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COMMUNITY POLICING: CONCEPTS AND ELEMENTS

Sanker Sen

Today community policing has become the buzzword of law enforcement across the world. It has been practiced in many forms and with different results in various countries of the world. John Angell (1971) coined the term “democratic policing” to describe community policing. He called for a change where citizens have a voice in deciding how police services should be carried out in the community. After all, it is the citizens who pay taxes that support policing services and they should have a voice in deciding how police services should be carried out in the community.¹ Community policing, indeed is a reorientation of policing philosophy and strategy away from the view that police alone can reduce crime, disorder and fear. Police reliance on random preventive patrolling, post-incident investigations to identify and arrest offenders, and other reactive criminal justice system tactics do not

1 John E. Angell, “Toward an Alternative to the Classic Police Organisational Arrangement: A Demographic model, *Criminology*, 8 (1971) pp. 185-206 in Quint Thurman, Jihong Zhao and Andrew L. Giacomazzi, *Community Policing in a Community Era: An Introduction and Exploration*, Roxbury Publishing Company, Los Angeles, California, 2001, p.7

go far in controlling crime and disorder. Community policing implies a basic change in the conception of the role of the police in society. It refers to arrangements of policing that accord a significant role to the community in defining and guiding policing in their locality.

BASIC ELEMENTS OF COMMUNITY POLICING

The key elements of community policing include:

1. Community based crime prevention;
2. Practice servicing as opposed to emergency response;
3. Shifting of command responsibility to lower rank levels; and
4. Public participation in the planning and supervision of police operations.²

Community based crime prevention involves encouraging and facilitating efforts by the public to take preventive and proactive measures on their own behalf. It grows out of the realization that the first line of defence against crime is not the police, but potential victims. There is the prevailing assumption that citizens can also play an important role in preventing, detecting, and reporting criminal behaviour. Reorientation of patrol activities to render non-emergency services is another important element of community policing. It does not mean, as David Bayley says, “police arrogate

to themselves social servicing functions carried out by other communities and organizations, but they attend to non-criminal problems and are prepared to assist in constructing solutions, either with an organizational response or a referral service”³

Although the community policing is first and foremost a crime prevention effort, it does not mean cessation of police efforts to detect crime and arrest and prosecute offenders. Core functions of the police remain unaltered. On the other hand, successful community policing can improve and enhance other police operations by increasing community’s cooperation with the police.

Community policing also involves devolution of command responsibility. Community policing, if successfully carried out, should transform the responsibilities of all ranks – subordinate ranks become more self-directing, senior ranks are to encourage disciplined initiatives by junior officers. Skolnick and Bayley refer to the need for a new breed of officer as well as a new command ethos: “In addition to their traditional duties, community police constables and patrol officers must be able to organize community groups, suggest solutions to neighbourhood problems, enlist the cooperation of people who are fearful or resentful, participate intelligently in command conferences, and speak with poise before public audiences.”⁴

Community policing further gives an opportunity to the public to

participate in the planning and supervision of police operations. The police officer plays a role of both as an expert and an educator without forcing the expert opinion on the residents. The citizens provide inputs into defining the problems to be solved, in planning and implementing the problem-solving activities and determining if their felt needs have been met. Indeed, at the heart of the community-based policing is the recognition that police are much more than mere crime fighters and can be useful public servants in other ways. The end goal is the creation of a professional, representative, responsive and accountable institution that works in partnership with the public.⁵

In community policing initiatives, building up of partnership between the police and the community is the major challenge. The assumption that public are keen to develop partnership with police is often not correct. There is invariably community’s skepticism that the police are not serious and indulging in some sort of public relations gimmicks. There is also fear of the public that they may have to face reprisals from the criminals if they closely cooperate with the police. To win public support, the police will have to convincingly demonstrate that they really seek community’s help in combating crime and disorder.

CONCEPT OF COMMUNITY

The community for which the patrol officers are given responsibility is usually a small, well-defined geographical area or a beat. The

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2. D.H. Bayley, (1988), “Community Policing: A Report from the Devil’s Advocate, in J.R. Greene and S.D. Mastrofski, Praeger Publishers, New York, p. 226 in Julia Vernon and Sandra McKillop (eds.) *The Police and the Community in the 1990s*, Canberra: Australian Institute of Criminology, p.17
 3. Bayley, D.H. (1986), *NPRU Review*, vol.2, no.2, p.5 in *Ibid*, p.18
 4. Skolnick, J.H. and Bayley, D.H. (1986) *The New Blue Line: Police Innovation in Six American Cities*, The Free Press, New York, p.4 in *Ibid*, p.19.
 5. L. Lindholt, P. De Mesquita Neto, D. Titus, and E. Alemika, “Human Rights and the Police in Transitional countries”, (Leiden: Brill Academic Pub, 2003, p.22 in Hesta Groenewald and Gordon Peake, “Police Reform Through Community – Based Policing: Philosophy and Guidelines for Implementation”, *International Peace Academy*, September 2004, New York, p.4.

community will comprise diverse cultures, values and concerns, particularly in urban areas. It is also a fact that demands on police for safeguarding one community's interests can sometimes clash with another community's interest. This calls for negotiating skills and suitable organizational efforts on the part of the police. The fact has to be kept in mind that conflicts within the community are as important as their commonalities. Police, in order to function successfully, have to develop a good relationship with all elements of the community and it will centre around the fundamental issues of public safety and quality of life. The effective mobilization of community support requires different approaches in different communities. Establishing trust and obtaining cooperation is often easier in affluent middle class communities, than in poorer communities where there is longstanding mistrust of the police. Further, alliance within the community should not be limited to some particular incidents or confined to a time-frame. It has to be an enduring partnership between the police and the community in the quest for peace and justice. The police will have to appreciate that people matter and it must empathize with needs, desires and dreams of society.

PROBLEM SOLVING

Problem-solving is another important component of community policing philosophy. It means more than mere prevention of crime. It is based on an assumption that crime and disorder can be reduced in an area by studying the characteristics of problems to deal with them. Community participation in identifying problem and setting priorities will be of help to the community and police. Indeed, many problems in the community concerning

order and security can be successfully handled by police officers, their supervisors and members of the community. For example, arrangements for better lighting will reduce instances of petty crimes like house thefts. Community policing thus puts greater emphasis on attacking the underlying causes of crime by addressing them at the grassroot level. These alternative measures will require a wide range of support from the community.

The first step in problem-oriented policing is to move beyond mere handling of the incidents and to recognize that incidents are more often the overt symptoms of substantive problems underlying the complex life patterns of the community. Community partnership will provide police with invaluable insights and inputs and the police will have to understand the nature of problems as a basis for a critical review of police agencies' response instead of limiting enquiries to narrower operational goals. Problem solving with active support and cooperation of the community further helps to develop the leadership qualities of patrol officer and enhances his job satisfaction.

EVOLUTION OF COMMUNITY POLICING

In later 1970s and early 1980s, police services in England, Japan, Germany, Canada, Singapore were experimenting alternatives to professional bureaucratic model of policing that was widening the gulf between civilians and police officials. In USA, to end police corruption and brutality, there was emphasis upon the professionalisation of police over a period spanning from 1930s to 1950s. Reforms focused on strengthening of command, control and police arrangement. There was emphasis upon

establishing clear chain of command and insulating the police from outside pressures and influence.

A key element of the bureaucratic model was the insulation of the police from political influence. Though the strategy reduced political control of the police and improved quality and training of the police, it also had the effect of isolating the police from the community. Contact between police and community became limited. It was becoming clear from 1960s that bureaucratic model was not preventing crime particularly in the inner cities and technological advances were distancing police from the community and the police were spending more and more time in fast-moving cars and high tech equipments. However, Police crime prevention strategies also exacerbated tension between the police and minority communities. There were often accusations from the latter regarding abusive behaviour, misuse of authority of the police. The only solution bureaucratic model offered to rising crimes was to hire more police personnel and go for more expensive technology. Community policing offered more cost-effective, customer-oriented crime-preventive approaches.

The professional era also witnessed strengthening of the police subculture. A subculture is comprised of the symbols, values and beliefs of members of a group in a larger society. The new professionalism of the police created a subculture setting it apart from the citizens it served and hampered police – community relations. Samuel Walker in his book "Popular Justice" very aptly said that "a half century of professionalisation had created departments that were vast bureaucracies, inward-looking, isolated from the public, and defensive in the face of any criticism".⁶

6. Samuel Walker, *Popular Justice*, (New York: Oxford University Press, 1980), p. 52 in Quint Thurman, Jihong Zhao and Andrew L. Giacomazzi (eds.), *Community Policing in a Community Era: An Introduction and Exploration*, Roxbury Publishing Company, Los Angeles, California, 2001, p.35

Like most reform movements, community policing in the USA had its origin in the frustration of an earlier era. Crime including violent crimes and drug crimes had risen substantially through the mid 1960s to 1980s, particularly in American cities. Municipal governments responsible for the policing in US, were facing increasing loss of substantial revenues. Private policing was overtaking public policing to respond to various crimes.

The professional model was also faulted on its failure to provide equitable and impartial policing to all sections of the citizens, particularly to the minority communities. Black complaints of police misbehaviour and inadequacy of police service, civil rights and anti-war movements also challenged the police. Thus, despite success in 1950s, it became clear that professional model of policing was not suited to face the changing conditions in 1960s and 1970s, resulting from massive migration of communities in the cities, movements for civil rights, increase of crime and fear, breakdown of informal social control mechanisms all over the country.

