, it becomes pertinent to study the effect of good and poor nutrition on the latent fingerprint residue. This parameter acquires importance in Indian conditions where there is high percentage of the malnutrition cases amongst rural and urban children, 29% are severely stunted, 3% are severely wasted, 22% are severely underweight.¹¹

Therefore, in present study, longevity of the latent fingerprints of children with respect to their nutrition status as well as their response to two diverse methods of development has been reported. Development of children's fingerprints was achieved with ninhydrin and cyanoacrylate fuming methods, which works on the basis of reaction of the reagent with different type of components present in the residue. Quality of the developed fingerprints with respect to time lapsed after deposition of fingerprints has been compared with controls from adult fingerprints.

Materials and Methods

Total number of children involved in present study was 50, who belonged to the age-group of 1 to 10 years having different nutrition status. In addition, 13 adults were also selected for present study (age >23 years) to compare the findings with the latent fingerprint development of children. Children were divided into two extreme groups, i.e. good nutrition status and poor nutrition status, depending upon their physical appearance. Additional information regarding their diet and disease (if any) was collected through their parents. In case of children, informed consent was taken from their respective parents regarding collection of latent fingerprint samples.

Latent fingerprint samples were taken on bond paper (porous) and plastic (non-porous) surfaces. For controlling pressure during deposition of the latent fingerprints, researcher assisted the subjects in pressing their fingers. Latent fingerprints were aged to maximum ten days and were developed on day 1, 3, 5, 7 and 10. Aged fingerprints were

stored in the dark (temperature range 25-35°C) to avoid loss due to evaporation and effect of sunlight, dust etc.

Two latent fingerprint developing techniques, i.e. ninhydrin and cyanoacrylate fuming were used to develop the latent fingerprints. Ninhydrin technique was used for developing latent fingerprints on bond paper and cyanoacrylate fuming was used on plastic strips. Surfaces were cut into appropriately sized strips and were labelled with information of age, gender and nutrition status.

Ninhydrin Method

1.5% solution of ninhydrin was prepared in acetone. Two drops of acetic acid were added to ninhydrin solution in order to neutralize the basic character of the paper surface. Latent fingerprints were obtained on paper by gently pressing the fingers of the individual. Paper samples bearing latent fingerprint samples were immersed in ninhydrin solution for maximum 5 seconds. Surface was then dried in air before subjecting it to heat treatment for 5 minutes in electric oven maintained at 100°C with 60% relative humidity.

Cyanoacrylate Fuming

Cyanoacrylate fuming was done by heating cyanoacrylate ester at 100-110°C with 60% relative humidity inside a fuming chamber (FR200 Sirchie Inc., USA). The latent fingerprints were obtained in the same manner as that of ninhydrin. Two drops of cyanoacrylate reagent were taken in an aluminium boat and placed on a heater in the chamber. Samples having latent prints were suspended inside the fuming chamber for 20-30 mins or till fingerprints of sufficient contrast were developed (observed visually through glass window of the fuming chamber).

Developed fingerprints in both the cases were photographed using a digital camera (Canon IXUS 700, Japan). Quality grading of the developed fingerprints were done as per the scale given in *Table 1*.



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Table 1: Evaluation scale for assessment of quality of the developed latent fingerprints

Sl.No.	Rating	Description
1.	*	No fingerprint developed
2.	**	Poor fingerprint development (very few ridges visible, poor contrast)
3.	***	Medium fingerprint development (either contrast or ridge detail is not good)
4.	****	Good fingerprint development (either contrast or ridge detail is not good)
5.	*****	Excellent fingerprint development (both contrast or ridge detail are good)

Table 2: Quality of latent fingerprints developed with ninhydrin method in case of children with poor nutrition (PN), good nutrition (GN) and adults (AD). Figures indicate number of individuals and values in the parenthesis indicate percentage values

Quality of Prints	Day 1			Day 3			Day 5			Day 7			Day 10		
	PN	GN	AD	PN	GN	AD	PN	GN	AD	PN	GN	AD	PN	GN	AD
5	2 (9.1)	1 (3.6)	1 (7.7)	1 (4.5)	1 (3.6)	-	1 (4.5)	-	-	-	-	-	-	-	-
4	5 (22.7)	7 (32.1)	6 (46.1)	2 (9.1)	3 (10.7)	2 (15.4)	-	4 (14.3)	-	-	1 (3.6)	-	-	1 (3.6)	-
3	10 (45.5)	9 (25.0)	5 (38.5)	12 (54.5)	11 (39.3)	10 (76.9)	9 (40.9)	10 (35.7)	8 (61.5)	6 (27.3)	7 (25.0)	5 (38.5)	1 (4.5)	3 (10.7)	1 (7.7)
2	4 (18.2)	10 (35.7)	1 (7.7)	5 (22.8)	7 (25.0)	-	8 (36.4)	4 (14.2)	4 (30.8)	7 (31.8)	9 (32.1)	7 (53.8)	8 (59.1)	8 (28.6)	7 (53.8)
1	1 (4.5)	1 (3.6)	-	2 (9.1)	6 (21.4)	1 (7.7)	4 (18.2)	10 (35.7)	1 (7.7)	9 (40.9)	11 (39.3)	1 (7.7)	13 (36.4)	16 (57.1)	5 (38.5)

Table 3: Quality of latent fingerprints developed with cyanoacrylate fuming in case of children with poor nutrition (PN), good nutrition (GN) and adults (AD). Figures indicate number of individuals and values in the parenthesis indicate percentage values

Quality of Prints	Day 1			Day 3			Day 5			Day 7			Day 10		
	PN	GN	AD	PN	GN	AD	PN	GN	AD	PN	GN	AD	PN	GN	AD
5	4 (18.2)	-	6 (46.1)	1 (4.6)	-	4 (30.8)	-	-	2 (15.4)	-	-	1 (7.7)	-	-	-
3	7 (31.8)	8 (28.5)	4 (30.8)	4 (18.2)	2 (7.1)	4 (30.8)	-	1 (3.6)	4 (30.8)	-	1 (3.6)	3 (23.1)	-	-	3 (23.1)
3	11 (50.0)	18 (64.3)	3 (23.1)	14 (63.6)	21 (75.0)	5 (38.4)	6 (27.3)	13 (46.4)	3 (23.0)	10 (45.5)	6 (21.4)	3 (23.1)	3 (13.6)	3 (10.7)	4 (30.7)
2	-	1 (3.6)	-	3 (13.6)	4 (14.3)	-	7 (31.8)	12 (42.9)	4 (30.8)	11 (50.0)	18 (64.3)	6 (46.1)	16 (72.8)	16 (57.2)	3 (23.1)
1	-	1 (3.6)	-	-	1 (3.6)	-	9 (40.9)	2 (7.1)	-	1 (4.5)	3 (10.7)	-	3 (13.6)	9 (32.1)	3 (23.1)

method used to make them visual. Quantity of the residue deposit at the time of development may be affected by the time elapsed between deposition of prints and time of development as well as on the individual, who has deposited the prints. It may also depend upon the age of the depositor of the latent fingerprints. Several studies on this aspect have been published in which composition of latent fingerprint residue from children as well as adults was examined to see any difference. But, to the



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Results and Discussions

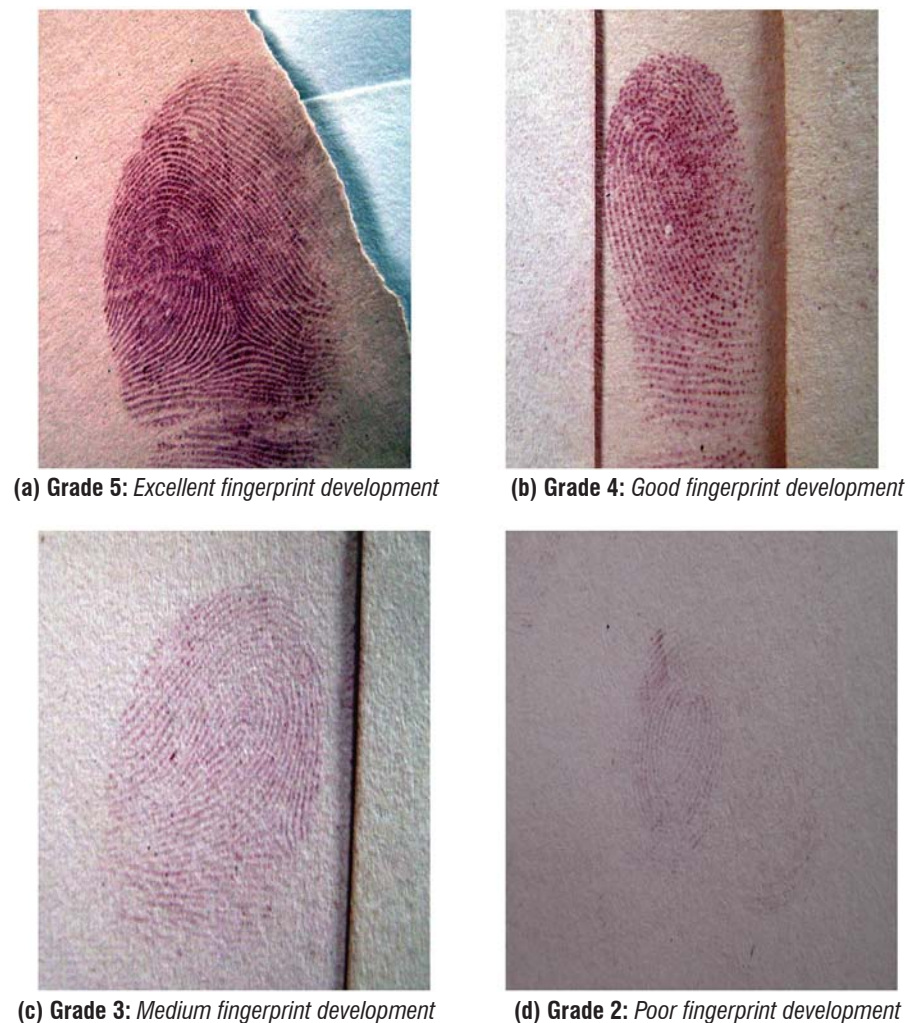
Present work was carried out keeping a fact in view that it is far more problematic to develop the latent fingerprints of children, which may be present in cases of kidnap and abduction. Amino acids and fatty acids being major components of latent fingerprint residue, two different methods most commonly used for both the components have been used in the present study. Ninhydrin method was used for visualizing latent fingerprints on paper (a porous surface) based on its reaction with amino acids generating Ruhemann's purple while cyanoacrylate method was used to develop

latents on the basis of its interaction with fatty acid components.¹² Both the methods were selected to observe how these two components of latent fingerprint residue get affected with passage of time, particularly in case of children.

As it is evident from the *Tables 2 & 3*, majority of the latent prints from children when visualized with both the methods on a particular day gave medium quality results as per mentioned in the evaluation scale (*Table 1*), but in case of children with good nutrition status, some of the developed fingerprints were also of excellent quality (*Figures 1 & 2*).

best of our knowledge, no systematic studies are available to report any effect of nutrition on the development of fingerprints with respect to certain methods of development, especially in case of children. Therefore, in present study, comparison of developed latent fingerprints of two different categories (poor nutrition and good nutrition) of children with two different methods has been carried out to report their response.

Figure 1: Depicting quality of the latent fingerprints developed with ninhydrin method



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Figure 2: Depicting quality of the latent fingerprints developed with cyanoacrylate fuming



(a) Grade 5: Excellent fingerprint development



(b) Grade 4: Good fingerprint development



(a) Grade 5: Excellent fingerprint development



(b) Grade 4: Good fingerprint development

There is a difference in quantity of amino acids and fatty acid contents as indicated by results with cyanoacrylate method on the first day. In both the categories, i.e. poor and rich nutrition samples, visibility of latents after treatment was found to be very good, though slight difference could be detected in both the groups.

There is a difference in quantity of amino acids and fatty acid contents as indicated by results with cyanoacrylate method on the first day. In both the categories, i.e. poor and rich nutrition samples, visibility of latents after treatment was found to be very good, though slight difference could be detected in both the groups. There existed a marked difference between children's and adults' fingerprints response in terms of quality of the developed fingerprints.

Primary reason for this observation is the finding that presence of the volatile free fatty acids in the

children's latent fingerprint residue as compared to adults.¹³ Induced dipole-dipole interactions are much less in case of low molar mass fatty acids in children's latent fingerprint residue, which ultimately adds to their increased volatile nature.⁴ The amount of latent fingerprint residue material in children would be naturally low as compared to adults. Studies have reported that the sebaceous wax esters present in the children's secretions exhibits more variability in the proportion of the fatty acids as compared to adults, but as they are short chain and volatile, consequently, volatility increases.¹⁴ Another reason could be that the



No differences credited to the increasing age (essentially difference between children and adults) have been observed. This impact is seen relatively more in children with poor nutrition as compared to children with good nutrition, while in case of adults, results were found to be consistent except fingerprints, which were ten-days-old where quantity decreased significantly to grade 2.

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oxidation products of the free fatty acids in children are not suited for reaction with or detection by techniques, such as cyanoacrylate fuming.

As latent prints of all the categories get older, response to both the methods of development diminished in terms of quality, but this effect was found to be more evident in case of ninhydrin treated fingerprints. This may be attributed to few reasons, *firstly*, amino acids being water-soluble entities get absorbed in the paper and *secondly*, masking of water-soluble contents by fatty acid content of the latent fingerprint residue. *Thirdly*, it is reported that some of the water-soluble components of latent fingerprint residue do not exist in the case of children. Free amino acid concentrations in the sweat of the normal children have been reported to be 160.8 mg/100 ml¹⁵ while these values increased when experiments were performed through profused sweating in case of physical activity¹⁶ or environmental temperature.¹⁷

While in case of adults, all the twenty amino acids could be detected with varying concentrations. Majority of the amino acids detected included citrulline, glutamic acid, aspartic acid, glycine and

alanine. No differences credited to the increasing age (essentially difference between children and adults) have been observed.¹⁸ This impact is seen relatively more in children with poor nutrition as compared to children with good nutrition, while in case of adults, results were found to be consistent except fingerprints, which were ten-days-old where quantity decreased significantly to grade 2.

Conclusions

Latent fingerprints from 63 subjects, including children with poor and good nutrition status and adults were developed using ninhydrin and cyanoacrylate fuming technique on porous and non-porous surfaces. Quality of the developed fingerprints in adults was found to be better than in case of children. Response of the latent fingerprint samples to the ninhydrin and cyanoacrylate fuming was observed to be low in case of children to volatility of the latent print residue components. Present study did not reveal any differences between children groups arising out of the different nutrition status, i.e. poor and good nutrition status. ■

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REFERENCES

1. Bobev, K. (1995). Fingerprints and factors affecting their conditions. *Journal of Forensic Identification*, 45(2): 176-183.
2. Jasuja, O.P., Toofany, M.A., Singh, Gagandeep & Sodhi, G.S. (2009). Dynamics of latent fingerprints: Effect of physical factors on quality of ninhydrin developed prints – A preliminary study. *Science & Justice*, 49(1): 8-11.
3. Midkiff, C.R. (1993). Lifetime of a latent How long? Can you tell? *Journal of Forensic Identification*, 43(4): 386-392.
4. Kimbrough, D.R. & DeLorenzo, R. (1998). Solving the mystery of fading fingerprints with London dispersion forces. *Journal of Chemical Education*, 75(10): 1300-1301.
5. Crime in India (2007). http://ncrb.nic.in/cii2007/cii-2007/FIGURES_2007.pdf, Last accessed on 5th October, 2009.
6. Noble, D. (1995). Vanished into thin air: The search for children's latent fingerprints. *Analytical Chemistry*, 67(13): 435A-438A.

Latent Fingerprints of Children: Effect of Nutrition Status on Development of Prints



7. Buchanan, M., Asano, K. & Bohanon, A. (1997). Chemical characterization of fingerprints from adults and children. Oak Ridge National Laboratory, Chemical and analytical sciences division, Oak Ridge, TN 37831.
8. Mong, G., Walter, S., Ramotowski, R. & Cantu, T. (1999). The chemistry of latent prints from children and adult. *The Chesapeake Examiner*, 37(2): 4-6.
9. Nazzaro-Porro, M., Passi, S., Boniforti, L. & Belsito, F. (1979). Effects of aging on fatty acids in skin surface lipids. *The Journal of Investigative Dermatology*, 73(1): 112-117.
10. Jones, N.E., Davies, L.M., Russell, C.A.L., Brennan, J.S. & Bramble, S.K. (2001). A systematic approach to latent fingerprint sample preparation for comparative chemical studies. *Journal of Forensic Identification*, 51(5): 504-515.
11. Mishra, V.K. & Retherford, R.D. (2000). Women's education can improve child nutrition in India. *National Family Health Survey Bulletin*, 15: 1-4.
12. Champod, C., Lennard, C., Margot, P. & Stoilovic, M. (2004). *Fingerprints and other ridge skin impressions*. Boca Raton, Florida: CRC Press LLC, 33431.
13. Ghadimi, H., Stern, M. & Shwachman, A. (1960). A study of the free amino acids in sweat from patients of cystic fibrosis. *American Journal of Diseases in Children*, 99(3): 333-337.
14. Liappis, N. & Hungerland, H. (1972). Quantitative study of free amino acids in human eccrine sweat during normal conditions and exercise. *The American Journal of Clinical Nutrition*, 25: 661-663.
15. Consalazio, C.F., Nelson, R.A., Matoush, L.O., Harding, R.S. & Canham, J.E. (1963). Nitrogen excretion in sweat and its relation to nitrogen balance requirements. *The Journal of Nutrition*, 79: 399-406.
16. Coltman, C.A., Rowe, N.J. & Atwell, R.J. (1966). The amino acid content of sweat in normal adults. *American Journal of Clinical Nutrition*, 18(5): 373-378.
17. Hier, S.W., Cornbleet, T. & Bergiem, O. (1946). The amino acids of human sweat. *Journal of Biological Chemistry*, 166(1): 327-333.
18. Blasdell, R. (2001). Longevity of the latent fingerprints of Children v. Adult. *Policing: An international journal of Police strategies and management*, 24(3): 363-370.
19. Quality grading of the developed fingerprints were done as per the scale given in Table 1.



Quality of the developed fingerprints in adults was found to be better than in case of children. Response of the latent fingerprint samples to the ninhydrin and cyanoacrylate fuming was observed to be low in case of children to volatility of the latent print residue components.



Keywords

Communication
Catharsis
Dial
Grievances
Complaints
Maoists
Insurgents
Expenditure
Governance
Crime Mapping
Law & Order
Phone Call
Partnership
Linkages
Press
Media
Police
Interference
Discipline

Dial Your SP-PPPP Tool of Governance

Dr. A. Ravi Shankar,* IPS

Objective

WITH a strong urge to reach out to the poor and needy for easy grievance redressal, taking a citizen centric justice delivery channel, this effort was aimed to bring about a social catharsis through an easy communication channel. Communication of police with the citizens and listening to their woes has been the biggest casualty in the emerging law and order situation with 3/4th of the country being plagued with Maoist and insurgent activities. Thus, gap between Police and Administration on one side and people on the other is widening, thereby in a way we were playing into the broader strategy of the outlawed groups.

Why this Program?

Public have no channel to vent out their grievances without spending money, traveling, engaging a Lawyer, foregoing a day's wages, applying casual leave, taking help of a powerful politician, known broker, mediator, going to Press or Media for investigative journalism. In Maoist-affected areas, people visiting Police Station ran the grave risk of being branded as police informants and getting killed. Touch with remote and rural areas was getting blurred in the eyes of Administration and Police. Visiting villages/remote areas regularly carried a lot of risk even for Police and the administrative machinery. Corruption, lack of transparency, no feedback on complaints, no time-bound response, no checks and balances in police response, delay, role of mediators, effort and time involved in seeking justice, was leading to disillusionment. It was an imminent felt need of police and demand from public to bridge the widening gap.

In SP's office, it is observed that most of the complainants are coming from remote areas of

District to express their problems in person to SP leaving the day's work, day's earnings and, to their utter dismay, sometimes find the SP not there at Headquarter. The general complaints are that the local police are not listening and responding to their grievances with care and respect, acting partially, supporting wealthy and upper caste people, influenced by the local politicians, shielding rowdy and antisocial elements, demanding money to register cases, remove and include names in the FIRs and charge-sheets, accept bribes to release the accused on station bail, not executing the pending warrants/summons, high-handed behaviour.

Method used: All the calls are received on a particular telephone number with a speakerphone switched on to enable the Press, Media and Policemen seated to listen to the caller. Based on whether the calls are emergency or non-emergency, these are responded accordingly. The phone has the caller identification and recording facility, so that the caller's telephone number along with the particulars are noted in a separate register, as he is calling and the complaint given is reduced to writing. The complaints are further analyzed, discussed at Headquarter and directed in writing to the concerned Police Station or in case of special complaints, acted upon by Headquarter staff within the same week. The action taken is intimated to the caller telephonically on the contact number or address furnished. A Press release of success stories is issued in the form of responsible report summarizing compliance to all the preceeding week's complaints, one day before the "next dial your SP" program. Thus, the positive actions of the Police are highlighted and public gets to know about the good work being done by the police. It's real time SMART delivery system as it is SIMPLE, MORAL, ACCOUNTABLE,

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Pradesh).



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RESPONSIVE AND TRANSPARENT. Press, to some extent, plays the role of policing the police and as a trusted partner in projecting the good work done by police to reach out to the public. Monthly crime mapping is done and analyzed for trouble spots and station-wise nature of complaints for making tactical and strategic decisions.

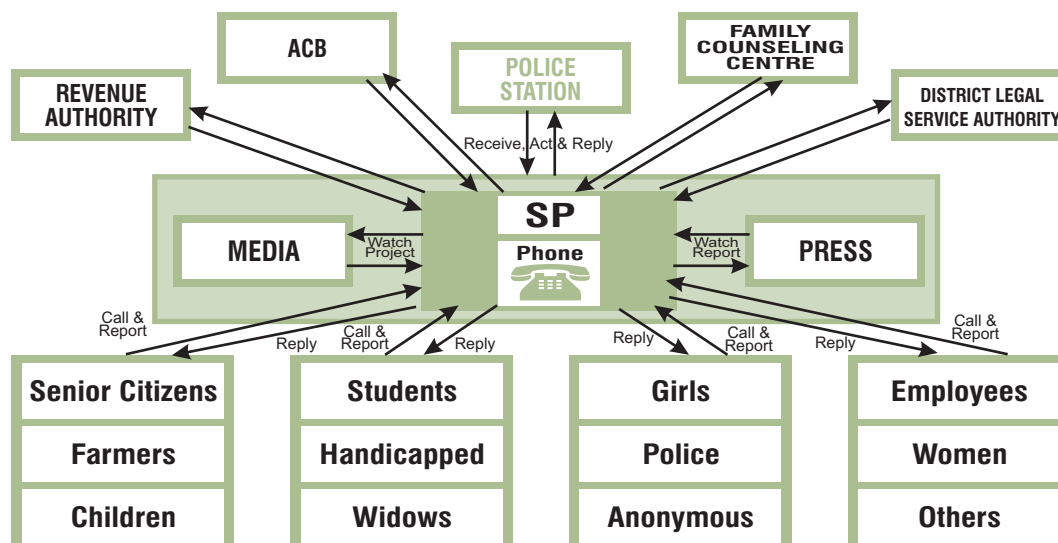
It is a tremendous force multiplier and governance tool to combat Maoist and insurgents as it is a dynamic and real-time communication with the masses, followed by definitive results. This doesn't mean that rest of the time, the SP is not accessible or available on phone. This is a focused program with responsible participation of Press, Police and Public Partnership (PPPP Model). When a phone call is made ordinarily at any time to control room, SP or any other officer, although they are always available, what transpires is known only to the two and the action, if at all taken, is not transparent, time bound or recorded and an element of subjectivity is there unlike this program where there is participation of Media and Press apart from voice recording of complainants, which is done to have an effective check and balance on the SP as well, as he has to ensure compliance to the preceding week's complaints. Otherwise, the same caller will call up again and complain in front of press of inaction on the part of SP. Thus, SP can play a major role in shaping the public opinion in

partnership with the responsible role of Press and Media. In this programme, the grievances against Police, Politicians, Government employees, are fearlessly and easily made.

Forward Linkages: Complaints received based on contents are forwarded to the following offices and replies obtained in a week and communicated back to complainant:

- **Jt. Collector and Municipal Commissioner** are addressed for land-related complaints and get compliance within a week.
- **District legal services authority** with District Judge as Chairmen are addressed for free legal aid and followed up.
- **President of the District Journalists Union** (Press and Media) for responsible approach for the coverage of this program.
- **Family Counselling Centre** for domestic violence and family disputes for pre-litigation Counselling consisting of Lawyers, Psychiatrists, Retired Police Officers, Psychologists & Social Workers (NGOs).
- **Anti-Corruption Bureau (ACB)** – Complaints against Public Servants of inaction, corruption were forwarded to the ACB-DSP in the district for necessary action.