RESEARCH STUDIES

Perceptive police officers also carried out a number of field experiments. One such study questioned the value of random patrol propagated by professional model and also revealed that isolation of the police officers in patrol cars created a cleavage between the police and community. These studies and surveys are the milestones in the development of new police strategies and known as Kansas City Preventive Patrol experiments. Several other research experiments conducted during the 1972s and 1982

raised similar questions of the value of standardized operational procedures in which the professional model pinned great faith. Eck and Spelman further summarized the major findings of these studies as follows; first, the Kansas City Preventive Patrol experiments questioned the usefulness of random patrolling in cars. Studies of response time undermined the premise that the police should rapidly send officers to all calls. Third, the public do not always expect the fast response of police to non-emergency calls. In short, most serious crimes were unaffected by the standard police action designed to control them.⁷

Further, community policing in USA involved a partnership not only between police and citizens but also between police and social science workers. University scholars as well as independent Research Institutes have been intimately involved in the early development of community policing programmes, their evaluation and their refinement. This partnership was crystallized in the Executive Session on policing convened by Harvard Kennedy School of Governance from 1984 to 1988. Many of the papers produced from these meetings were jointly written by scholars and police chiefs. Indeed, many of the principles of community policing appealed more to the academics than to police officers.

Some potential pitfalls are also associated with community policing. The most serious impediment to community policing programmes is often police resistance. This spawns from police resistance to innovative change and practices and fear of threat to police autonomy. There is also fear that it may politicize public security functions. Community policing implies not only

change of procedures but also a long-term reform process that seeks to change the institutional culture of the police.

There is also public apprehension that the police may become too soft on crime and lose the ability to control violence in the community. David Bayley poses the question, "can the police put on a velvet glove and keep their iron hand in shape"?⁸ The public may feel that if police become poor crime fighters, they may prove to be ineffective crime preventers. Again community policing which seeks to build strong ties between the police and the community may adversely increase the power of the police in comparison to other government agencies. There is likelihood that other government agencies may resent the increasing power of the police department. There is also the possibility that community policing may lessen the protection given to unpopular groups such as the vagrants and homeless and may even lead to vigilantism. So before adopting community policing as a mission, police must as Bayley insists, "should know the potential hazards and avoid them". Another paradox noted by scholars and practitioners of community policing is that often well-organized and cohesive community needs community policing least, and it is there community policing practices are easiest to implement. One of the common criticisms of the community policing programme is that they do not make police more responsive to the community rather they increase the police control over the community.

However, the problem is the lack of vision on the part of the police executives who feel that their authority

7. Eck, J.E., and Spelman, W. (1987), *Problem-solving: Problem Oriented Policing in Newport News*, Washington, D.C.: Police Executive Research Forum

8. David H. Bayley, "Community Policing: A Report from the Devil's Advocate", in *Community Policing: Rhetoric or Reality*, ed. Jack R. Greene and Stephen D. Mastrofski, 126-237, New York: Praeger Publishers, 1991, p. 228

will be weakened by allowing the field officers a great deal of discretion. Another challenge, noted by Sadd and Grinc, that special units were established for community policing were viewed by some as elitism. "The perception of elitism is ironic because community policing is meant to bridge the gap between patrol and special units and to empower the rank-and-file police

officer as the most important agent for police work".⁹ Indeed, community policing offers a realistic approach to reducing violence and crime and offers a vision for effective policing.

Bayley cautions that "community policing does not represent a small, technical shift in policing; it is a paradigmatic change in the way police

operate".¹⁰ Wycoff while strongly advocating community policing cites Peel's 1829 statement and says that the police are the "only members of the public that are paid to give full-time attention to every citizen in the interest of the community welfare and existence. What we may be seeing is not a new concept under the sun but rather a new sunrise on a fine old concept."¹¹

*We may scatter the seeds of courtesy and kindness
about us at little expense.
Some of them will fall on good ground,
and grow up into benevolence i
n the minds of others, and all of them will bear fruit of happiness
in the bosom whence they spring.
once blest are all the virtues; twice blest, sometimes.*

Bentham

9 Susan Sadd and Randolph M. Grinc, *Implementation Challenges in Community Policing: Innovative Neighbourhood-Oriented Policing in Eight Cities*, Washington, D.C., National Institute of Justice Bureau in Brief, February 1996, pp. 1-2

10 David H. Bayley, "Community Policing: A Report from the Devil's Advocate", in *Community Policing: Rhetoric or Reality*, ed. Jack R. Greene and Stephen D. Matrosfski, 103-20, New York, Prager Publishers, 1991, p. 120.

11 Mary Ann Wycoff, "The Benefits to Community Policing: Evidence and Conjecture", in *Community Policing: Rhetoric or Reality* ed. Jack R. Greene and Stephen D. Mastrofski, 103-20, New York, Prager Publishers, 1991, p. 120

COMMUNITY POLICING: A CASE STUDY

Hasmukh Patel

INTRODUCTION

Traditionally policing is like fire fighting. Police take action after something happens. It is reactive rather than proactive. This reactive police model has failed in fulfilling the needs and aspiration of the people.

It is said that every citizen is a policeman without uniform and every policeman is a citizen in uniform. This is the main philosophy of community policing. It is a philosophy of bringing out policeman out of citizen and citizen out of policeman. It is going closer to the people for involving them in ensuring their own security.

Thus community policing can be defined as a proactive policing approach where police and people work together to ensure safety and security of the citizens.

Police in country like India is scarce of resources. With the help of community policing these resources can be augmented. It is not simply question of resources. In western developed countries, where resources are not that of a problem, community policing is considered to be a must as no police organisation can work without involvement of the community. After all, criminals come from the community, operate in the community and affect the

community. How can police succeed without the involvement of the community?

BARRIERS TO COMMUNITY POLICING IN INDIA

As stated above, the main element of community policing is involving community in their own security. But it is easier said than done. It requires a whole gamut of activities that ultimately lead to the ultimate aim of safe community through people's partnership.

It requires various measures within and outside organization. First of all the organisation should be ready to accept this philosophy. It is not going to end there. Looking to the police image in India, even if the police organisation is ready to partner with people, people are not going to accept it easily. Thus it becomes a very complex issue requiring radical initiatives at various levels. These are some of the barriers to community policing that need to be addressed in any community policing initiative.

- 1) The non-registration of complaint resulting in poor police image.
- 2) Poor police behaviour leading to poor police image.
- 3) The belief within and outside organisation that order in the society is maintained due to police fear. This fear is a major stumbling block in bringing people closer to the police. This closeness is a prerequisite for any community policing initiative.
- 4) The organisational culture of secrecy and confidentiality is another barrier. Such a culture obviously can't see any role for the people. It is true that police can't disclose all the information to the people. But it is equally true that all the information is not confidential.

- 5) The organisational culture of neglecting people.

THE BHAVNAGAR EXPERIMENT AND EXPERIENCE

Bhavnagar police, like any other police organisation, was facing the problem lack of public trust and poor police image among the people. In 2005, a community policing initiative was introduced step by step addressing all the barriers discussed above.

The salient features of the initiative are discussed below:

1. Change in organisational culture:

In India the police officers as well as people believe that law and order is maintained due to police fear in the society. This is a wrong logic. Actually, police fear among the common man in the society is a major malady of Indian society. The criminal should fear police and not the common man. Rather, he should look up to police for help and should extend help to the police in performance of their duties. If this happens, criminals will fear police. Presently what happens, due to public apathy, police don't get information about criminals and so criminals get free ground to operate.

The change in this belief within and outside organisation required considerable effort. It has become part of the training for all police training courses. The people are also addressed on this issue at various forums. The media is also being effectively used for this purpose.

2. Behavioural Change:

a) Behavioural Change Training:

Police behaviour with citizens is wanting. This is another obstacle in police-people partnership. All the police officers were clearly instructed to behave well with the people. But this

was not enough. Only intention to behave well is not enough. The police personnel need skills about how to behave in different situations. A detailed training programme was designed and all the police personnel were trained.

b) Reward for good behaviour

In police, good work like catching criminal, solving crime, etc, is rewarded. Bad behaviour is punished at times. But good behaviour is never appreciated though it is not common. The reward system was changed to appreciate and reward good behaviour publicly. This motivated police personnel to behave well with the citizens.

3. Saptahik Karyadakshata Karyakarm

It is a weekly programme covering knowledge management, public relations and training and development aspect. Besides other aspects, it has following two important community policing aspects:

a) Felicitations of the citizen by District SP

In this programme the District SP felicitates the those citizens who have played role in ensuring community security like giving information to the police about the crimes and criminals, helping accident victims, acting as panch witness, etc. Normally people avoid coming in contact with police. They even avoid helping accident victims, lest they have to give statement before police. This initiative helped to a great extent in changing this mind set.

b) Felicitatation of police personnel by District SP

Every week the District SP felicitates those police personnel who have exceptionally behaved well with or helped people. This motivates others too repeat the behaviour.

c) Felicitation of police personnel by the people

The members of the community also felicitate police personnel who have helped them or impressed up on them through their behaviour. This shows all the police personnel present in the programme that through their action and behaviour how they can touch the heart of the people.

This programme has succeeded to a great extent in changing police behaviour and consequently bringing police and community together, an essential prerequisite for any community policing initiative to succeed.

4. Free registration of complaints

The major complaint of people against police is non registration of complaint. They come to police station with lots of expectations. When their complaint is not registered, they get disappointed. This becomes a major stumbling block in cooperation between police and people.

The initiative started with emphasis on free registration of complaint. Clear instructions were given that non-registration will not be tolerated. Strict action will be taken in case of non- registration. The officers will not be held responsible for increase in crime figures. People were also informed about this policy and advised to represent before supervisory officers in case of non-registration.

5. Complaint on Phone

A system of giving information and complaint on petty issues to police control room and police station was introduced wherein anybody can give any information without disclosing his or her identity. The information will be acted upon quickly. Every such information is recorded and record number is given to the caller. After one week he can know on phone about action taken with regard to his

information. This helped in improving public trust in police. This became a major source of information for police. They no longer have to depend on professional and paid informers. People didn't hesitate in giving information about suspected terrorist activities.

The same system was extended successfully to information on email.

6. Concern for the People

Police have been showing extraordinary concern for the people. The so called minor regulations like use of loud speakers beyond time limits, obstruction to the road, feeding cows on the road and consequent cow menace to the road users, nuisance of street kite flyers to the common man, collection of money on festivals like holi, eve teasers, etc, were implemented so strictly for the first time in the history of the people. Media was effectively used for showing this concern. Press releases were issued regularly on any issue of public concern. Any suggestion from public whether it has come through a *Lok Darbar* or through a telephone will invite not only district level action but the same will go to the people in form of media release. This helps in enhancing public faith in police intention and competence but it gives right kind of signal to the law breakers. For example, police formulated a special plan on road romeos on valentine day and issued a press note about the planned action. The preventive effect of press note was far more than the actual police action.