Press, Police and Public Partnership Model of Communication and Grievance Redressal



Abstract

Communication of police with the citizens and listening to their woes has been the biggest casualty in the emerging law and order situation with 3/4th of the country being plagued with Maoist and insurgent activities, and the gap between Police and Administration on one side and people on the other is widening, thus in a way we were playing into the broader strategy of the outlawed groups.

Public have no channel to vent out their grievances without spending money,



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Program Data Analysis

The programme was successfully tested and tried in Nizamabad and Guntur Districts for 3 years. Total complaints received in Nizamabad and Guntur District over 3 years were 3,273 out of which 95% of the complaints were disposed of in the stipulated one-week time. The calls were received from within the district, A.P State, other parts of the country as well as from abroad. Average number of complaints received was 18 per program.

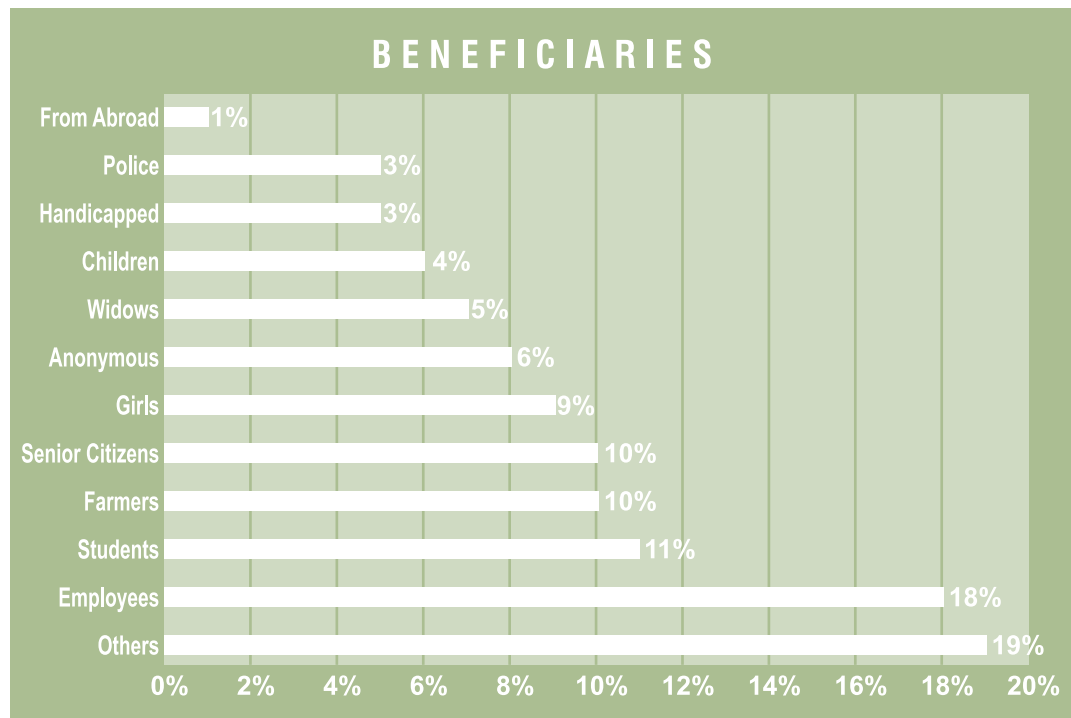
Call by Men = 63%	Urban Calls = 43%
Call by Women = 37%	Rural Calls = 57%
Emergency Calls = 4%	Non-Emergency = 96%
	Calls

Action Taken

FIR was issued in 79 cases out of 3,273 complaints received and reconciliation effected in remaining cases amicably, apart from prompt remedial police action on petty issues, Disciplinary action was taken against 43 policemen for various acts of proven misconduct. Preventive action was taken in many trouble brewing spots.

It was also replicated by the Join Collector, Guntur district for revenue-related matters, also by SP Karimnagar and SP Khammam Districts in Andhra Pradesh.

travelling, engaging a Lawyer, foregoing a day's wages, applying casual leave, taking help of a powerful politician, known broker, mediator, going to Press or Media for investigative journalism. In Maoist-affected areas, people visiting Police Station ran the grave risk of being branded as police informants and getting killed. Touch with remote and rural areas was getting blurred in the eyes of Administration and Police. Visiting villages/remote areas regularly carried a lot of risk even for police and the administrative machinery. Corruption,



Outcomes and Impact Analysis

- Citizens participation and interest in law and order maintenance increased.
- Crime mapping helps to identify the hotspots well in advance, in the form of some trouble brewing in some Police Station limits and helps in advance tactical and strategic planning.
- Repeated complaints against subordinates, enables SP to take appropriate administrative decisions after due verification.
- Assured and reduced redressal time, low cost of service delivery, improved quality &



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dedicated availability being the hallmark of this program, improved Police credibility.

- Many grave incidents, communal clashes, suicides were prevented. In many cases, FIR was issued based on complaints and arrests affected. Apart from the above, useful clues regarding crime detection also poured in.
- **Government employees** need not apply CL and come to SP for grievance redressal.
- Police corruption and high-handedness related complaints and petitions came down drastically from 5 per week in the beginning of the program to 1 in a month.
- Fear among subordinates that misdeeds like high-handed behaviour, illegal detention, harassment will reach SP's notice and it will appear in the Press and Media, whereby everyone will get to know, brought in internal discipline in the Police Force.
- **Check on SP**, as he is bound by Media, Press, Police to act on the complaint and give compliance to Media/Press and the common man and thereby keep his house in order and not be whimsical.
- Spread to Revenue Authorities and other Departments as they saw the fruits of the program and the Joint Collector B. Venkatesh, IAS, SP Karimnagar, SP Khammam Districts started the same program.
- With the help of the forward linkages of this program like the district **legal services authority**, Family Counselling Centres, Revenue Authorities, Pre-litigation Counselling, etc. many heinous crimes were prevented, burden on the court and police reduced, faith in the Criminal Justice System improved.
- **Social vices** like gambling, matka, single digit lottery, ganja, drugs trafficking, prostitution, eve-teasing came down in both the districts and enforcement work

improved automatically as housewives, children passed on information fearlessly. Negative Media-Press reports declined and positive balanced reporting about Police picked up, boosting Police image.

- **Political interference** in policing, came down drastically as the opposite party would call up the SP and inform about the role played by the broker and politician in collusion with the local police in any particular case. The attendance of the politicians, mediators and brokers at SP office drastically reduced from an average of 2 per day to just about 2 in a week. This gave time for SP to make strategic planning and stay focused on core priority areas.
- Corruption not only in police, but also in other departments declined as complaints of inaction and corruption in other departments, started pouring in and were enquired and checked into by ACB.
- This led to a dynamic and **sustained interaction** between the public, Revenue, Departments, Police, Press and Judiciary as many problems raised in the calls had interdepartmental linkages. This led to lot of synergy and enhanced output of the entire administrative machinery, which hitherto were functioning in isolation.
- Only officers with clean and unblemished record can stand the barrage of questions before the Press, Media and Police raised by public. It brings about lot of transparency and internal discipline within the Police Department.
- Its shared leadership and responsibility by all stakeholders – Public, Press, Media, Police.
- Those who fear to give complaints against the rich and influential to expose their wrongdoings did it time and again fearlessly as this program keeps their identity anonymous at their request.

lack of transparency, no feedback on complaints, no time-bound response, no checks and balances in Police response, delay, role of mediators, effort and time involved in seeking justice, was leading to disillusionment. It was an imminently felt need of police and demand from public to bridge the widening gap.

Under these demanding circumstances "Dial your SP" program was conducted in Guntur and Nizamabad Districts by giving wide publicity about the day, time and contact number. Making it convenient



for common people to bring their problem to the notice of SP/DSP directly through a telephone call from anywhere, when the SP is dedicatedly available on phone for one full hour, every week exclusively to listen to complaints of the public in front of Press, Media & Police and solve their problem without the complainant running from pillar to post at the District Headquarters. Action taken is intimated to the caller; a Press note on action taken on all complaints is also issued before the next program.

Dial Your SP-PPPP Tool of Governance

- Stern and exemplary action against malafide and false complainants coupled with rejoinders in the Press and Media clarifying some such issues added credibility to the program.
- Thus, this program supports the good officers and exposes the corrupt and bad officers.
- In the naxal-affected districts, where weaker sections and poor were getting more and more alienated from the Police and Administration, this channel of communication (cheap and best) brought in a lot of hope.

Conclusion

The initiative is self-sustaining as there is no financial implications, no legal wrangles. It is just

a rupee's phone call for justice. This initiative is system-driven with checks and balances from Press and Media. Grievance redressal for the poor employees, senior citizens, whose children have gone away for greener pastures, handicapped, the widows, women, girls who think twice before going to the Police Station, and were silently suffering got a hassle free channel for grievance redressal. Women and girls coming to Police Stations is still a taboo in our society. Keeping these ground realities in view, this program was launched and pursued relentlessly. The Supervisory Officer is thus continuously in touch with the grass-root level common man and his grievances, and is able to act as a Police Complaints Authority in responsible and collaborative participation with Press and Media as the role of mediators. Brokers are no more required. ■

REFERENCES

1. Chakrobarty, S.K. (1985). 'Social Service Call and Police Response'.
2. 1989 'Public Expectations, Perceptions and Attitudes to Police in India', Indian Journal of Criminology, Vol. 17, No. 1.
3. 1979 'A study of the Attitude of Senior Police Officers towards mode of Redressal of Grievances – A preliminary study', Mimeo., New Delhi.
4. Mathivannan., N. (1986). Police-Public Relations: Problems and Prospects', Police Research and Development, Qr. II, Government of India, Delhi.
5. Malviya, P.D. (1974). Press and the Police', Police Research and Development, Qrs. III and IV.
6. Chase, G. (1979). "Implementing a human service program: How hard will it be?" Public Policy 27, 4:385-435.
7. Warheit, G.J., R.A. Bell & J.J. Schwab (1977). Needs Assessment Approaches: Concepts and Methods. Washington, DC: National Institute of Mental Health.
8. Attkisson, C.C., WA Hargreaves, M.J. Horowitz & J.E. Sorenson (1978). Evolution of Human Service Program, New York: Academic Press.





Emotional Intelligence : Its Usefulness in Policing

Ajit Yadav*

Introduction

IN an organization when an employee feels the presence of a threatening situation, he may handle it in either of the two ways: He may be confident of his situation and may see it as a challenging opportunity to provide himself or experience fear or dread. Thus, our appraisal of situation and subsequent emotions are strongly influenced by our own estimate of capabilities. The emotions aroused depend not so much on the events themselves, as on how they are perceived.

Buck (1985) has defined emotion as the process by which motivational potential is realized or 'read-out' when activated by challenging stimuli. In other words, emotion is seen as a 'read-out' mechanism carrying information about motivational systems. Emotions have long been considered to be of such depth and power that in Latin, for example, they were described as '*motus anima*', meaning literally the spirit that moves us. Contrary to most conventional thinking, emotions are inherently neither positive or negative; rather they serve as the single most powerful source of human energy. In fact, each feeling provides us with vital and potentially profitable information every minute of the day. This feedback ignites creative genius, improves and shapes trusting relationships, an inner compass for one's life and career, guides to unexpected possibilities and even saves organization from disaster. To exhibit emotions is very easy, but doing it at the right time, at right place, with the right person and to the right degree is difficult. The management of emotions has given rise to the most talked about term "Emotional Intelligence".

Emotional Intelligence

In 1995, Daniel Goleman, a Harvard-trained Psychologist and writer for the 'New York Times',

who focuses on the brain and behaviour research, popularized emotional intelligence through the best selling book by the same title. Emotional Intelligence becomes a business trend. The Harvard Business review article on the topic attracted a higher percentage of readers than any other article published in that periodical in the last 40 years.

After nearly two decades of scientific inquiry, EI is arguably now as legitimate as other psychological approaches. Now of age, EI offers a great deal to Police educators, recruiters, and leaders.

What is Emotional Intelligence?

Emotional Intelligence is the ability to interpret, understand and manage one's own and others emotions. EI is not about becoming emotionally detached, it is about becoming emotionally mature and confident. The ability to be self-aware and then regulate one's own emotions is one of the profound EI competencies that emerged from the research. According to a later version of EI that Goleman promulgated, it includes:

- Personal competencies like self-awareness, accurate self-awareness, self-control, and
- Social competencies like conflict management, empathy and leadership both competencies are necessary in policing.

Emotional Intelligence motivates employees to pursue their unique potential and purpose, and activates innermost potential values, transforming them from things they think about, to what they do. Emotional Intelligence enables one to learn to acknowledge and understand feeling in ourselves and in others and that we appropriately respond to them, effectively applying the information and

Keywords

Emotional Intelligence
Police
Motivation
PTO
PBL
Learning Competencies
Stress
Attitude
Interpersonal
Relationship

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Abstract

Any attempt to ascertain the psychology of police in the present context poses a big challenge. The reasons responsible for this are not for seek. Actually, the factors are many and the nature of their involvement keeps changing with every significant crisis, which the police grapple with. Emotional Intelligence is seen as an important factor for enhancing leadership effectiveness because of its emphasis on people and interpersonal relationships. The

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energy of emotions in our daily life and work. Mayer and Salovey (1993) define Emotional Intelligence as the ability to monitor one's own and others feelings and emotions to discriminate among them, and to use this information to guide one's thinking and action. Emotional Intelligence involves the ability to perceive accurately, apprise and express emotions, the ability to access and/or generate feelings when they facilitate thoughts, the ability to understand emotions and emotional knowledge and intellectual growth. Cooper and Sawar (1997) define Emotional Intelligence as the ability to sense, understand and effectively apply the power and acumen of emotions as a source of human energy, information, connection and influence.

Elements of Emotional Intelligence

It is unrealistic to set aside our emotions and feelings in workplace; organizational life requires that we work together side by side for eight to fourteen hours daily. We spend more time with our co-workers than we do with our friends, spouse or children, feelings and opinions just do not go away because we walk in to workplace. At work, we can put on work clothes, but we cannot take off our emotions at work? The characteristics and abilities is discussed below:

1. **Self-awareness:** The awareness of one's own feelings and the ability to recognize and manage these feelings in a such way that one feels he/she can control. This factor includes a degree of self-belief in one's ability to manage one's emotions and control their impact in a work environment. The ability to empathize with, feel compassion for validate, motivate, inspire, encourage and sooth others. The ability to make intelligent decision using a healthy balance of emotions and reason, being neither too emotional nor too rational.
2. **Emotional resilience:** The ability to perform consistently in a range of situations under pressure and to adapt behaviour appropriately. The ability to balance the needs of the situations and task with the

needs and concerns of the individuals involved. The ability to retain focus on a course of action or need for results in the face of personal challenge or criticism.

3. **Motivation:** The drive and energy to achieve clear results and make an impact and, also to balance short- and long-term goals with an ability to pursue demanding goals in face of rejection or questioning.
4. **Interpersonal sensitivity:** The ability to be aware of, and take account of, the needs and perception of others in arriving at decisions and proposing solutions to problems and challenges. The ability to build from this awareness and achieve the commitment of others to decisions and action ideas. The willingness to keep open one's thoughts on possible solutions to problems and actively listen to, and reflect on, the reactions and inputs from others.
5. **Influence:** The ability to peruse others to change a viewpoint based on the understanding of their position and the recognition of the need to listen to this perspective and provide a rational for change.
6. **Intuitiveness:** The ability to arrive at clear decisions and drive their implementation when presented with incomplete or ambiguous information using both rational and 'emotional' or intuitive perceptions of key issues and implications.
7. **Conscientiousness:** The ability to display clear commitment to a course of action in the face of challenge and to match 'words and deeds' in encouraging others to support the chosen direction. The personal commitment to pursuing an ethical solution to a difficult issue or problem.

Daniel Goleman brought Emotional Intelligence into the business environment by asserting that there are four domains that must be mastered for one to translate Emotional Intelligence into workplace. Within these domains are various competencies



Emotional Intelligence : Its Usefulness in Policing

that leaders and followers should be proficient to maximize performance. These domains and their competencies as Goleman sees them (Johnson, 2005, p. 22) are as follow:

Self-awareness Cluster:

- **Emotional self-awareness:** Recognizing our emotions and their effects.
- **Accurate self-assessment:** Knowing one's own strengths and limits.
- **Self-confidence:** A strong sense of one's self worth and capabilities.

Self-management Cluster:

- **Adaptability:** Flexibility in dealing with changing situations and obstacles.
- **Emotional Self-control:** Inhibiting emotions in service of group or organizational norms.
- **Initiative:** Proactive, bias towards action.
- **Achievement orientation:** Striving to do better.
- **Trustworthiness:** Integrity or consistency with one's values, emotions, and behaviour.
- **Optimism:** A positive view of the life and the future.

Social Awareness Cluster:

- **Empathy:** Understanding others and taking active interest in their concern.
- **Service orientation:** Recognizing and meeting customers needs.
- **Organizational awareness:** Perceives political relationships within the organization.

Relationship Management Cluster:

- **Inspirational Leadership:** Inspiring and guiding groups and people.

- **Developing others:** Helping others improve performance.
- **Change catalyst:** Initiating or managing change.
- **Conflict management:** Resolving disagreements.
- **Influence:** Getting others to agree with you.
- **Teamwork and Collaboration:** Building relationships and creating a shared vision and synergy.

Emotional Intelligence Competencies in Police Training

In the Police, Problem-based Learning (PBL). EI training plays a major role. It is also part of the PBL-based field training system for recruits called the Police Training Officer (PTO) program. In both these programs, EI learning takes the form of what Psychologists Mayer and Cobb call socio-emotional learning: it teaches Police instructors and students how to examine their own EI competencies; these competencies include the following, among many others:

- Becoming more aware of emotional triggers that can instigate an angry violent response, such as when officers are called "pigs".
- Learning tactics to manage one's own mental state during stressful situations, such as a hazardous police chase.
- Being more attentive to the impact of daily emotions on long-term moods and attitudes towards colleagues and others.

In the Police, PBL Officers, instructors and trainers develop an entirely new way to help new officers learn the complicated business of police works. It also represents a dramatic shift in how instructors deliver training and education in the profession. PBL offers a dramatic step forward from traditional command and control teaching, mimetic learning and uniform performance expectations. In places where PBL has been successfully implemented over the past decade, we see the beginning of

psychological profile of Indian Policemen is, therefore, in need of repair. The sooner it is done, the better. This paper attempts to consider the need for the Indian Police to embrace EI.



This new approach forms the foundation for lifelong learning that prepares new officers for the complexities of policing today and in the future. The flexible program can be tailored to each agency's unique needs and can incorporate future changes in policing. An important long-term benefit to the agency is further institutionalizing community policing and problem-solving.

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new kind of critical thinking, problem-solving in Police.

In 1999, PTO (Police Training Officer) program developed by Gerard Cleveland and Gregory was Saville. The PTO program is the first new post-academy field training program for Law Enforcement Agencies in more than 30 years. This new approach forms the foundation for lifelong learning that prepares new officers for the complexities of policing today and in the future. The flexible program can be tailored to each agency's unique needs and can incorporate future changes in policing. An important long-term benefit to the agency is further institutionalizing community policing and problem-solving.

They also display leadership skills and a willingness to work as partners with the local community to fight crime and disorder problems. The PTO program is producing officers who have the necessary knowledge, skills, and attitude for today's law enforcement environment.

Does it work?

Do programs designed to improve EI competencies work? Research suggests they do, if carefully delivered by appropriately prepared instructors. A recent study by Fabio Sala shows that workshop interventions improve EI competencies, such as self-confidence, conflict management, communication, and conscientiousness; more intense long-term efforts may have even greater impact.

EI training also affects stress management. One study incorporating EI into stress management programs revealed that 'those frontline operational Police Officers (who) were able to understand and manage their emotions reported lower levels of stress and were, according to their reported lifestyles, at less risk of suffering from stress in the future. These results were evident across the sample with no real differences evident regarding the age, gender, rank or length of service of the officers involved. In other studies, EI awareness training appears to reduce officer's burn-out.

How can we train EI?

Emotional competencies can change, but only through positive development by experimental learning, habitual self-reflection, and long-term meditative work. Intellectual exercise or reducing assignments by themselves are unlikely to work, because emotional response do not emerge from the part of the brain where higher-level mental function occurs, like reasoning and language. Instead, they come from the interior limbic system in the brain, where emotions like anger and fear emerge.

Goleman calls this the "primal brain", and according to these primal emotions, this process is called negative habituation, and that is why, without positive habitual self-awareness training, changing EI competencies is difficult. For example, a stress management class can have some impact, but may not suffice in the long term.

These workshops typically target learning skills at the cognitive, exterior level. Skills at that level are highly perishable. They do not become a positive habit. The trick of EI skills learning is to become competent and aware of emotional response as they happen. Unfortunately, our own response, often invisible to us, emerge from the primal brain. Students will not just learn these skills or pick them up on their own; they need to learn how to practice emotional self-awareness.

As Blum and Polisar note, 'training Police Officers to effectively manage stress exposure events will require different methods and content than have been traditionally applied to police recruits and trainees. Officers must process adaptive expertise in managing their minds, emotions, and physiological reactions in real time.

As we can see, Emotional Intelligence has great potential for improving organizational performance through individuals and groups. As organizations today continue to operate with greater intensity in environments, which consist of rapid change and uncertainties, it is important that leaders be fully developed in the area of Emotional Intelligence. ■

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REFERENCES

1. Aremu, A. Oyesoji & Tejumola, T. Oluwayemisi (2008). "Assessment of Emotional Intelligence among Nigerian Police", Journal of Social Sciences, 16(3): 221-226, Department of Guidance and Counselling, University of Ibadan, Ibadan, Nigeria.
2. Aremu, A.O. (2004) & C.A. Adeyojus (1998). "Improving the Police Officers Interpersonal Relationships through Social Skills Training". Nigerian Journal of Clinical and Counselling and Psychology, 4(1): 18-21.
3. Cleveland, Gerard & Saville, Gregory (2005). "Police PBL Blueprint for the 21st century". Publication of community-oriented policing services, US Department of Justice and the Regional Community Policing Institute, University of Wichita.
4. Caruso, D.R., Mayer, J.D. & Salovey, P. (2002). Relation of an ability measure of emotional intelligence to personality. Journal of Personality Assessment, 79(2), 306-320.
5. Deshpande, S.P., Joseph, J. & Shu, X. (2005). The impact of emotional intelligence on counter-productive behaviour in China. Management Research News, 28(5), 75-85.
6. Frye, C.M., Bennet, R. & Caldwell, S. (2006). Team emotional intelligence and team interpersonal process effectiveness. Mid-American. Journal of Business, 21(1), 49-59.
7. Goleman, D. (1995). Emotional Intelligence: Why it can matter more than IQ? New York: Bantam Books.
8. Hyde, A., Dethle, S. & Dhar. U., "Manual for Emotional Intelligence Scale", Vedant Publications, Lucknow.
9. Saville, Gregory. "Emotional Intelligence in Policing", University of New Haven, New Haven, Connecticut.
10. Singh, Sunil Kumar (1996). "The Psychology of Police in present context", Uttar Pradesh Police Patrika, 1996, pp. 26-28.