Special initiatives were taken for vulnerable sections like senior citizens, women and children. The issue of violence against children in homes and schools was addressed with the help of the enlightened citizens and NGOs.

7. Lok Darbars

Lok Darbar is a formal forum where senior officers like Superintendent of Police and Deputy Superintendent of Police sit with citizens in a meeting and

discuss their problems. It is a forum for consultation and need assessment. This forum was effectively used to improve police performance with the help of community cooperation.

Lok Darbars are held on various occasions like *Navratri* celebrations, etc to take citizen's suggestions to make security arrangements. *Lok Darbar* with various stake holders is another innovation. The *Lok Darbars* with auto rickshaw drivers for bringing about change in traffic arrangement, with college students and teachers for getting suggestions for improving campus security, with transporters, taxi drivers, hotel owners, coastal villagers etc about how they can help in fighting terrorism etc are some of the examples of *Lok Darbars* with different stake holders on various issues.

8. Gram Surksha Samiti and Maholla Samiti

Gram Surksha Samitis (Village Defence Committees) were started in every village and *Maholla Samitis* in every town as participative forum for public participation in policing. They have following salient features:

- a) They meet every month in presence of a police officers.
- b) They discussed issues relating to the security of the village or area.
- c) They tackled petty disputes of the residents with a view to prevent further escalation leading to dispute getting converted in to an offence.
- d) They try to settle existing criminal cases pending before court through *Lok Adalats*.
- e) They try to maintain communal harmony in the community. Their role becomes very crucial when there is communal tension at anywhere in the country.

- f) They organise measure to improve their own security like night patrolling and patrolling in fields to prevent crop thefts, damage etc.
- g) They try to settle the disputes addressed to police in petitions by the citizens before police take action on those petitions.

9. Awareness Programmes

As discussed earlier that the main aim of community policing is to involve people in ensuring their own security. To involve people in their own security they need to be made aware about their rights and duties. Police work under the law. Sometimes it is not possible to satisfy people due to legal constraint. If people don't know about this, it spoils police image. Poor police image becomes stumbling block in police people partnership. Therefore, it is important to inform people about what police can do and what they can't do.

d) Legal literacy programmes

Looking to the above fact several legal literacy programmes are organised, many with the help of the NGOs. Besides this the monthly meetings of *Gram Surksha Samits* and *Lok Darbar* also provide ready platform for legal literacy.

e) Teachers Training.

In addition to this more than 5000 teachers were trained about police functioning during their annual training at 185 Cluster Resource Centres (CRCs). They, in turn, would make students aware about their duties and rights with reference to their on safety and security. It is expected that this information will percolate down to the parents through teachers and pupils.

f) Police Station visits of students and School visits of Police Officers

When a child is crying or not behaving properly, parents scare him of

police. Thus every citizen in the country imbibes police fear in early years of his childhood. How can one expect such citizen to come closer to police and cooperate and participate in policing? To change this police officers visit schools and make student aware about their rights and duties. Similarly, student too visit police station and know about police functioning. This sends the message to the parents and event to the common man.

g) Mobile Exhibition:

A mobile exhibition is being displayed at different places like markets, parks, schools, at mass marriages and other social and religious functions. This helps in creating awareness among the people and reducing distance between police and the community.

h) Police at your door step Programmes

This is an evening programme where the mobile exhibition is displayed as well as an audio visual film is shown that is specially designed to make people aware. It also shows photographs of the known criminals. This followed by question-answer and suggestion session where a police officers answers their queries and doubts.

10. Community Policing Programmes

Community Policing Projects are the projects that cover the work that is conventionally not a police function but through action in such areas police try to go closer to the community that lead to improved community confidence and cooperation with the police. There is no single opinion about it. Many contend that action in these non police area or non core areas waste lots of police resources and affects police performance adversely. This argument doesn't have much water in it as most of such programmes are organised with

the help of the NGOs. They improve community cooperation in core police functions that improves police performance. Moreover, these programmes make police personnel more concerned about the people's need. They become more sensitive towards people. They like to work for the people. This improves their productivity. Following community policing programmes are organised in Bhavnagar District:

i) School Admission to poor students.

Bhavnagar District Police (BDP) made a survey of the areas that are inhabited by people inclined towards criminal activities. More than 300 children were admitted in school. The school drop outs are readmitted in the school. A Community Education Centre was started for the children whose parents are involved in criminal activities. This not only helped in improving police image in the society but it will prove to be a long term crime prevention measure as there is a considerable degree of probability of these children turning towards criminal activities if not given opportunity to study.

ii) Blood Donation Camps

More than 1300 bottles of blood was collected in less than six months in blood donations camps organised at police stations. This helped in improving police image as well as bringing community closer to the police. In the first blood donation camp, some girls participated by helping in the logistic as they were not eligible for blood donation. They said they attracted by the very act of police action against Road Romeos. They wanted to reciprocate. Such experiences touched the heart of the police. They came to know for the first time that how much they matter for the people.

iii) Rallies

Police-Partnership Marathon was the first of its kind. Many like *Matru Vandana* rally for creating awareness against female foeticide, *Chakshudan* rally for creating awareness about eye donation and *Sadbhavna Yatra* on occasion *oirathyatra* to promote peace and communal harmony followed. These rallies helped in bridging gap between police and the community. It also helped in making organisation more sensitive towards people.

iv) De-addiction Programmes

De-addiction programmes with the help of the NGO helped in bringing people and police closer.

v) Kit distribution to the disabled

Kit distribution programmes for disabled are organised at Police Station. This saves the NGO from making arrangements in remote areas. It also helps in improving police image and building bridge between community and police.

vi) Horse Shows

The district mounted police unit runs a riding club for training citizens. This unit have been successful in training them to such an extent that they participate in difficult event like tent pegging etc. They have become champions in several state and regional level competitions. It has now become customary to organise horse shows and

marches on all the festivals. This has proved instrumental in showing people the police capabilities in such area and police concern for people as well as fact that police to is a part o f the society and they are like any other human being celebrating festivals.

vii) Playing police band on public places

This is an example how police resources can be used for going closer to the society. Playing band on public places like parks, traffic circle etc brings another face of the police. This has been receiving lot of public appreciation. This programme got expanded to places like old age homes, schools, fairs and festivals etc.

viii) Sneh Milan Karyakram on New Year day

On Gujarati new year day *Sneh Milan Karyakrams* (meeting with citizens) were organised at every police station. This was a very innovative step towards building bridge with the community. This programme was organised in response to a suggestion on the basis of one senior clerk from the SP office. This shows how the community policing initiative has made the personnel concerned for continuous improvement.

ix) Medicine Collection Box at the police stations.

Every police station has a spare medicine box where people can deposit

their unused spare medicine. The collected medicine is given to poor patients. This helps in changing police image.

x) NGO/NRI Meetings

A separate meeting with NGOs and NRIs is called every two months to discuss how police can help them in social and charitable activities they have been organising and how they can help police in organising community policing, police family welfare and other programmes to build bridge with people. They have been assisting police in this purpose. For example, BDP (Bhavnagar District Police) joined as a co-sponsor with the local Rotary Club in organisation of a book fare.

CONCLUSION

Community Policing is philosophy policing where police and people come to gather to ensure safety and security of the community. It is a must for any police organisation to function effectively. It encompasses all the activities that bring police and people to gather, that improve police image and public faith in police and motivates them to cooperate with police and get involved in to their own security.

Bhavnagar District Police successfully introduced a community policing initiative that resulted in to improve public faith in police and better sense of security among the people.

*The great end of education is, to discipline rather than to furnish the mind,
to train it to the use of its own powers,
rather than fill it with the accumulations of others.*

-Tryon Edwards

ATTITUDINAL FACTORS LEADING TO THE UPSURGE OF NAXALISM

Dr. B Maria Kumar

Broadly, we may divide the attitudinal factors into two types, that directly or indirectly become one or more of reasons for the proliferation of maoist activities / tendencies. One type is that to which the maoists, maoist sympathisers, their frontal members, the party intellectuals etc ascribe their prejudices in following terms.

- Social equality is not possible without violent struggle.
- Government, bureaucracy and police are oppressive.
- Police are always on their look-out to eliminate them.
- Government servants are not sensitive and responsive to the problems of the poor.
- Grievances are not redressed in government offices; even if redressed it would be out of corrupt or inordinate late practices.
- Police implicate innocents in cooked-up cases and brand local youths as maoists.
- Police are hand-in-glove with local land-lords.
- The writings and preachings of Marx, Engels, Lenin, Che and Mao are Gospel truths.

The other type is that to which the police and civil administration vouch their biases on following lines.

- Maoists and their sympathisers, friends and relatives are organised criminals.
- They do these activities for easy money.
- There is no such thing called party ideology.
- They are always on the look-out for eliminating policemen.
- They are criminalising the tribal belts by wooing the youth into becoming criminals like them in the garb of revolutionaries.
- They exploit women sexually.

Such being the attitudes, which are negative in nature and mostly biased, unfounded and self-imagined, they have their impact on both the groups keeping them at opposite poles, as warring factions with no end.

Impact on maoists and their sympathisers is that they have already become -

- disgruntled
- disillusioned
- dejected
- disoriented
- desperate
- desolate
- Impact on police and civil administration is that they have already developed
- phobia towards maoists
- suspicious about jungles and tribal villages
- disinterest in touring the interior areas
- apathy in promoting welfare policing in the affected areas

On the other hand, the people, mostly tribal and rural, living in the maoist affected areas, have developed attitudes on their own perceptions towards police in following terms

- Police are oppressive
- rude, insensitive
- discourteous, hasty, negligent, unruly, abusive, no empathy, tyrant behaviour, high-handed, violent, unethical
- arrogant, foul-mouthed.

In the same way, police have been attitudinised towards tribal and rural people on following lines

- tribal and other rural people are rule breakers
- unhelpful
- give shelter to maoists
- don't give information about maoists
- hostile
- don't assist police during law and order situations and investigations.