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Keywords

Plea Bargaining
Public Exchequer
Unpredictable Trials
Malimath Committee
Criminal Justice
System
Charge Bargaining
Sentence Bargaining
Fact Bargaining

Plea Bargaining : A New Trend in Criminal Justice System

Inderpreet Kaur*

*“Discourage litigation,
Persuade your neighbours to compromise whenever
you can.
As a peacemaker, the Lawyer has superior opportunity
of being a good man.”*

– Abraham Lincoln

Introduction

THE arrears of Criminal Courts awaiting trial are assuming menacing proportions. Grievances have been vented in public that the disposal of criminal trials in the courts take considerable time and that in many cases, trials do not commence for as long as a period of three or four years after the accused was remitted to judicial custody.¹ Statistics as regards the Criminal Justice System in India reveals that thousands of undertrial prisoners are languishing in prisons throughout India. As per the National Crime Records Bureau in 2005, the number of inmates housed in jails was almost 1,00,000 more than their capacity. It was estimated that 60.2% of all inmates were undertrials and of these, 0.8% had been detained in jail for more than five years at the end of 2005.² Large number of persons accused of criminal offences have not been able to secure bail for one reason or the other which resulted into languishing in jails as undertrial prisoners for years. It is also a matter of common knowledge that the majority of cases ultimately end in acquittal. The accused have to undergo mental torture and also have to spend considerable amount by way of legal expenses and the Public Exchequer has to bear the resultant economic burden. During the course of detention as undertrial prisoners, the accused persons are

exposed to the influence of hard-core criminals. Quite apart from this, the accused have to remain in a state of uncertainty and unable to settle down in life for a number of years awaiting the completion of trial.³ Thus, these all have led to devising an informal system of pre-trial bargaining and settlement in some Western countries, especially in United States. The system is commonly known as “plea bargaining”. A suspect may be advised to admit part or all the crime charged in return for a specified punishment or rather than await trial with the possibility of either acquittal or a more serious punishment. Plea bargaining as most criminal justice reformers believe, is more suitable, flexible and better fitted to the needs to the society, as it might be helpful in recurring admissions in cases where it might be difficult to prove the charge laid against the accused.⁴

Because the idea of plea bargaining or mutually satisfactory disposition is to avoid expenses, unpredictable trials and the potential for harassment in all the small and medium crimes. It reduces the flow of criminal cases in the system and save the time, resources and of the system managers (Police, Prosecutors and Judges) to deal with serious crimes, which threaten the national security and may cause large-scale damage to life and property. It is a device to ensure the victims

¹ 154th Report of Law Commission of India, The Code of Criminal Procedure, 1973 (1996) at 154.70.

² Retrieved from <<http://ncrb.nicm>> on 9th October, 2009.

³ *Supra* note 1.

⁴ Justice Dr. Arijit Pasayat, “Plea Bargaining”, Nyaya Deep, National Legal Services Authority. Vol. VIII. July 2007 at 5.

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to receive acceptable justice in reasonable time without risking the prospects of hostile witnesses, inordinate delay and unaffordable costs. It reduces the arrears and pendency in the system by diverting to large number of crimes for alternative settlement without trial under control of court to ensure fairness in the process.⁵ This practice is prevalent in Western countries, particularly the United States, England and Australia. In the US, plea bargaining has gained very high popularity, whereas it is used only in a restricted sense in the other two countries.⁶

On the recommendations of **Malimath Committee**,⁷ Code of Criminal Procedure has been recently amended by adding Chapter XXI-A, consisting of 12 sections (see 265-A to 265-L). The Central Government has notified the socio-economic condition of the country, which have been kept out of the purview of the plea bargaining. Not only will it expedite the disposal of cases, it may also result in adequate compensation for the victim of crime, since he along with Prosecutor will be in a position to bargain with the accused.⁸

In the present article, an attempt has been made to discuss the emerging concept of plea bargaining in Criminal Justice System and its types, reasons, international and national view of it in the light of decided case laws along with the study of Law Commission of India.

Definition of Plea Bargaining

There is no perfect or simple definition of plea bargaining. As the term implies, plea bargaining involves an active negotiation process whereby an offender is allowed confess his guilt in court (if he so desires) in exchange of a lighter punishment

that would have been given for such an offence. Plea bargaining usually occurs prior to trial, but may occur any time before a judgement is rendered. *Black's Law Dictionary* defines it as⁹:

“The process, whereby the accused and the prosecutor in criminal case work out a mutually satisfactory disposition of the case subject to the court approval. It usually involves the accused pleading guilty to a lesser offence or to only one or some of the counts of a multi-count indictment in return of lighter than that possible for the graver charge.”

Types of Plea Bargaining¹⁰

Plea bargaining can mainly be classified into three types:

- **Charge Bargaining:**

This is common and widely known form of plea. It involves a negotiation of the specific charges (counts) or crimes that the defendants will face at trial. Usually, in return for a plea of 'guilty' to a lesser charge, a Prosecutor will dismiss the higher or other charge(s) counts. For example: A defendant charged with burglary may be offered the opportunity to plead guilty to attempt burglary.

- **Sentence Bargaining:**

Sentence bargaining involves the agreement to a plea of guilty (for the stated charge rather than a reduced charge) in return for a lighter sentence. It absolves the prosecution from the necessity of going through trial and proving its case. It provides the defendant with a opportunity for a lighter sentence.

Abstract

A suspect may be advised to admit part or all the crime charged in return for a specified punishment or rather than await trial with the possibility of either acquittal or a more serious punishment. Plea bargaining as most criminal justice reformers believe, is more suitable, flexible and better fitted to the needs to the society, as it might be helpful in recurring admissions in cases where it might be difficult to prove the charge laid against the accused.

⁵ Kotagiri Srinivasa Rao & Miramar Panaji, "Alternative Dispute Resolution in Criminal Jurisprudence", *Criminal Law Journal*, September 2009 at 263.

⁶ K.T. Thomas: "Plea Bargain - A Fillip to Criminal Courts." www.omeil.com visited on 7th May, 2010.

⁷ *Supra* note 1.

⁸ *Supra* note 4.

⁹ *id* at 6.

¹⁰ Dr. Suman Rai, Law relating to Plea Bargaining, Orient Publishing Company, New Delhi. Allahabad, First edition 2008 at 7.



Backlog and delay are among the most significant problems in the Indian Judiciary. One of the reasons or the huge backlog indicated by 120th Report of Law Commission, being inadequate strength of Judges compared to the population of the country. The strength of the Judges and of Judicial Officers has not been proportionately increased either with the growth of population or with augmentation in litigation.

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● Fact Bargaining

The least used negotiation involves an admission to certain facts (“stipulating” to the truth and existence of provable facts, thereby eliminating the need for the Prosecutor to have to prove them) in return for an agreement not to introduce certain other facts into evidence.

Reasons to introduce Plea Bargaining

The failure of democracy to deliver justice within a time frame has brought a sense of frustration, loss of faith and dissatisfaction amongst them.¹¹ On this point as famous Jurist Late Nani A. Palkhivala has gone on record to say¹²:

“If I asked to mention the greatest drawback of the administration of justice in India today, I would say that it is DELAY. There are inordinate delays in the disposal of cases. We, as a nation, have some fine qualities, but a sense of value of time is not one of them. Perhaps here are historical reasons for our relaxed attitude to time. Ancient India had evolved the concept of eternity and infinity. So what do time. Ancient India had evolved the concept of eternity and infinity. So what do thirty years, wated in litigation, matter against the backdrop of eternity? Further, we believe in reincarnation, m what does it matter if you waste this life? You will have many more lives in which to make good. I am not aware of any country in the world where litigation goes on for as long period as in India. Our case drag over a length of time, which makes eternity intelligible. The law may or may not be blind, but I see no reason why it should also be lame: here it just hobbles along, barely able to walk.”

Further, this point of view has been enlightened by Mr. Justice A.K. Sikri in his article that Indian Judiciary, though fair and powerful, is awfully overcrowded and slow. The problem of delay in dispensation of justice is a major problem being

faced by the Indian Judiciary. Besides being highly stressful, it has also become exorbitantly expensive and time-consuming for the litigants. In last 56 years, due to its impartial and fearless role in dispensation of justice, it has won the confidence of the people of this country, who find it to be the last resort to get their legitimate due. At the same time, however, one factor, which is becoming responsible for questioning the efficacy of justice delivering system is the delays in deciding cases.¹³

Backlog and delay are among the most significant problems in the Indian Judiciary. One of the reasons for the huge backlog as indicated by 120th Report of Law Commission¹⁴, is inadequate strength of Judges compared to the population of the country. The strength of the Judges and of Judicial Officers has not been proportionately increased either with the growth of population or with augmentation in litigation. Therefore, this problem of delayed justice has caught up the attention of Judiciary and Legislature alike. It is in this background that the Law Commission felt the need of some remedial legislative measures to reduce the delays in the disposal of criminal trials and appeals and also to alleviate the suffering of undertrial prisoners. The Law Commission in its 142nd Report on Concessional Treatment of Offenders, who on their own initiative, choose to plead guilty without any bargaining (1991), considered the question of introduction of the concept of concessional treatment for those who choose to plead guilty by the way of plea bargaining.¹⁵

Position of Plea Bargaining in Other Countries

It would be wrong to assume that the concept of plea bargaining found favour of Courts only in the recent past. In fact, it was used in the American Judiciary in the 19th century itself. The Bills of

¹¹ Hon'ble Mr. Justice A.K. Sikri & Ms. Shreya Arora, “Plea Bargaining - A New Form of ADR in Criminal Cases.” Punjabi University Law Journal, Vol. 1, 2007 at 22.

¹² Nani A. Palkhivala, *We the nation-lost decades* (UBS Publishers Distributors, 1994) at 215-216.

¹³ *Supra* note 11.

¹⁴ 120th Report of Law Commission of India, Manpower Planning in Judiciary: A Blueprint (1987) at 120. 5. (D.A. Desai J. Chairman).

¹⁵ *Supra* note 1.



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Rights makes no mention of the practice when establishing the fair trial principle in the sixth amendment, but the constitutionality of plea bargaining had constantly been upheld there. It is significant part of the Criminal Justice System in the United States where 90% criminal cases are settled by plea bargaining rather than by a jury trial. Thus, less than 10% of the criminal cases go to trial. The system of plea bargaining in the federal system was officially recognized with the passage of the 1974 amendments to Federal Rules of Criminal Procedure.¹⁶ The rules require that a defendant's guilty plea be made knowingly, intelligently and voluntarily.¹⁷ These requirements are made because a guilty plea constitutes a waiver of a defendant's important Fifth Amendment¹⁸ and Sixth Amendment¹⁹ rights. The court must find that a guilty plea satisfies the requirements of Rule 11²⁰ before the court can accept the plea. In the year 1969, James Earl Ray pleaded guilty to assassinating Martin Luther King, Jr. to avoid execution sentence. He finally got imprisonment of 99 years.

In a landmark judgement in *Bordenkircher v. Hayes*²¹, the US Supreme Court held that the constitutional rationale for plea bargaining is that no element of punishment or retaliation so long as the accused is free to accept or reject the prosecution offer. In *Santobello v. New York*²², the United States Supreme Court formally accepted that plea bargaining was essential for the administration of justice and when properly managed, was to be encouraged. Under Federal Law, as of January 27, 2007, the maximum a plea bargains can reduce jail sentences and fines are 50%. In other countries, such as England and Wales, Victoria, Australia, plea bargaining is

allowed only to the extent that the Prosecutors and defence can agree that the defendant will plead to some charges and the Prosecutor shall drop the remainder. The European countries are also slowly legitimizing the concept of plea bargaining though Scandinavian countries largely maintain prohibition against the practice.

Concept of Plea Bargaining in India

The recommendation of the 154th Law Commission report was that plea bargaining should be incorporated in the Indian Criminal Justice System (as a separate chapter in the Code of Criminal Procedure Chapter XXI-A), for offences, which are liable to be punished with imprisonment of less than seven years and/or fine vis-à-vis nature and gravity of offence and quantum of punishment. It should not be available for grave offence - those against women and children, and socio-economic offences. Plea bargaining will initiate after the accused makes an application to the court (the court may *suo moto* make an offer for plea bargaining, which the accused accepts, he has to make an application), and preliminary examination by the court (in the absence of the Public Prosecutor or the Police) to ascertain the voluntariness of the accused. The court shall also examine the Prosecutor and the aggrieved party, and at any point, if it is convinced that the accused has agreed to plea bargain, under duress, or without realizing the consequences, it will reject the application.²³

Salient Features of Plea Bargaining

The Criminal Law (Amendment) Act, 2005, which was passed in the winter session of the Parliament, has introduced plea bargaining in India, embodied

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¹⁶ *Supra* note 10 at 92.

¹⁷ Federal Rules of Criminal Procedure, Rule 11(e).

¹⁸ Right not to incriminate himself.

¹⁹ Right to a trial.

²⁰ Guilty plea made knowingly, intelligently and voluntarily.

²¹ 434 US 357 (1978).

²² 404 US 257 (1971).

²³ Atreyee Majumdar, "Plea bargaining - Guilty. But of a lesser Offence?," <http://www.news.indlaw.com/uk/focusdetails.asp?ID=77>.



Some critics say the backlogs on Indian courts, and the prolonged trials in India are due to systemic failures, and lack of infrastructure and funds. Instead of addressing the root of the problems, the Government has chosen short-cut solution by way of introducing plea bargaining.

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in the Chapter XXI-A of Code of Criminal Procedure. A notification has been issued which gives effect to the new provision, which has come into effect since 5th July, 2006.²⁴ The salient features of the provisions are:

- The plea bargaining is applicable only in the respect of those offences for which punishment of imprisonment is upto seven years²⁵;
- It does not apply where offences that affect the socio-economic condition of the country or has been committed against a woman or a child below the age of 14 years²⁶;
- The application for plea bargaining should be filed by the accused voluntarily²⁷;
- A person accused of an offence may file an application for plea bargaining in the Court in which such offence is pending for trial²⁸;
- Once the court is convinced that the accused is participating in the plea bargain voluntarily, it will allow time to both parties to reach mutually satisfactory disposition²⁹, which may include giving to the victim by the accused, compensation³⁰ and other expenses incurred during the case;
- Where a satisfactory disposition of the case has been worked out, the court shall dispose of the case by sentencing the accused to one-fourth of the punishment provided or extendable, the case may be, for such offence.³¹;

- The statement or facts stated by an accused in an application for plea bargaining shall not be used for any other purpose other than for plea bargaining³²;
- The judgement delivered by the court in the case of plea bargaining shall be final and no separate appeal shall lie in any court against such judgement (except the Special Leave Petition under Article 136 and Writ Petition under Articles 226 and 227 of the Constitution).³³ If the accused is a first time offender, the court will have the option of releasing him/her on probation.³⁴ Alternatively, the court may grant half the minimum punishment for the particular offence.³⁵

But, some critics say the backlogs on Indian Courts, and the prolonged trials in India are due to systemic failures, and lack of infrastructure and funds. Instead of addressing the root of the problems, the Government has chosen a short-cut solution by way of introducing plea bargaining. Several Defence Lawyers are anguished as they suspect it will eat into their volume of work.³⁶

Comparison of Indian Law with American Law

Plea bargaining in the Indian Criminal Procedure is different in its purpose and detail. Desire to reduce the pendency of criminal cases prompted the Indian lawmakers to give plea bargaining a try. Compensation to the victim of crime by the accused is the extraordinary feature of plea

²⁴ *The Criminal Law Amendment Act, 2005*, published in the Gazette of India, Extraordinary, Pt. II, Section 1, dated 12-1-2006.

²⁵ *Ibid.*, Sec. 265-A.

²⁶ *Ibid.*

²⁷ *Ibid.*, Sec. 265-B. 4 (a).

²⁸ *Ibid.*

²⁹ *Ibid.*, Sec. 265-E (a).

³⁰ *Ibid.*, Sec. 265-C.

³¹ *Ibid.*, Sec. 265-E (d).

³² *Ibid.*, Sec. 265-K.

³³ *Ibid.*, Sec. 265-G.

³⁴ *Ibid.*, Sec. 265-E (b).

³⁵ *Ibid.*, Sec. 265-E (c).

³⁶ *Supra* note 23.



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bargaining in India. It is expected that 50 thousands out of 28.3 millions criminal cases pending trial would be disposed of through the process of plea bargaining. Unlike in American system, plea bargaining cannot be resorted to settle all types of crimes in India. Only sentence bargaining is allowed as per the provisions of plea bargaining in the Indian Code of Criminal Procedure. The complainant plays an important role in the concept of plea bargaining in Indian system because it is he who, on the request of the accused to the court, is given time by the court to work out a mutually satisfactory disposition of the case. Since it is sentence bargain only, the prosecution agency has a limited role to play and all the modalities of the bargain are to be worked out mutually by the complainant and the accused person. In contrast, in America, the Prosecutor plays an active role during charge bargain. The plea bargaining in Indian laws symbolizes part bargain and part-compounding with the permission of the Court. Plea bargaining is different from compounding of offence. The distinction between compounding of offence and plea bargaining of offence is that conviction is exempted in the former situation, whereas lesser punishment is awarded in the latter situation. Compounding is stigma-free, whereas plea bargaining attaches the stigma of a convict to the applicant.³⁷

Judicial Trends : Pre-Amendment

Before amendment, sentence bargaining has been applied almost regularly in India in cases where word changing the nature of punishment and reducing the quantum of sentence was within the discretionary power of the Trial Courts. Constitutionality and legality of 'sentence bargaining' so resorted to by Indian Court have been examined by the Apex Courts in several cases.³⁸ In *State of U.P. v. Chandrika*³⁹, the Supreme Court decided that the disposal of cases

on the basis of plea bargaining is not permissible. Mere acceptance of admission of guilt should not be a ground for reduction of sentence. This practice would also tend to encourage corruption and contribute to the lowering of the standard of justice.

Justice P.N. Bhagwati in *Kasambai Abdulrahmanbai Seikh v. State of Gujarat*⁴⁰, declared plea bargaining as unconstitutional and illegal. In this case, judgement of High Court is set aside by Supreme Court and the plea of guilty is ignored, conviction of accused is set aside and the case is sent back to the Magistrate for trial in accordance with law. This procedure would be clearly unreasonable, unfair and unjust and would be violative of the new activist dimension of Article 21 vis-a-vis of *Maneka Gandhi's Case*.⁴¹ It would have the effect of polluting the pure fount of justice, because it might induce an innocent accused to plead guilty to suffer a light and an inconsequential punishment rather than go through a long and arduous criminal trial which, having regard to our cumbrous and unsatisfactory system of administration of justice, is not only long-drawn out and ruinous in terms of time and money, but also uncertain and unpredictable in its result. And Judge also might be likely to be deflected from the path of duty to do justice and he might either convict an innocent accused by accepting the plea of guilty or let off the guilty accused with a light sentence. Justice M.Hidayatullah in *Madanlal Ramchandra Daga v. State of Maharashtra*⁴², disapproved the practice of plea bargaining by following succinct observation:

"In our opinion, it is very wrong for a court to enter into a bargain of this character. Offences should be tried and punished according to the guilt of the accused. If the court thinks that leniency can be shown on the facts of the case it may impose a lighter sentence. But the court should never be a party to bargain by

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³⁷ Dr. Vijay Nagpal & K.P. Singh, "Plea Bargaining in India: A Critique," Panjab University Law Review, Vol. 1, 2007 at 14.

³⁸ *Ibid.*

³⁹ AIR 2000 SC 164.

⁴⁰ AIR 1980 SC 854.

⁴¹ *Maneka Gandhi v. Union of India*. AIR 1978 SC 597.

⁴² AIR 1968 SC 1267.



In Delhi's first case of plea bargaining on April 11, 2007, a Trial court sentenced accused to seven days in jail and fined him Rs. 500/- for barging into his neighbour's house ten years ago. By continuing with the trial and pleading guilty, accused could have been sentenced upto three years in jail.

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which money is recovered for the complainant through their agency. We do not approve of the action adopted by the High Court...⁴³

In *Thippaswamy v. State of Karnataka*⁴⁴, the Supreme Court held that enforcement or imposition of sentence in revision or appeal after the accused had plea bargained for a lighter sentence or mere fine in the Trial Court as unconstitutional being violative of Article 21. It is clear that plea bargaining was never appreciated by the Apex Court as a concept in Indian Criminal System.

Judicial Trends : Post-Amendment

While commenting on the concept of plea bargaining, the Gujrat High Court observed in the *State of Gujrat v. Natwar Harchandji Thakor*⁴⁵, that the very object of the law is to provide easy, cheap and expeditious justice by resolution of disputes, including the trial of criminal cases and considering the present realistic profile of the pendency and delay in the administration of law and justice, fundamental reforms are inevitable. There should not be anything static. It can thus be said that it is really a measure of redressal and it shall add a new dimension in the realm of judicial reforms.

In *Delhi's first case* of plea bargaining on April 11, 2007, a Trial Court sentenced accused to seven days in jail and fined him Rs. 500/- for barging into his neighbour's house ten years ago. By continuing with the trial and pleading guilty, accused could have been sentenced upto three years in jail. Disposing of the case, Metropolitan Magistrate Pulastya in his order said, "Since the accused has appealed voluntarily and both parties have reconciled, his sentence is reduced to seven days."

In *Mumbai's first case*⁴⁶, an application for plea bargaining was made before a Sessions Court recently when an ex-Reserve Bank of India clerk,

who is accused in a cheating case, moved the Court seeking lesser punishment in return for confessing to the crime. In the present case, Sakharam Bandekar, a Grade-I Government employee, was accused of siphoning off Rs. 1.48 crore from RBI by issuing vouchers against fictitious names between 1993 to 1997 and transferring the money into his personal account. Bandekar was arrested by the CBI on October 24, 1997, and later released on bail in November the same year. The case came up for trial before Special CBI Judge A.R. Joshi and charges were framed against Bandekar on March 2, 2007. However, the accused moved an application before the court on August 18, stating he was 58 years old and would seek plea bargaining. The court then directed the prosecution to file its reply.

The CBI, while opposing the application, said that "the accused is facing serious charges and plea bargaining should not be allowed in such cases". CBI also said, "Corruption is a serious disease like cancer. It is so severe that it maligns the quality of the country, leading to disastrous consequences. Plea bargaining may please everyone except the distant victims and the silent society". Based on these submissions, the court rejected Bandekar's application. Although, Bandekar's plea was rejected, the case indicates an emerging legal trend. According to experts, plea bargaining could reduce the heavy backlog of cases in Indian Courts. Since it requires the accused to confess to his crime and does away with a lengthy trial, the time period can be reduced drastically. For the accused, the real benefit is that by confessing to his crime and bargaining for the prison term, he may escape with a lesser punishment.

In *Pardeep Gupta v. State*⁴⁷, Shiv Narayan Dingra, J. observed that "the Trial Court's rejection of the plea bargaining shows that it did not even read the provisions of Chapter XXI-A of Cr.P.C. before considering the application. The High Court

⁴³ *id* at 1270.

⁴⁴ AIR 1983 SC 747.

⁴⁵ 2005 Cr.L.J. 2957.

⁴⁶ 'The Times of India', 15th October, 2007.

⁴⁷ Delhi High Court, *Bail Application No. 1298/2007*, judgement dated 3rd September, 2007.



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directed the Trial Court to reconsider the application of plea bargaining made by the accused in the light of provisions made in the Code of Criminal Procedure and not in a casual manner.

An Appraisal

The foregoing analysis leads to conclude that for Indian Criminal Justice System, which is crippling under its own weight, experimentation is the only hope through which the confidence of the masses can be restored in the system. Plea bargaining should be viewed as one such experiment designed to reduced tendency of undertrial cases. The outcome of the experiment would depend on the honesty of the Criminal Justice System in implementing the policy. At this stage, it would be premature to declare the success of the new concept of plea bargaining. The impact of plea bargaining on Justice Delivery System should be watched and analyzed carefully from time to time. It should be discarded if it pollutes the soul of criminal jurisprudence. It should be welcomed if it helps the cause of justice in the society. Till then, it would be

more apt to see plea bargaining as a positive and constructive step in the direction of expediting trials of criminal case of medium severity.⁴⁸

Plea bargaining is, undoubtedly, has become a critique in the minds of jurists. Few people have welcomed it, while others have abandoned it. It is true that plea bargaining speeds up caseload disposition, but it does that in an unconstitutional manner. Perhaps, we have no other choice but to adopt this technique. The Criminal Courts are too overburdened to allow each and every case to go on trial. Only time will tell that the introduction of this new concept is justified or not.⁴⁹ Thus, presently, this concept of plea bargaining has not found place in the heart of Judges because there is hardly few cases where this concept of plea bargaining has been taken, but one way or other, higher courts have not given proper attention to it. But, this is a beginning of a new era in India and we can hope that plea bargaining would find favour with stakeholders of Criminal Justice System. ■

Plea bargaining is undoubtedly, has become a critique in the minds of jurists. Few people have welcomed it while others have abandoned it. It is true that plea bargaining speeds up caseload disposition, but it does that in an unconstitutional manner.

⁴⁸ *Supra* note 37 at 17.

⁴⁹ Soura Subha Ghosh, Advocate, "Plea Bargaining - An Analysis of the Concept, www.legalserviceindia.com

BIBLIOGRAPHY

1. Dr. Suman Rai, *Law relating to Plea Bargaining*, Orient Publishing Company, New Delhi, Allahabad, first edition (2008).
2. Kotagiri Srinivasa Rao & Miramar Panaji, "Alternative Dispute Resolution in Criminal Jurisprudence", *Criminal Law Journal*, September (2009).
3. Saumya Mishra, "The Criminal Justice System and Plea Bargaining in India". Society can improve only through reformative means - Mahatma Gandhi, *Criminal Law Journal* (2008).
4. Dr. Vijay Nagpal & K.P. Singh, "Plea Bargaining in India: A Critique", *Punjab University Law Review*, Vol. 1 (2007).
5. Hon'ble Mr. Justice A.K. Sikri & Ms. Shreya Arora, "Plea Bargaining - A New Form of ADR in Criminal Cases", *Punjabi University Law Journal*, Vol. 1 (2007).
6. Justice Dr. Arijit Pasayat, "Plea Bargaining", *Nyaya Deep*, National Legal Services Authority, Vol. VIII, July (2007).
7. Frank Schmalleger, *Criminal Justice*, 'Today', Second Edition, Prentice Hall, Englewood Cliffs, New Jersey (1993).