These negative attitudes have resulted in the following effects on police work

- distrust of police
- misunderstanding
- non-co-operation
- job dissatisfaction
- demoralisation
- inefficiency
- stress

Such being the situation, there is a gigantic task towards this end so that a bon-homie can work out miraculous solutions in eschewing violence and establishing peace - through psychological approach in addition to operational strategies. Because, unless and until behavioural strategies are

taken into consideration, technology propelled operations only lead to unending blood-shed.

Hence, the foremost work to be done is to prevent the growth of maoist mind-set among the jungle dwellers by various attitudinisation and sensitisation schemes and at the same time to reform the mind-set of the maoists through carefully designed and well-thought measures.

Therefore, a co-operative and two-way relationship between police and tribals is essential But police must take initiative in terms of "positive attitudinisation project".

1. Project Aim:

To annihilate unfounded, mistaken, blindly-believing, misguided mind-set of both police and tribal / rural people and to instill proper attitudes in them through training interventions.

2. Objectives:

- To highlight the importance of attitudes in police working and rural / jungle life.
- To identify the requirements and competencies in the civil / NGO / police organisations
- To design and administer training schemes for the betterment of the police behaviour at work and the positive attitudinisation of tribal / rural folk.

3. Core Issues:

- Desired attitudes
- Ethics at work
- Respect for human rights
- Service orientation
- Human touch
- Theory of happiness
- Health management

- Life management
- Stress management*
- Discipline / Morale
- Developmental schemes
- Government's efforts to bring tribal/ rural folk into national mainstream.

Sub-divisional Core Group (SDCG) at sub-divisional level.

NCG:

There will be :

Leaders (one for each state)

Resource persons (two on each core issue)

Leaders will supervise, monitor and evaluate. Resource persons will train the state level resource persons in TOT on core issues.

SDCG:

There will be :

Leaders (one for each police station)

Resource persons (two on each core issue)

Leaders will supervise, monitor and evaluate.

Resource persons will train the target groups on core issues and develop their behavioural competencies.

How Plan Works:

Target Dates:

Training needs analysis and identification of competencies (First 3 months)

Preparation of instructional material (Second 3 months)

Preparation of training modules for implementation of schemes under each core issue (Third 3 months) Evaluation and transfer (Last 3 months)

Monitoring:

Weakly statements

Fortnightly reviews

Monthly, quarterly, half-yearly and annual reports.

Monthly inspections

Evaluation:

Observing qualitative and quantitative improvement in police behaviour and in the mind-set of tribal/ rural youth

Evaluation by leaders

Evaluation by superiors

Evaluation by the public

Finances:

Depends upon the identification of needs and requirements through government / local partnerships.

Outcome:

Overall improvement in the behaviour and psyche of police personnel and tribal / rural youth which will pre-empt maoist mind-set / potential maoist tendencies

4. The Plan:

The idea is to create a big pool of TOT (Training of Trainers) trained leaders / resource persons who will be capable of planning, designing, implementing and evaluating schemes / training programmes in relation to core issues in police organisations and tribal/ rural societies.

5. Target Group:

Police personnel at cutting edge level and tribal / rural youth in the maoist affected areas.

6. Plan Frame:

There will be :

National Core Group (NCG) at national level.

State Core Group (SCG) at state level.

Range Core Group (RCG) at range level

District Core Group) at district level

*Books are masters who instruct us without rods or ferules,
without words or anger, without bread or money.
If you approach them, they are not asleep;
if you seek them, they do not hide;
if you blunder, they do not scold; if you are ignorant,
they do not laugh at you.*

Richard de Bury

CALCULUS OF COMBAT AGAINST LW

Giridhari Nayak

Life and combat is never formulaic. But, history repeats. Battles of Panipat reminds that some places and some tricks are repeated in combat. So, study of dynamics, and dimensions of combat can provide various patterns, and designs of offensive and defensive operations. A series of operations have been conducted against LW in the grand battlefields of hinterland India, i.e. various guerrilla zones and red resistance regions in various phases by security forces. Naxalites also have conducted a number of tactical counter offensive campaigns, short raids, action team operations and mine warfare. These combats merit a brief overview. Lessons gleaned from combats under heads of post attack, ambush, mine blast, action team operations, cordon and search

operations can provide valuable insight which can be of tremendous benefit for operational oversight. Basically it will provide analytical framework to deduce general principles and postulations, which can be applied to operational situations. In this analytical framework some critical case studies of police success, police failures and near miss situations are being discussed which will provide pictures beyond the cliches and platitudes of regular operations against irregulars.

POLICE POST ATTACK:

Naxals have used tactical imagination in attacking police posts of various States. Sometimes they conducted multiple attacks, some time

they had used deception and sometimes they have exploited the security weaknesses. There are some instances where Naxals have to made punishing retreat. A few cases are narrated to present the post attack scenario vividly.

PS Tarlaguda (1998) located at A.P. Border near the bank of river Godavari was attacked from 19.00 hrs till 1.30 hrs by 66 naxalites with AK 47, SLR, .303 Rifles, G.F. Rifle and grenades. Police recovered dead bodies of one divisional committee secretary, one DCM, one squad commander and two other members and seized three AK 47, three .303 Rifles, including huge cache of ammunitions, grenades. Effective firing by one section of C.A.F. and 10 members of P.S. staff yielded result. Firing from rooftop morcha, effective firing by LMG pinned down the naxalites. Immediate action by the entire section of C.A.F. and district police, effective firing from previously decided positions, use of rooftop morchas by security force, effective use of LMG, not falling in to trap of naxalites to surrender arms helped to achieve victory.

PS Chhuria (1999) Naxalites came by Maruti van and other vehicles and attacked P.S. Chhuria of district Rajnandgaon. S.H.O. Chhuria's response saved the P.S. He broke open Malkhana lock by firing a shot from Pistol took away weapons; he and other two policemen including sentry fired at the naxalites. Naxalites were unable to blast landmines and fired back. Reinforcement from other police stations reaching quickly Chhuria in spite of naxalites' roadblocks further caused panic among naxalites. Naxalites carried the injured, dead and fled away.

Bedre (2002) Bedre is a Police Station located at the border of Maharashtra in the forest region. Naxalites had surveyed this one P.S. whose maximum number of staffs had turned to be alcoholic. Five days before incident on the basis of information input, the alcoholic

members were shifted and fresh blood were put at Bedre. The boys had done rehearsal. On the fateful night, naxalites attacked the P.S. with automatic weapons and grenades and shouted how come you policemen are not drunk to night. Police party gave a befitting reply by firing automatic weapons and 2" mortars. Naxalites had to perform a punishing retreat. Police recovered two dead bodies of Naxalites.

Geedam(2003) Geedam is roadside Police Station located on N.H. 16 within the locality. Naxalites about 150 in strength after blocking roads and disconnecting electricity at three sides reached P.S. by Tata 407 vehicle and also by foot. On being challenged by P.S. sentry they replied that they are policemen from Bijapur. They entered P.S., shot dead sentry and blasted police station building. District Head quarter was 10 kms away. When S.P. and team moved from D.R.P. lines, en route they had to face roadblock and encounter. They reached four hours after incident. The P.S. had no rooftop sentry, no fencing, no rehearsal, no security drill to face such attacks and fell miserable victims to naxalites' raid.

Dhoudai (2005) Dhoudai is a platoon post of district Narainpur. On 17th May 2005 at around 23.30 hrs Naxalites consisting of two of their military coys, ten local guerrilla squads and forty militia members total about ,300 strength with four LMGs, few rocket launchers, 122 automatic and semi automatic Rifles and grenades attacked Dhoudai post of Chhattisgarh Armed force. Naxalites documents mentioned that they had in the assault group four sentry capturing groups, three assault groups for capturing the camp, two groups for capturing kitchen and other room; in the support group they had one diversion group, two other support group, one artillery team, two demolition teams, two relay teams, two groups for dummy raids on nearby police station and police posts and four ambush party

to block reinforcement and one reserve group consisting of one medical team.

Narainpur police had caught hold of two naxalites who during interrogation had revealed that Dhoudai post was in the hit list of Naxalites. Extensive in situ rehearsal to confront the raid was organised by I.G. himself. On the fateful night the entire platoon fought bravely used grenade, LMGs and SLRs effectively. Others replaced even the injured sentries tactically. Naxalites blasted anti-landmine vehicle carrying reinforcement en route. The route to the post was blocked at 72 places by boulders, log of wood and at few places by landmines. Police reinforcement cleared the road and reached after 12 hours. Helicopter was used to shift the injured policemen. Naxalites had suffered a punishing retreat. They lost their northern command military chief and other four members. Timely intelligence, good rehearsal, brave execution of plan, effective firing and effective use of hand grenade accomplished the mission.

Murkinar (2006) Murkinar is platoon level temporary post of Bijapur district. On the fateful morning Naxalites boarded a private Bus, with sand bags they arrested LMG post and reached Murkinar. At that time, in-charge of the post along with staff were doing shramdan to repair the morchas. One rooftop morcha of the building had one LMG with five magazines. No sooner did the bus stopped at the post then naxalites started rapid fire from LMG and other automatics. LMG group engaged the sentries and in the mean time the irregulars jumped into the post, massacred the unarmed police party and looted away weapons. The post had no fencing, the lone sentry at both morchas were unable to hold ground for long and the unarmed police party was sitting ducks for the raiding parties. The Morchas did not have depth and as there was no layer of fencing it become easier for naxalites to crush the defenses and loot weapons. Had the shramdan people

armed they could have given some resistance. Use of grenades would have done wonders at this situation.