Websites

1. www.legalserviceindia.com
2. www.ncrb.nic.in
3. www.gmail.com
4. www.news.indlaw.com



Keywords

Investigation
Standard of
Investigation
Successful Prosecution
I.O. (Investigating
Officer)
SOC (Scene of Crime)
CD (Case Diary)
MVI's Report
(Motor Vehicle
Inspector's Report)
Observations of
Superior courts
Mandatory Procedures

Improving the Standard of Investigation

K.P.S. Jeyachandran*

Introduction

“It is better to light a single candle that rail against the dark” and it is in this spirit, this paper on “Improving The Standard of Investigation” is conceived. It is uncommon to see a society which is free from crimes. Crime has been prevalent from time immemorial. Law certainly expects an Investigator to unravel the mysteries of a crime. The investigation details of police will be subjected to judicial scrutiny during trial. Successful prosecution is the prime duty of the Police and hence, the investigation by Police to discover the truth in a crime assumes importance.

It is not uncommon to see the acquittal of cases only due to the lackadaisical investigation of criminal cases by Police Officers. Success or failure of investigation depends much on the quality and quantum of information gathered by the Investigating Officer during investigation.

Investigation is nothing but the collection of oral and documentary evidence apart from the material objects used by the accused to commit the offence. Failure to collect the available

evidence is perfunctory investigation and the failure to send the collected evidence to court is tainted investigation (1). The function of the police regarding the investigation shall be within the purview of the above observation of the Apex Court. Hence, it is a must to improve the standard of investigation since sub-standard investigations generally are the contributing factors for acquittal.

Standard Format

A standard format has been formulated as a measure to improve the standard of investigation. For convenience, the criminal cases dealt with by the police are segregated into seven categories and the checklists are given below. If the mandatory requirements stated in the checklists are strictly adhered to, certainly, the effort will improve the standard of investigation.

The format given below is the front page of the Case Diary's Docket Sheet. Checklists for different categories of cases can be printed on the backside of the Docket Sheets, which would guide the Investigator in a right direction.

Case Diary Docket Sheet

District:	Viluppuram	C.C. No.	01/2009
Police Station:	District Crime Branch	Taken on file:	01.01.2009
Name of the Court:	JM No. I, Viluppuram	P.R.C./S.C. No.	For Sessions cases

* Inspector of Police, District Crime Branch, Viluppuram District, Tamil Nadu.



Case Diary Docket Sheet - contd.

Hearing dates					
		1.	Crime No.	:	
		2.	Section of law	:	
		3.	Date of occurrence	:	
		4.	Date of report	:	
		5.	Date of charge	:	
		6.	Complainant's name	:	
		7.	Name of the accused	:	
		8.	Property lost	:	
		9.	Property recovered	:	
		10.	Miscellaneous details	:	

Abstract

Investigation is the collection of oral and documentary evidences apart from the material objects and other relevant facts to prove the guilt of the accused. Exploring the crime with innovative common sense and keen observation are of prime importance in the detection of crime. Failure to collect the available evidence is perfunctory investigation and the failure to send the collected evidence



Improving the Standard of Investigation

to Court is tainted investigation. Sub-standard investigation always is the contributing factor for letting the real culprits at large. Hence, a standard format has been formulated to guide the Investigating Officers as a measure to improve the standard of investigation.

Murder / Murder for Gain Cases Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Death intimation		
3.	First CD		
4.	Dying declaration		
5.	Rough sketch / Observation Mahazar		
6.	Photograph / Videograph at SOC		
7.	Seizure Mahazar at SOC		
8.	Form-91 with C.P. No.		
9.	Visit of Dog Squad / FP Expert / Scientific Expert		
10.	Inquest report / Inquest by RDO		
11.	Requisition to Medical Officer		
12.	Post-Mortem certificate / Wound certificate		
13.	Special report of the P.M. constable		
14.	Form-91 to send objects received after P.M.		
15.	Viscera / Hyoid Bone / Sample for DNA sent to FSL		
16.	Skull sent for superimposition / Report received		
17.	Arrest of the accused		
18.	Arrest intimation (Supreme Court's guidelines)		
19.	Confession statement of the accused		
20.	Seizure mahazar (Confession - 27 Recovery)		
21.	Weapon seized		
22.	Whether the belongings of the deceased were identified by the relatives / witnesses (after Post-Mortem / 27 Recovery)		
23.	Statement of witnesses		
24.	Motor vehicles involved in the occurrence		
25.	Accused / victim's vehicles sent for MVI inspection		
26.	MVI's report		
27.	Viscera analysis / HPE / D.N.A. reports		
28.	Final opinion of the Medical Officer		
29.	Accused surrendered - taken on Police custody		
30.	Test Identification Parade conducted		
31.	Documents connected to the case collected		
32.	I.O. discussed in person with the Law Officers		
33.	Memo of evidence		
34.	List of documents		
35.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.



Hurt Cases

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Hospital intimation		
3.	First CD		
4.	Rough sketch		
5.	Observation Mahazar		
6.	Photograph at SOC		
7.	Seizure Mahazar at SOC		
8.	Form-91 with C.P. No.		
9.	Visit of Scientific Expert		
10.	Wound certificate		
11.	Arrest of the accused		
12.	Arrest intimation (Supreme Court's guidelines)		
13.	Confession statement of the accused		
14.	Seizure Mahazar (Confession - 27 recovery)		
15.	Weapon seized		
16.	Form-91 with C.P. No.		
17.	Statement of witnesses		
18.	Motor vehicles involved in the occurrence		
19.	Vehicle sent for MVI inspection		
20.	MVI's report		
21.	Accused surrendered - taken on Police custody		
22.	Documents connected to the case collected		
23.	IO discussed in person with the Law Officers		
24.	Memo of evidence		
25.	List of documents		
26.	Alteration report		
27.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.

Law certainly expects an Investigator to unravel the mysteries of a crime. The investigation details of police will be subjected to judicial scrutiny during trial. Successful prosecution is the prime duty of the police and hence, the investigation by Police to discover the truth in a crime assumes importance.



Improving the Standard of Investigation

It is not uncommon to see the acquittal of cases only due to the lackadaisical investigation of criminal cases by police Officers. Success or failure of investigation depends much on the quality and quantum of information gathered by the Investigating Officer during investigation.

Property Offences

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint		
3.	First CD		
4.	Rough sketch		
5.	Observation Mahazar		
6.	Photograph at SOC		
7.	Seizure Mahazar at SOC		
8.	Form-91 with C.P. No.		
9.	Visit of Dog Squad		
10.	Visit of Fingerprint Expert / Chance prints		
11.	Visit of Scientific Expert		
12.	M.O. criminals checked / Crime card		
13.	Advisory memo complied with		
14.	Entries made in relevant crime records		
15.	Recently released prisoners checked		
16.	Other districts DCRB & SCRIB visited		
17.	Photo album of suspects shown to the witnesses		
18.	Wound certificate		
19.	Arrest of the accused		
20.	Arrest intimation (Supreme Court's guidelines)		
21.	Confession statement of the accused		
22.	Seizure Mahazar (Confession - 27 recovery)		
23.	Test identification parade conducted		
24.	Motor vehicles involved in the occurrence		
25.	Accused & victim's vehicle sent for MVI inspection		
26.	MVI's report		
27.	Statement of witnesses		
28.	Accused surrendered - taken on Police custody		
29.	Documents connected to the case collected		
30.	IO discussed in person with the Law Officers		
31.	Memo of evidence		
32.	List of documents		
33.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.



Road Accident Cases

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Hospital intimation		
3.	First CD		
4.	Rough sketch		
5.	Observation Mahazar		
6.	Photograph / Videograph at SOC		
7.	Photograph / Videograph of the victims		
8.	Seizure Mahazar at SOC		
9.	Form-91 with C.P. No.		
10.	Visit of Scientific Expert		
11.	Inquest report		
12.	Requisition to Medical Officer		
13.	Wound certificate		
14.	Post-Mortem certificate		
15.	Special report of the P.M. constable		
16.	Form-91 to send objects received after P.M.		
17.	Vehicle of the accused sent for MVI inspection		
18.	Vehicle of the victim sent for MVI inspection		
19.	MVI's report		
20.	Arrest of the accused / Accused surrendered		
21.	Arrest intimation (Supreme Court's guidelines)		
22.	Confession statement of the accused		
23.	Seizure Mahazar (Confession - 27 recovery)		
24.	Form-91 with C.P. No.		
25.	Statement of witnesses		
26.	Documents connected to the case collected		
27.	IO discussed in person with the Law Officers		
28.	Memo of evidence		
29.	List of documents		
30.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.

Investigation is nothing but the collection of oral and documentary evidence apart from the material objects used by the accused to commit the offence. Failure to collect the available evidence is perfunctory investigation and the failure to send the collected evidence to court is tainted investigation.



Improving the Standard of Investigation

The function of the police regarding the investigation shall be within the purview of the observation of the Apex Court. Hence, it is a must to improve the standard of investigation since sub-standard investigations generally are the contributing factors for acquittal.

174 Cr.PC / 304 (B) IPC / Suspicious Death Cases

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Death intimation		
3.	First CD		
4.	Dying declaration		
5.	Rough sketch / Observation Mahazar		
6.	Photograph / Videograph at SOC		
7.	Photograph / Videograph of the victim		
8.	Seizure Mahazar at SOC		
9.	Form-91 with C.P. No.		
10.	Visit of Dog Squad / FP Expert / Scientific Expert		
11.	Inquest report / Inquest by RDO		
12.	Requisition to Medical Officer		
13.	Post-Mortem certificate / Wound certificate		
14.	Special report of the P.M. constable		
15.	Form-91 to send objects received after P.M.		
16.	Viscera / Hyoid Bone sent to FSL		
17.	Skull sent for superimposition / Report		
18.	Arrest of the accused		
19.	Arrest intimation (Supreme Court's guidelines)		
20.	Confession statement of the accused		
21.	Seizure Mahazar (Confession - 27 Recovery)		
22.	Whether the belongings of the deceased were identified by the relatives / witnesses (after Post-Mortem / 27 Recovery)		
23.	Statement of witnesses		
24.	Motor vehicles involved in the occurrence		
25.	Accused / victim's vehicles sent for MVI inspection		
26.	MVI's report		
27.	Viscera analysis & HPE reports		
28.	Final opinion of the Medical Officer		
29.	Accused surrendered / taken on Police custody		
30.	Test Identification Parade conducted		
31.	Documents connected to the case collected		
32.	IO discussed in person with the Law Officers		
33.	Memo of evidence		
34.	List of documents		
35.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.



Rape Cases

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Death intimation		
3.	First CD		
4.	Rough sketch / Observation Mahazar		
5.	Photograph at SOC		
6.	Seizure Mahazar at SOC		
7.	Form-91 with C.P. No.		
8.	Visit of FP Expert / Scientific Expert		
9.	Clothes of the victim & accused seized		
10.	Vaginal swap of the victim collected		
11.	Age certificate of the victim		
12.	Potentiality test for the accused		
13.	Vaginal swap & clothes of the victim sent to FSL		
14.	Clothes of the accused sent to FSL		
15.	Analysis reports from F.S.L.		
16.	DNA test conducted / DNA report		
17.	Requisition to Medical Officer to examine victim		
18.	Requisition to Medical Officer to examine accused		
19.	Final opinion of the Medical Officer		
20.	Arrest of the accused		
21.	Arrest intimation (Supreme Court's guidelines)		
22.	Confession statement of the accused		
23.	Seizure Mahazar (Confession - 27 Recovery)		
24.	Statement of witnesses		
25.	Motor vehicles involved in the occurrence		
26.	Accused's vehicle sent for MVI inspection		
27.	MVI's report		
28.	Accused surrendered / taken on Police custody		
29.	Test Identification Parade conducted		
30.	Documents connected to the case collected		
31.	IO discussed in person with the Law Officers		
32.	Memo of evidence		
33.	List of documents		
34.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.