Ranibodli (2007) On the fateful night around 2.00 O'clock around 500 to 600 Naxalites including three military coys eight LOS and few militia platoons attacked the camp with LMGs, G.F. rifles and molotov cocktails. Naxalites engaged the sentries and police party in serious gun battle. They put small ladders over perimeter wall, used the wall as sentry post and big ladders over big trees and used as LMG posts. They lobbed petrol bombs, grenades and also sprayed petrol and set fire to the barracks. In the melee, policemen came out and were butchered by naxalites. Naxalites blocked all approach roads by cutting trees, putting stopper parties and land mining the roads. From the premises of the camp 560 empties were found. The walls of the building and morchas had about 900 bullet marks. Reinforcement reached at 6.00 O'clock and found that even beneath dead bodies naxalites had put twenty-nine I.E.Ds, which were defused by bomb disposal squads. Ranibodli and all other post attacks provide us very hard lessons, which we must learn and implement so that police posts will be enabled to face the onslaught of naxalites' offensives.

LESSONS LEARNT FROM POLICE POST ATTACK

- During any raid naxalites are ready to take few casualties; so effective use of area weapons, grenades and automatics can deter them.
- Naxalites after raid disperse in few routes and they use 24 hours R.V. and three days R.V.. Immediate aerial searching and vigorous hot pursuit yields results.
- Contingency plan to intercept fleeing naxalites is essential.
- Proper sentry posts with clear arc of fire is needed at each post.
- Security force must operate in buddy.

- Constant alertness and instant readiness of force must be maintained. This can be done through perimeter vigilance, proper task distribution, proper practice and good discipline.
- One third of the force at remote areas must do guarding at any point of time. During attack, entire force must take their decided positions. Odd time security must be carefully maintained.
- Immediate action drill with emphasis on proper warning system, arms carrying technique, reloading drill, rapid firing practice must be hammered into the minds of the force.
- The force must rehearse automatic reaction keeping in view various situations like arson, deception, and injuries to the sentries.
- Contingency plan with proper emphasis on command, control communication, fire control, first aid, reinforcement and follow up must be prepared and rehearsed.
- Every month proper security review by supervisory officers must be carried on.

WANTON DESTRUCTION OF INFRASTRUCTURE BY NAXALITES

Not only naxalites attack police posts, but also they vandalise and destroy infrastructure wantonly. Sometimes, they damage or destroy the infrastructure like road, and bridges, railway lines, buildings with direct tactical intentions or with diversionary tactics. Sometimes intelligent use of force for security purpose yields operational success.

NAXALITES' ACTION TEAM ATTACK

A dozen of action team incidents by naxalites have occurred in Bastar

region. In one instance, one S.H.O. of P.S. Pamed was killed only one hundred meters away from police station on a weekly market day by action team hitting him at the neck by the axe.

In another instance, two sentries performing helipad security duty were hacked to death by action team and snatched their rifles; police patrolling party intercepted them 10 KMs beyond in a jungle route but due to inaccurate firing were unable to get success.

In one incident action team member of PLGA located one weak constable and snatched Rifle from him, but another constable in civvies who was purchasing vegetables snatched away the rifle from the naxalite, before other members of action team pounced upon him, he shot dead the naxalite in self defence and saved the situation. In a number of incidents naxalites action teams had killed informers and policemen in markets. They perform a good survey of the habits, movement of the target and the area. The team carry concealed small firearms, or sword, axe, a get away motorcycle or sometimes they move on foot. They shot target point blank or from a very close quarter and then flee away. They select soft target, survey thoroughly and hit. Target hardening, inculcating self-defence, frisking doubtful characters, using of spotters to nab action team members at targeted places blocking all possible exit routes can help in preventing action team attack.

LANDMINE BLASTS AND AMBUSHES BY NAXALITES:

Maximum number of casualties of security force has been caused by landmine blasts. Along with landmines blasts naxalites have improved their mine warfare. Now, they are using claymore mines, directional mines and pressure mines. In nineties, every year, there used to be a dozen of incidents and one or two fatal incidents. Since 2004, incidents of average landmine blasts per annum is

more than one hundred out of which two three incidents are deadly. Now, they are using landmines of even 85 kg. weights.

In one incident in 2005 March, one convoy of S.F. went ahead of road opening party. Naxalites blasted six landmines at one go. But the vehicles halted only few feet before the blasts.

Naxalites, through icom sets, are listening to police communication. On the basis information about police movement they lay landmines and ambushes on National highways and other roads. Handling of explosives and demining the road and area is the most difficult task being faced by security force.

USE OF BOOBY TRAPS

Now-a-days naxalites are using IEDs with anti-handling mechanism.

When the policemen retrieves it and handle it then the device blasts; it results in death of persons gathered near the booby trap.

In 2007 February (Fundri P.S. Bhairamgarh) Assistant Commandant of 9th Naga BN and staff retrieved a landmine and while fiddling the device blasted and caused death of 4 security persons including one Naga Assistant Commandant and 3 civilians. In another incident in March 2007 one S.P.O. was killed due to mishandling of one IED.

ENCOUNTERS

Quantum of encounters of security force with naxalites has increased but quality of encounters desired to be improved. In 2006, in one instance about a coy of troops marched with informer in the jungle. Security force escorting the informer continuously threatened and abused him during movement till they reached the destination. Even after reaching the spot SF did not have faith on the informer; by that point of time two constables between themselves made a bait about who can pluck a mango

from the tree by firing a shot. No sooner did the constable shot at the mango, and then naxalites fired on the police party. In that encounter one naxalite was killed and dead body recovered.

In Halainar encounter naxalites used abusive language against police and when Coy Commander stood up and replied immediately he was shot at.

In a number of instances, police party used to fire beyond a distance of 300 meters as a result they disperse naxalites rather than pin them down.

On a number of occasions, security forces have three or four encounters within a day. So, retrieving dead bodies of naxalites while facing encounters and then crossing difficult terrain becomes a major trouble.

Post encounter interview of security force reveal an interesting feature that security forces are more worried about friendly fire rather than fire from naxalites. Fire and move technique and proper maneuverability have to be imbibed among the force. Now, force after contact and fire do not pursue as a result they cannot hunt naxalites.

On a few occasions security forces have fallen prey to ruse and deception of naxalites. A few naxalites in the jungle show themselves for few seconds and disappear thereby luring security force to pursue carelessly and in the process they fall into the trap (Tarmetla P.S. Jagargunda 2007, Partapur 2004 P.S. Pakhanjur).

CORDON AND SEARCH OPERATION

Cordon and search operations become porous & do not yield much result, because, security force does not generally rehearse and practice this operation.

One coy force did a cordon of village Akabera in Abuzmarh in 2007

April where 60 Naxal were camping. But the cordon was so porous that naxals observed one point, fired heavily that point and moved out. In this operation one Havaldar was killed and also one naxal.

In another situation in 2005 February, one platoon of force had an encounter with Naxals in the jungle of Basaguda Police Station of Bijapur district, then the police party noticed that about six naxals entered one village. The party cordoned that particular village. In the mean time, suddenly one young man came out from a house, ran and jumped into a pond. At that point of time the cordon party rushed towards the pond, taking benefit of break in cordon Naxals fled away.

OPERATIONAL DIMENSION DUE TO USE OF S.P.Os

S.P.Os added a new dimension to operations. On the one hand security commitment due to naxalites attack S.P.Os have increased. On the other hand, it has hit at the line of communication, recruitment and intelligence of naxalites. Knowledge of local intelligence and terrain of S.P.Os have operationally helped security forces to a great extent.

OPERATIONAL LESSONS WITH TACTICAL BEARING

Anti-naxalite operations succeeded up to some extent in whittling down

Naxalites fighting potential. But, observation and analysis of various operations reveal that maximum operations suffer from tactical errors, which range from ineffective firing, to low combat capability. In number of occasions when the chance of battle is available to the force their fighting power is so numbed by physical exhaustion that they are unable to translate the chance into bigger success. Sometimes, security force conduct operations with reluctance and

some operations are conducted perfunctorily. Some of the operations are desultory. The local commanders do not have tactical understanding of the nuances of operations. So, it is essential that lessons with tactical bearing have to be mastered; tactical soundness in operations will provide much insight to conduct operations effectively. Victory in combat cannot be achieved without transposing following tactical lessons into operations and positions. A few more tactical lessons are enlisted below:-

- Command in combat has to be improved.
- Most of the operations are of section, platoon and coy level. So, tactical performance of junior officers needs to be improved considerably.
- Operational effectiveness of the force can be improved by battle inoculation, tactical exercise without troops, situational training exercise, emergency deployment readiness exercise and other training interventions.
- There is a need for inclusion of subordinates as partners in thought and action.
- Logistics continues to be the Achilles' heel; it has to be improved. Combat support service has to be created.
- Counter attacks have to be well anticipated.
- Reconnaissance patrol teams are needed to counter element of surprise.
- Reconnaissance, rehearsal, and proper debriefing are essential for effective operations.

- Security force should avoid naxalites' physical traps or human rights traps.
- Ability to deploy and sustain combat forces in interior remote places is negligible. Extensive operational bases have to be created.
- Operational outcome depends on managing combat behaviour and motivating security force.
- Security force has to be made security minded. Local security audit has to be conducted regularly.

OPERATIONAL LESSONS WITH STRATEGIC BEARING

If tactics is right but strategy is wrong few battles may be won. But, ultimately victory goes to the side, which has correct strategy. So it is essential to learn operational lessons with strategic bearing. Few operational lessons with strategic bearing are enumerated below: -

- Naxalites are graduating from guerrilla warfare to mobile warfare stage; naxalites' war preparation, mobilisation of manpower, and resources is very high. Tempo and lethality of operations are increasing. Hesitation to deploy more force, right type of force and resources will be costly.
- Guerrilla zones and base areas have to be saturated with security force.
- Security forces must dominate areas with administrative vacuum.
- Grey hound type commandos

can act better against naxalites' PLGA.

- Operational environment is considerably more difficult than might appear from distance.
- People's awakening and resistance movement causes greatest challenges to naxalites. It should be encouraged, and nourished.
- Since naxalites are determined to use force, so there is no other way except physically defeating them through operations.
- Operations need more punch and staying power on the ground; it can be added by increasing level of force, logistic support and equipments.

CONCLUSION

Operational, tactical and strategic aspects have combined impact in combat.

Combat trend and tempo against LWE points out that there will be escalation of terror campaign in near future. So, the urgent need of the day is better more coordinated and more sophisticated operational policies and practices. The hard lessons of operations, if internalised at various levels, will help in reducing operational deficiency, bringing operational readiness, enhancing operational efficiency, effectiveness and combat power. Lastly, it won't be exaggerated to say that proper understanding of geometry of operations and calculus of combat will spin effective action, maintain operational tempo, generate momentum and yield tremendous success.

UNDERSTANDING INDIA

Balmiki Prasad Singh

INTRODUCTION

How should one try to understand one's own country? The country grows on you and you grow in the country. Understanding one's own country becomes more difficult, if you are an Indian. India - a civilisation of hoary antiquity, of great achievements and numerous shortcomings, fills one's mind and often causes bewilderment. Some finest Indian minds and also travellers and scholars from abroad have tried to unravel India and in the process several of them have provided rare insights. All these are valuable aids to understanding, and yet it does not fully help in constructing in mind a picture gallery of different aspects of India. At the end, one has to undertake one's own journey, howsoever, formidable the task may be.

UPBRINGING AND OPERATION OF FUNDAMENTAL, SOCIAL AND POLITICAL FORCES

I was born on 4th November, 1941. This was a momentous period in the history of India from three significant angles: political, religious and literary. At a small but highly meaningful scale, Bihat, my village, where I grew up was an important centre of freedom struggle, religious harmony and culture.

At the global level, the Second World War was on its peak causing bloodbath and inflicting untold miseries on people of Europe and Asia. The war cries were heard and witnessed in India's north-east too. The major political battle in India was struggle for freedom under the leadership of Mahatma Gandhi which reached its zenith in Quit India

Movement (1942-44). Freedom could be smelt. Mahatma Gandhi mobilized the people of India for a non-violent struggle against foreign rule and its scale and depth was unprecedented in history. The repression of such a non-violent struggle by the British only eroded their moral authority and also of their Indian collaborators, the zamindars, the landed gentry and the princely rulers and thus, unintended though, served the cause of struggle for independence. Alongside, the freedom movement also had the distinction of bringing for the first time millions of women into the political realm of civil disobedience and satyagraha campaigns.

These eventful years also witnessed hardening of attitudes among the leaders of the Congress and the Muslim League. The talks between India's two top leaders Mahatma Gandhi, supported by Jawaharlal Nehru, Sardar Vallabhbhai Patel and Maulana Abul Kalam Azad, of Congress and Mohammed Ali Jinnah of the Muslim League were showing signs of strains. The communal divide between the Hindus and the Muslims had stiffened leading to political division of the country. On 15th August, 1947, India attained freedom but it was an India divided into India and Pakistan. It was accompanied by unprecedented violence with more than one million dead. Many then felt that the partition was temporary while others feared that this will impede India from getting her due position in the comity of nations. The shame of violence was widely shared.

Side by side, there was a literary movement to which Rabindranath Tagore in the north and Subramaniya Bharati in the south provided leadership with imagination and fervour. This had all begun with Raja Rammohun Roy in West Bengal in the eighteenth century. This new literary, movement not only talked of beauty and nationalism but the new and rapidly growing corpus of books and monographs also revealed to its readers India in terms of its spirit, its

philosophy, its arts, its poetry, its music and its myriad ways of life. This was a revolution in literature which made deep impact on revolution in politics and also got influenced by that. All these brought a new perspective in an Indian's understanding of his surroundings, of emerging challenges and, of course, of his country. An age was ending and the 'soul' of India 'long suppressed' was finding 'utterances'.

India could be understood in many ways.

GEOGRAPHY

Viewed in terms of geography, the Indian sub-continent "is a world of its own, extensive yet enclosed by marked geographical boundaries." To the north, it's bounded by the massive mountain ranges of the Himalaya. Its shores are washed by formidable oceans: the Indian Ocean to the south, the Arabian Sea to the west and the Bay of Bengal to the east. The east is also marked by tightly grouped mountain ranges extending upto Burma (Myanmar). In the west, India opens to the arid and contorted mountains on the edge of the Iranian Plateau.

India stretches from 38 degrees north latitude well above the Tropic of Cancer to 7 degrees above the equator and that groups it with only a few countries on the earth that extend over so many latitudes.

Geography plays a very important role not only in terms of ecology and climate but also in respect of common traits and attitudes. India has a huge population of 1.1 billion people covering an area of 12,69,419 sq. miles (32,87,782 sq kms). India extends 2009 miles (3214 kms) from its mountainous northern border with China (in Jammu & Kashmir) to the southernmost tip of the mainland (at Kanyakumari).

Geography provides a distinct physical personality to the Indian sub-continent. And yet the Indian sub-continent and more so the Indian mind was never closed to the world.

SOCIETY

A recent survey has indicated that 4,653 communities live in India (that include all major religions of the world in a predominantly Hindu society with sizeable Muslim population), professing different faiths, practising diverse forms of worship, entertaining different notions about migration of soul, speaking several languages and dialects. Each group has its own folklores and its agriculture, industry and handicrafts too in many ways are distinct from others. But India is more than a sum of these. Jawaharlal Nehru once said, "*India is a cultural unity amongst diversity, a bundle of contradictions held together by strong but invisible threads*". In fact, for the past five thousand years or so, the Indians have developed common traits, thoughts and feelings. These have given successive generations of Indians a mindset, a value system, and a way of life, which has been retained with remarkable continuity. Despite the passage of time, repeated foreign invasions, and the enormous growth in population, the Indians as well as people of Indian origin have possessed a unique personality and it is going to embellish in coming decades marked by unfolding of an era of globalization and democracy.

THE INDIAN MIND

In terms of history, it is not very clear when the Indian mind started delving into fine arts, poetry, philosophy and science. The myths and legends, cults and rituals, as well as agricultural practices and handicrafts indicate that civilisational attainments in India commenced earlier than 5000 years ago. The Indus civilisation which flourished during 2400-188 BC provides the beginnings of Indian historical experience. The archaeological excavations at various sites connected with that civilisation, such as at Mohenjodaro, Harappa and Dholavira, have amply proved that there existed a well-developed city life, irrigation

system, and agricultural operations in India during this period.

Much later, (and largely associated with the Aryans around 1500 BC) the divine narratives were pieced together out of unconscious allegory, poetic symbolism, personification of nature, or worship of spirits. But in all these, the human mind played as important a role. It is this feature of the Indian mind which is responsible for the rapid growth of Indian philosophical pursuits and the development of mathematics and astronomy.

The notes recorded by the Greek ambassador, Megasthenes (3rd century BC), the Chinese pilgrims, Fa-hien (5th century AD) and Huein-Tsang (7th century AD) and of Al-Biruni (11th century AD) provide vivid description of India's society, religion, philosophy, politics, arts and industry. Earlier, the rock edicts of Asoka (3rd century BC) amply revealed the richness of India's culture and political system.

The beginnings of Indian literature are found in the Vedic hymns in Sanskrit composed around 1500 BC. Early literary forms also include Tamil verses from the south, Prakrit and Pali tales from the mainland and tribal lores from the hills and uplands.

Literature in early days was primarily religious. The Hindus recognized two kinds of authoritative religious literature: *shruti* (hearing) which is eternal and self-existent and divinely revealed; and *smriti* (recollection) which is a product of human authorship. The entire Vedic literature is *shruti*. The Ramayana, the Mahabharata including the Bhagavad Gita, and the Upanishads and Dharmashastra represent the finest examples of *smriti* tradition.

Sanskrit became the medium of expression of poets, authors, storytellers, as well as valuable treatises on philosophy, astronomy, science, town-planning, architecture, music, drama and dance. Sanskrit and more

particularly its classical style was the language spoken by a cultured minority. Alongside, folk literature flourished in popular dialects and in languages like Pali and Prakrit. However, Sanskrit, Pali and Prakrit grew and developed at the same time. Pali became the sacred language of Buddhism and Prakrit, of Jainism. Sanskrit, Pali and Prakrit, have greatly contributed to the growth of modern Indian languages like Hindi, Marathi, Bengali and Assamese, and have enormously influenced their script, grammar and literature.

There is enough evidence to indicate that from ancient times, India had developed a system of conferences and free discussions to which specialists came from all over the country. The summaries of those conferences were known as *samhitas*, the compilers being editors, not authors.

UNIQUENESS OF THE LEARNING PROCESS

The term *smriti* signifies an oral tradition wherein the teachers passed to their students the texts which they themselves have received from their masters. The *guru-shishya parampara* (teacher-student tradition) was a significant institution that grew and flourished in this behalf. The students were sent to live with a *guru* and learn not only the scriptures but also statecraft, music, warfare, science and agriculture. In time a student would attain the status of a *guru*, and carry on the tradition of transmitting his knowledge to his disciples. The institution of *guru-shishya parampara* covered the entire gamut of creative activity, namely religious discourse, history, dance, drama, poetry, painting, and sculpture. In this process, the learned mind renewed the sacred texts in the light of new social, religious, and economic realities as the *guru* was required to interpret the scriptures to find answers to emerging problems.

The institution of the *guru-*

shishya parampara declined over the years and it is now seen mainly in the realm of music and dance. New schools and institutions, seminar and discussion forums have, however, emerged replacing, in a way, the traditional modes of learning. The development of writing manuscripts, followed by the technology of printing books and journals, and the storage of literature in computer software these days have ensured that we do not lose anything of the past. There is no denying that archives, libraries and computer technology play an important part in conservation and comprehension of the past. However, the present system has its own paucity as the renewal that occurred through dialogue in the old tradition is not a part of computer software. For renewal comes by using, by doing, and by making the past an effective memory that is of great value for the present.

It is true that maintenance and renewal are inter-related. But renewal is not revival. What is necessary is to free a thought from specificity of its context and to help what is immanent in that thought to emerge in the new context in order that it meets the social and intellectual requirements of the present. Such developments in new directions have infinite possibilities in India. Renewal also presupposes the capability of a civilisation to reject an ideal. We have learnt from other civilisations by studying their experience and thereby enriching our own and the process continues.