A standard format has been formulated as a measure to improve the standard of investigation. For convenience, the criminal cases dealt with by the police are segregated into seven categories and the checklists are given below. If the mandatory requirements stated in the checklists are strictly adhered to, certainly, the effort will improve the standard of investigation.



Improving the Standard of Investigation

Success of prosecution depends on how the legally acceptable evidences are collected by the I.O. during investigation. The above are the broad guidelines to be adopted by the Investigating Officers during investigation.

Offences against Women

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint / Death intimation		
3.	First CD		
4.	Rough sketch		
5.	Observation Mahazar		
6.	Photograph / Videograph at SOC		
7.	Photograph / Videograph of the victim		
8.	Seizure Mahazar at SOC		
9.	Form-91 with C.P. No.		
10.	Visit of Scientific Expert		
11.	Requisition to Medical Officer		
12.	Wound certificate		
13.	Vehicle of the accused sent for MVI inspection		
14.	Vehicle of the victim sent for MVI inspection		
15.	MVI's report		
16.	Arrest of the accused		
17.	Arrest intimation (Supreme Court's guidelines)		
18.	Confession statement of the accused		
19.	Seizure Mahazar (Confession - 27 Recovery)		
20.	Form-91 with C.P. No.		
21.	Statement of witnesses		
22.	Accused surrendered / taken on custody		
23.	Test Identification Parade conducted		
24.	Documents connected to the case collected		
25.	IO discussed in person with the Law Officers		
26.	Memo of evidence		
27.	List of documents		
28.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters

Signature of the I.O.

*The I.O. should collect other relevant evidences also.



Cheating and Misappropriation

Checklist* (I.O. to tick the relevant box)

Sl.No.	Particulars	Yes / available	Not / applicable
1.	FIR (all columns filled)		
2.	Copy of the complaint		
3.	First CD		
4.	Rough sketch		
5.	Observation Mahazar		
6.	Seizure Mahazar at SOC		
7.	Photograph at the time of seizure		
8.	Form-91 with C.P. No.		
9.	Documents connected to the case collected		
10.	Arrest of the accused		
11.	Arrest intimation (Supreme Court's guidelines)		
12.	Confession statement of the accused		
13.	Seizure Mahazar (Confession - 27 Recovery)		
14.	Documents sent to FSL for analysis		
15.	Analysis report received from FSL		
16.	Statement of witnesses		
17.	Accused surrendered / taken on Police custody		
18.	Confiscation of properties - proceedings initiated		
19.	Audio and Video evidences collected		
20.	Draft charge-sheet obtained		
21.	APP's Approval obtained		
22.	IO discussed in person with the Law Officers		
23.	Memo of evidence		
24.	List of documents		
25.	Charge-sheet		

Certified that the checklist has been personally prepared by me and the details are correct.

Name of the I.O. in block letters _____

Signature of the I.O. _____

*The I.O. should collect other relevant evidences also.

Conclusion

Success of prosecution depends on how the legally acceptable evidences are collected by the I.O. during investigation. The above are the broad guidelines to be adopted by the Investigating

Officers during investigation. However, dedication, legal knowledge, sustained hard work, experience and exploring the crime with innovative common sense are the prime parameters of the Investigating Officers to improve the standard of investigation. ■

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REFERENCE

Chand v. State of Uttar Pradesh, AIR-1995-SC-2140, 1995 - SCC-(Cri)-915, 1995 (3)-CCR-961, 1995 Cri.L.J.-3675.

Dedication, legal knowledge, sustained hard work, experience and exploring the crime with innovative common sense are the prime parameters of the Investigating Officers to improve the standard of investigation.



Keywords

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Criminal Administration in the Non-tribal Areas of Manipur

E. Pendral Moon

Introduction

MANIPUR is perhaps the only State in India in which the Code of Criminal Procedure is not at present in force. The greater part of the State consists of sparsely inhabited tribal areas where there is no regular system of administration. But, even in the 800 square miles of the valley, which is regularly administered on the pattern of an ordinary district, the Code, though roughly followed, was never regularly applied by the old State Durbar, and owing to a number of legal complications, it has not been possible to apply it up till now.

This backward state of affairs is paralleled by the simplicity, if one may so put it, both of the accused and of the bar. Not that the Manipuris are innocent of crime. On the contrary, crime, including dacoity and murder, is fairly high and decidedly above the level of an average Assam District. The Manipuris, of whom there are sizeable communities in Cachar District and Tripura, are, in fact, noted for their comparative turbulence. But, the Manipuri criminal is generally a simple fellow. The net result is that if the police are vigorously led—as they have been since integration—criminal justice can be meted out in quite a straightforward and satisfactory manner. At present, both the criminals and the bar are innocent of the tricks, evasion and legal quibbles, which are as freely made use of in other parts of India. The evidence produced before the Criminal Courts is mainly true. There is little or no faked evidence and not a great deal of perjury. Consequently, the courts in Manipur can give decisions with far greater certainty of their being correct than in many other parts of the country. Furthermore, it is possible to convict on oral evidence which, in most parts of India,

a court would regard as worthless because of the inherent probability of it being entirely false. We have, in fact, the paradox that in the one part of India where the principal codes of Criminal Law are either not legally in force or have only recently been introduced, their practical working is highly satisfactory. This is because the people have not yet learnt to abuse them, but give quite a high percentage of true evidence in the Criminal Courts.

In a very large number of cases, the accused confess and are not represented in court by counsel. Even when they do not actually plead guilty, they seldom go to the trouble of producing defence witnesses. This is partly due to the fact that until quite recently as witnesses whatever, whether for the prosecution or called by court for the defence, were paid diet money or travelling expenses. But, apart from this, the usual stock defences and the production of the usual type of defence witnesses to prove alibi, etc., are not much in vogue. Often, too, if the accused does produce defence witnesses they have nothing particular to say except perhaps to make a request to the Court to pardon the accused.

Similarly, the indigenous local Lawyers are hardly familiar with the usual stock defences, e.g., joint possession in theft and burglary cases. Some Bengali Lawyers, who have recently migrated to Manipur as displaced persons, are beginning to introduce the usual stock lines of defence adopted elsewhere, but this is a novelty in Manipur.

A recent case under Section 304 IPC arising out of a village dispute about some grazing land, will serve to illustrate what has been said above. Some two or three villagers were alleged to have



Criminal Administration in the Non-tribal Areas of Manipur

encroached upon the village grazing ground by breaking it for cultivation and attempting to erect a house there. A large party of 20 or 30 men, armed with lathis and spears came to drive them out. There was a heated altercation and finally the alleged encroachers were set upon and beaten so severely, that one died and another was seriously injured. In many parts of India, the courts would have considerable difficulty in ascertaining which persons really took part in an affair of this kind and who were the principal culprits, especially as the dead man was beaten senseless, and never recovered consciousness before death and hence, could make no statement at all. But, the case was enormously simplified by several of the principal culprits confessing their guilt, as soon as the dead body of their victim was brought to the Police Station. The police arranged for their confessions to be immediately recorded by a Magistrate. In court, under the influence of a Lawyer, they resiled, but no intelligible defence could be put forward and the lawyer did not follow the case through to the end. Two of the other accused, who had not taken a prominent part, pleaded guilty. One of them, an old man, said that both he and the rest of the accused and indeed the whole village were guilty. The other pleaded guilty but said, "I do not think that I am particularly guilty"—which was actually quite correct as he had not himself struck any blow. There were only two eyewitnesses to the actual incident. One of them was the man who was seriously injured. He could testify to the persons who had assaulted him; but could speak only in general terms about those who had assaulted the man who died.

He made no attempt to go beyond what might have reasonably been within his knowledge and observation. The other eyewitness (who had mainly been engaged in keeping out of the way and saving his own skin) could also give only a fragmentary account of what took place. The evidence, however, so far as it went was obviously true and without a word of exaggeration. It was quite easy, therefore, on their evidence, taken along with the confessions, to convict all the accused and to meet out punishment to each of them in the appropriate degree since there were

no false witnesses, no false evidence and no lurking suspicion that some of the accused had been wrongly implicated or wrongly assigned a leading part.

For a variety of reasons, which cannot be conveniently discussed here, a terrorist movement inspired by communists obtained a considerable hold over the valley of Manipur in 1949 and 1950. The movement was successfully crushed by the simple expedient of criminal prosecutions, with scarcely any recourse to preventive detention. Here again this was possible mainly because of the remarkable simplicity or lack of subtlety of these criminals. Many of the cases, e.g., in which persons were found in possession of unlicensed arm or were captured after resisting and firing on the police, were of no particular interest. But, about 44 persons, including most of the leaders of the movement, were all roped into a conspiracy case—the charges being that they had conspired to overawe the Government of Manipur by means of criminal force, and had collected arms and ammunition with the intention of waging war against the Government of India and the Government of Manipur. Twenty of the accused absconded and fled across the mountains into Burma, where several of them, including the principal leader, subsequently died. One of them, when trying to make his way back to Manipur, was caught by some tribesmen in possession of a sten-gun and has since been convicted under the Arms Act. The rest of the absconders are believed to be operating with miscellaneous group of Burmese bandits in the Chindwin area. Of the 24 brought to trial, 8 were discharged or acquitted and 16 convicted and sentenced to long term of imprisonment.

In this conspiracy case there was no approver. It was felt that even without an approver, the case against the majority of the accused was exceedingly strong, and this turned out to be correct. The prosecution was conducted by the Public Prosecutor, who did not know a word of Manipuri, and, therefore, could not examine the witnesses except with the help of a Police Court Inspector. Similarly, the accused were defended by a Lawyer from outside who knew not a word

Abstract

This backward state of affairs is paralleled by the simplicity, if one may so put it, both of the accused and of the bar. Not that the Manipuris are innocent of crime. On the contrary, crime, including dacoity and murder, is fairly high and decidedly above the level of an average Assam District. The Manipuris, of whom there are sizeable communities in Cachar District and Tripura, are, in fact, noted for their comparative turbulence. But, the Manipuri



criminal is generally a simple fellow. The net result is that if the police are vigorously led—as they have been since integration—criminal justice can be meted out in quite a straightforward and satisfactory manner.

Criminal Administration in the Non-tribal Areas of Manipur

of Manipuri and could not himself cross-examine any of the witnesses or read the large number of documents in Manipuri, which were put in as exhibits by the prosecution. These facts are mentioned as they illustrate the curious way in which all the most important criminal cases have to be conducted in Manipur as present. The accused, though they pleaded not guilty, offered as material defence and produced at defence witnesses and by their own lack of precautions had presented the prosecution with most of the evidence. This consisted principally of a huge mass of documents (over 400 were exhibited in the case) recovered by the police from a number of the accused regarding an organization known as the Red Guards, whose avowed objects, as it was revealed, were to collect arms and ammunition and to train themselves in Guerilla warfare “to face the people’s enemies and to defeat the same in open battle”. Several of the accused maintained diaries in which they noted from day-to-day the activities of the Red Guards and their encounters with the police. These diaries all fell into the hands of the police. In addition, a number of the accused were actually arrested with unlicensed arms in their possession and two of them made confessions (which they retracted in court) describing the formation of the Red Guards, naming the principal officers and saying that the main object of the organization was to wage war against the present Government. We doubt the hope to overthrow the Government of India or even the Government

of Manipur with a force of at the most 300 “Red Guards” was a bit optimistic. In fact the whole design may, in many aspects, be regarded as puerile in the literal sense of the term. The average age of the 16 accused, who were convicted, was only 26, and psychologically at least, the whole affair and something of the character of a schoolboy prank, inspired by the marshal scenes witnessed by Manipur during the war. But, in its actual effects, it went beyond this. The arms and ammunition, which had been collected, were actually used on several occasions against the forces of law and order—in one or two instances with fatal results.

There was not the slightest scintilla suspicion that any of the prosecution evidence had been fabricated or that any of the arms or documents recovered from the accused, had been planted on them by the police. The accused’s own negligence and lack of caution enabled the police, who were ably and vigorously directed to make these recoveries. The subsequent building up of the conspiracy case was the result of patient and diligent scrutiny of a huge mass of documents (largely in Manipuri) and a careful selection of those proving the conspiracy in general and the complicity therein of individual accused. It was a fine piece of work by the police, but it is doubtful whether anywhere also in India the members of a subversive organization would have exposed themselves as simply and uncircumspectly to criminal prosecution. ■