THE WIDER MEANING OF HISTORY

In a wider sense, history encompasses the development of human consciousness, a handing over or easy passage of ideas and beliefs from one generation to the other. As a remarkable feat of conservation of memory, the Hindus, through the tradition of *Smriti* and *Sruti*, have passed on the Ramayana, the Mahabharata, the Bhagavad Gita and other sacred texts to

the present day. This aspect of historical consciousness of Indians was highlighted by Rabindranath Tagore in his paper, 'A Vision of Indian History', where he writes:

/ love India, not because I cultivate the idolatry of geography, not because I have had the chance to be born in her soil, but because she has saved through tumultuous ages the living words that have issued from the illuminated consciousness of her great sons.

The Ramayana and the Mahabharata had been a part of the collective Indian consciousness for an extensive period of time. Similarly, the folklores and folktales go a long way in understanding of Indian mind. In the second half of the last century, television shows serializing the Ramayana and the Mahabharata in India proved so popular that at the time of their telecast traffic in towns used to come to a standstill! In rural areas, working people and children invariably sat spellbound in front of a television set at a community center or in a home. They wept and laughed as the situation demanded.

In recent years, Richard Attenborough's film entitled 'Gandhi' have contributed to understanding of India's freedom struggle and its values. The New York Post called it "a film that staggers the mind and feeds the soul." Mahatma Gandhi was a revolutionary who believed in the possibility of resolving social conflicts through non-violent techniques. He had a unshakeable faith in the spirit of mind and the power of love. "The hardest fibre must melt in the fire of love. If it does not melt, it is because the fire is not strong enough."

An impressive corpus of literature on India in the last two centuries authored by Western scholars and travellers ranging from James Mill to Dominique Lappaire and Marc Tully provide insights on history, politics, religion and behaviour of common

Indian people. Recently (July-August 2006), I had the opportunity to interact with 16 US educators who were on a 6-week visit to India. As I opened the familiarization programme, I found them extremely keen to understand this country. In the de-briefing session at the end of the programme, almost everyone felt that India is a complex country where generalizations could go wrong as what applies to a Tamilian is not of relevance to a Bengali; a Maharashtrian could view things in a different fashion than a Punjabi, and so on. And yet they were impressed with unity of Indian mind, its politics and economy. Personal conversation revealed that they were most impressed by Taj Mahal and *ghats* of Varanasi. They detested India's beggars and also dirt and filth at public places. India's hospitality and warmth too moved them and a few of them were in tears while revealing their impressions.

GENIUS OF INDIA

Where lies the genius of India? The Western writers deeply impressed by the metaphysical bent of the Indian mind and by their strong religious instincts and proclivities have viewed the Indian genius largely concerned with the other world, dreaming and running away from life. But this is far from correct. As Sri Aurobindo rightly observes:

"Spirituality is indeed the master-key of the Indian mind; the sense of the indefinite is native to it. India saw from the beginning, and, even in her ages of reason and her age of increasing ignorance, she never lost hold of the insight, that life cannot be rightly seen in the sole light, cannot be perfectly lived in the sole power of its externalities. She was alive to the greatness of material laws and forces; she had a keen eye for the importance of the physical sciences; she knew how to organize the arts of ordinary life. But she saw that the physical does not get its full sense until it stands in right relation to the supra-physical; she saw that the complexity of the universe

could not be explained in the present terms of man or seen by his superficial sight, that there were other powers behind, other powers within man himself of which he is normally unaware, that he is conscious only of a small part of himself that the invisible always surrounds the visible, the supra-sensible the sensible, even as infinity always surrounds the finite."

It is thus not surprising that, during the period of recorded global history of the past 2500 years, India was a major power for 1300 years (roughly up to 8th Century) and became again a major power for over a period of 100 years during the Mughal rule. We developed rational traditions in this country "as this was a country in which some of the earliest steps in algebra, geometry and astronomy were taken, where the decimal system emerged, where early philosophy - secular as well as religious - achieved exceptional sophistication, where people invented games like chess, pioneered sex education, and began the first systematic study of political economy". The Ramayana, the Mahabharata, the Upanishads and the Bhagavadgita, the finest works of art and sculpture of Ajanta and Ellora and various Buddhist shrines, the best universities of the world of their times at Nalanda and Vikramshila, are achievements that should give us pride in our heritage.

THE STORY OF CIVILISATION

In its 5000-years long history, the Indian civilisation has undergone both external and multidimensional internal upheavals. In this epic story, five encounters (among millions) have been particularly significant.

THE VEDIC AGE

The Vedic period (1500 BC and before) witnessed the intermingling of the Aryans with autochthons which made a decisive influence not only on religion and spirituality but also on patterns of agriculture, industry, trade

and overall productivity. The Vedas and the Upanishads and the great epics: the Ramayana and the Mahabharata (including Bhagavad Gita) came to guide and determine the way of living and thinking of the elite as well as the common people. Besides, there were notable advances in music and medicine, mathematics and astronomy.

THE AGE OF REVOLT

The *second* most significant encounter was through the discourses of Lord Mahavira (599-521 BC), the founder of Jainism, and Lord Buddha (566-486 BC), the founder of Buddhism. It came as a breath of fresh air. Both Lord Mahavira and Lord Buddha questioned the established religious orders and presented a rational way of looking at things, emphasizing the role of non-violence in human behaviour and ecology. They strove to build an inclusive social order.

I have found the encounter between the Vedic philosophy and the Buddhist precepts a highly interesting dialogue of great value in understanding the Indian mind. The fact that Buddha was a Hindu and that he died as a Hindu were significant. It is equally important to know that Buddhism attained its highest expression both in terms of literature and institutions like monasteries and universities in India. The Buddhist world-view generated introspection among the Hindu elite. As a response, a revitalized Hindu society, on the one hand decried the increasing role of rituals and rigidity of caste structures and on the other, it incorporated Buddha into its pantheon by treating him as an incarnation of Vishnu.

The greatest loss in my view on account of the 'banishment' of Buddhism from India was to the approach of rationality and scientific enquiry that Buddhism had encouraged. In the long run, the absence of the Buddhist approach encouraged the forces of regression in the Indian society and

constricted our capacity to look at different interpretations of a given idea in arriving at a conclusion concerning religion or nature. It also contributed to widespread illiteracy and ignorance in our society.

The Brahmanical order which excluded women and the working class (of farmers, artisans and dalits) from reading and writing reasserted its position in the name of religion and tradition and pursued with its dogmatic policies with renewed vigour. In such a society, the decline was inevitable and the Indian society gradually slid into backwardness maintaining alongside a few islands of prosperity and some persons of exceptional intellectual talent.

ISLAM COMES TO INDIA

The period of decline that began in the economy and polity after the eighth century AD established an empty space that was filled by the Muslim invasions and eventual Muslim rule in India. Thus commenced the third encounter- that between Islam and Hindu belief systems.

Islam in a predominantly Hindu society became the religion of the ruling elite for nearly 600 years till it was replaced by the British colonial rule. It imported among believers of this faith a single God, a rigid code of worship and a way of living. To its believers, Islam provided a distinct facial expression, dietary system, dress, language, music, system of marriage and divorce, architecture and spirituality. Unlike Buddha, Muhammad would not and could not be accommodated in the Hindu pantheon. The economic and social principles of Islam in so far as it dealt with property and inheritance, marriage and divorce codes were different from the Hindu order.

There were, however, significant attempts to find a *modus vivendi* between Islam and Hinduism. It meant that India had to devise a means by which

Hindus and Muslims could live together in a society based on different spiritual and social conceptions. In fact, Islam gradually lost its Arabian and Persian identity and absorbed many Hindu folk traditions. The influences from Persia and Central Asia gradually began to coexist with indigenous traditions in languages, styles of dress, music and cuisines. The creative genius of the Indian people - both Hindus and Muslims - found unique expression in Sufism and Bhakti literature, in music and painting, in birth of Urdu language and enrichment of other Indian languages, and in architecture and urban centers.

CHRISTIANITY IN INDIA

Christianity came to India well before it went to several European countries. But the civilisational encounter began with the entry of Europeans in India and establishment of the East India Company by the British in India. With the spread of the English language and the concept of democracy and rule of law began the *fourth* civilisational encounter and that led to introspection in the Indian society. The religious and social reforms of Hinduism in the nineteenth century were attempts to assimilate these new influences. The birth rights of kings and maharajahs to rule was slowly yielding place to democratic (severely limited to begin with) institutions of governance. The first sign of this political awakening was the inauguration of the Indian National Congress in 1885 and that gradually led to a new conception of nationhood and struggle for independence.

THE ICT REVOLUTION

Since the end of the last century, another *fifth* great civilisational encounter encompassing all aspects of our living is taking place. This is, popularly known as the information and communications revolution. This revolution is rapidly transforming our ways of communication - which has become enormously rapid, integration of

markets as well as trade, sharing of cultural values as well as products, and disseminating information as well as imparting training. New approaches are on the anvil to raise productivity and to tackle poverty. The information and communication revolution has the momentum and dynamism to catalyse and sustain our development efforts. The roots of this renaissance that we are witnessing today lie in the freedom movement that strengthened the forces of democracy and rule of law, of equality and individual liberty.

One is reminded of Abraham Lincoln, who said in the famous House Divided speech that the United States of America could not endure half slave and half free. It would become all one thing or all the other quite all free or all slave. Then he asked, "Have we no tendency to the later condition?" In contemporary Indian history, Mahatma Gandhi more than others succeeded in accomplishing freedom through non-violent struggle involving common people. It was in fitness of things that the framers of the Indian constitution unanimously agreed to give all Indians equal rights of franchise irrespective of sex, caste, creed and religion. In terms of our democratic and constitutional imperatives, every Indian is entitled to education and fullest development of his personality in terms of his genius.

The most significant expression of the new revolution took place in Silicon Valley of the United States and Bangalore in India. Several Western scholars have also attributed it to the Indian tradition of toleration and innovative problem solving techniques. The tradition of logic and mathematics, imaginative stories of the Bhagavad Gita and other epics in the making of the Indian mind and competence in English are other sources of strength of the Indians.

Today, a new kind of knowledge is being produced and circulated based on India's own traditional knowledge as well as scientific achievements of the

world. In understanding this phenomenon one ought to be also aware of the circumstances governing the kind of knowledge that the new generation of Indians is producing and circulating. A visit to work place, research institutions, cultural and media centers, and interaction with men and women in villages and urban centers, dialogues and seminars gives one a clear idea about confidence levels of young Indians. Young Indians are trying to reach across cultural divides and understand languages, scientific methodologies, histories and faiths other than their own. New perspectives are being added and these are indeed enriching experiences.

The respect that a nation-state would command in the global community in coming decades would be directly related to its strength in the field of modern knowledge. Several of the Indian universities and science and technology centres are known for their excellence in the world.

The most compelling aspect of democracy in India today is the rise to power of the lower castes and classes such as the dalits and backward classes. In response to political pressures from castes, communities and regions, seats in universities and technology and management centres are being enlarged. While this will help the universities and science and technology centers in the long run to become more inclusive and thus help generate equity and harmony in society, but threat to culture of excellence should not be lost sight of. Promotion of excellence in science and scholarship should receive equally strong attention of all concerned. For power of modern knowledge has both quantitative and qualitative aspects.

The number of renaissance men and women in the country is on the rise. They have courage, intellect and ability to compete in the world and a significant number of these persons have a strong desire to connect with the rest of their

community and to make a contribution towards building a strong and just India.

THE RENEWAL OF INDIA

The revolutionary changes in ideas call for innovative attitudinal and institutional responses. India needs to build a participatory and inclusive ethos by involving all segments of society. This is surely not too difficult for a society which in the past has successfully accommodated and assimilated different points of view and in the religious domain in particular created images and institutions for 330 million gods and goddesses.

India has been living through pluralistic challenge longer than several other nations. In terms of faith, well before the advent of Christianity and Islam in the West and other parts of the world, India was a significant playfield of civilisational encounters between Hinduism, Buddhism and Jainism. Both Judaism and Christianity came to India in the first century itself. Islam too commenced its entry through coastal towns of the Indian peninsula from the 8th century onwards. In the 9th century, when the Zoroastrians of Persia felt that their religion was in danger from the invading Muslims, they moved to the north-west coast of India. Their descendants still live there and are known as Parsis. The birth of Sikhism in the 15th century in India had the avowed objective of bringing peace to conflicting encounters among Hinduism and Islam. In the last century, when the Tibetans felt a threat to their religion and culture, they chose India and a large number of them live here.

Multi-culturalism is a basic feature of India's civilisational experience. Multi-culturalism as practiced in India is not atheistic in character but a combination of religions. It was to this aspect of communitarian life in India that Mahatma Gandhi - a devout Hindu - had passages read from the holy books of all the major religions in his prayer meetings.

Secularism in India as elsewhere establishes that the State shall be neutral in the matter of religion. But multi-culturalism demands flowering of different faiths and belief patterns. Secularism and multi-culturalism are not in conflict. It is this openness of the Indian experience that provides basic origination in making of public policy of harmony. It establishes that disputes shall be settled through dialogue and that there shall be no restriction on flow of ideas to thought processes from different parts of the world.

We are living in a period of great turbulence in India, in our neighbourhood and in the world. Terrorism, Naxalism and insurgencies, sectarian violence and narrowness, politicisation of ethnic, caste and religious ties, and lack of opportunities are causing enormous distress in our society.

In recent years, India's achievements in economic domain is quite impressive. The Indian economy has grown at 6 per cent a year from 1980 to 2002 and over 7 per cent a year from 2002-2006. The Indian middle class has a size of 250 million people. However, concerted policy action is needed to lift more than 200 million people, concentrated in Uttar Pradesh, Bihar, Madhya Pradesh, Orissa and Rajasthan, out of poverty.

India's new economic policy has unleashed creative energy of the business class along with elimination of those interventionist policies which gave so much discretion to politicians and civil servants. There is new emphasis on efficiency, productivity and competition. In this environment, there is need to place considerable stress on integrity as well because the Indian psyche still attaches considerable importance to moral values. That integrity in public life is also linked to economic efficiency and transparent work ethic need to be accorded special attention. In a broader spectrum, efficiency can be promoted by

positive attitude towards work, speed and integrity in taking decisions, willingness to accommodate the claims of each other and rule of law. The right to information (Right to Information Act -2005) has emerged as an effective instrument in the hands of common people to check corruption, fight injustice and make governance transparent.

A silent revolution among Indian women is taking place. A vibrant Indian democracy has ensured participation of 1.2 million elected women officials. The Indian economy is being supported by nearly a million active women micro-credit workers and more than half of the workforce in a country of 1 billion people are women. Decentralisation experiences of Panchayati Raj may provide needed impetus to eradicate poverty.

In today's India, democracy supports inclusiveness (notwithstanding polarization on caste and religious lines) and this would be furthered through education and availability of internet facilities in the major languages of India. This will also mean better governance, a more informed society and market, and prosperity for our people.

We have to create and sustain an environment that will enable and encourage competition, efficiency and inclusiveness. Towards this, we need fresh ideas and new policies and programmes based on these new ideas. And we need boldness and a sense of purpose to implement those policies and programmes. Dialogue - an essential prerequisite of democracy - would ensure that.

There can be no one way - religions, caste, culture, or linguistic of being an Indian. Pluralism is the founding principle for building a pan-Indian identity and need not be in conflict with other identities.

INDIA OF THE FUTURE

I have been a keen student of

India's history. I have found inadequacies of the traditional approach of ruler-centric narrative of events in understanding my country. I have thus tried to hear the voices of saints and mystiques, poets and sculptors, scientists and engineers, farmers and artisans. I have learnt more from the common people living in our villages than others. I have also found that folklore and folk tales are as important in understanding as scientific inventions, economic processes and political events.

Gautama Buddha and Mahatma Gandhi as also epics have convinced me that truth and non-violence occupy centrality of place among India's messages not only to her children but also to the people of the world notwithstanding a long history of revenge and violence. The message of the Mahabharata stressed that revenge led to destruction of almost everyone including Krishna and his clansmen. The lesson is obvious that violence and revenge would lead to a lawless society and to a moral and emotional desert.

It is in this context that I find one attitude that has greatly contributed to the enrichment of Indian life is respect for another person's view of truth with hope and belief that he or she may be right. This has been best expressed in the Rig Vedic hymn which enjoins:

'Ekam Sad Vipra Bahudha Vadanti'. [The truth is one, the sages describe it variously]

I imagine this approach of "one truth many expressions" was formulated by our *rishis* both in order to understand the complexities of natural objects and their inter-relationships and for harmonious living in society among people of many-sided, beliefs and practices and each claiming superiority over the other.

The Bahudha approach not only underlines for equal respect for all points of view but it also calls for - and that is

significant - inculcation of a habit in which one person thinks that the other person's point of view may perhaps be right. Understanding the point of view of those with whom one profoundly disagrees is the first step toward learning to create a society which manages such disagreement. The very pluralism argument is a metaphor for the pluralism of India's civilisation.

As one moves around the country, one becomes aware of passionate conviction among the people about uniqueness of India's civilisation and its contribution to humanity. The yearning that India should resume its rightful place in the world is also widely shared. Today, India is both a rich civilisation and a democratic nation state. "We the people" the Constitution of India opens, puts it clearly that it is people of India who will decide in times to come what kind of country India would be in future.

There is a strong desire to make India both economically and politically powerful. It is crystal clear that political power comes from economic and military strength. Contemporary events where political ambition of Germany led to the First World War and of Germany, Japan and Italy to the Second World War are vivid reminders of evil consequences of use of military power. It is in this context India needs to pursue and it rightly does a policy of peaceful coexistence towards its neighbours.

There is new sense of purpose among the people of India. The great fact of reality in India today is that it is both strong and weak. The growing economy, liberal political democracy and professional armed forces are adding to India's economic and political strength almost on a continuing basis and yet India's weakness lies in persistence of lawless elements like terrorism, insurgency and naxalite violence as well as in religious divides. As India succeeds in controlling these

countervailing forces, the country becomes economically and politically more powerful.

One can visualize that India would succeed in eliminating acute poverty and in giving cohesion to its society and strength to its polity. India's dream is not likely to be of becoming another America with its economic and military and political strength. But it is to be of a strong and powerful India keeping its moral vision in terms of its recent history of freedom movement and its age-old civilisation. While religions, ethnic, and caste ties would thrive, the India of future should reflect what the preamble of the Constitution enjoins upon all of us of building "a sovereign, socialist, secular and democratic republic".

MY INDIA

In the first decade of 21st century, I wonder as to what kind of India my grand children and generations to come thereafter will have. The emergence of India as a global player in economic and political terms in coming years is visible and along with that greater awareness of India's cultural heritage. In 1915 Ananda Kentish Coomaraswamy reflected as follows:

Each race contributes something essential to the world's civilisation in the course of its own self-expression the essential contribution of India, is simply her Indianness; her great humiliation would be to substitute or to have substituted for this own character (svabhava) a cosmopolitan veneer, for then indeed she must come before the world empty-handed.

The developments in India particularly since 1947 give me confidence that in the new millennium India will not face the world empty-handed either in terms of civilisational attainments or economic strength. Several persons have viewed recent rapid economic growth in China and

India in terms of their domination over global economy and polity. It was not, therefore, out of place when a young computer programmer of Indian origin, now a British national, commented at the end of my lecture at the Nehru Centre, London on 10 February, 1997, that culture may be important but what is more important is that India is going to become an economic superpower in the 21st century. I answered that like him, I am concerned about poverty, illiteracy, child labour and lack of health care facilities in India and that economic development is an imperative requirement to overcome all these. But the moot point is whether India is going to imitate the west, and become an economic superpower, and in the process lose its Indianness. It would be sad if that happened as once the Indian identity is lost it will be difficult to bring it back.

I do also believe that like individuals countries too have their destinies. India's emergence as a significant global power is full of promise. Tomorrow's India will be a country free of scourges of poverty and illiteracy. Its age-old cultural strength would continue to be renewed as long as Indian society and polity encourage creative minds in literature and arts, science and technology, and give primacy to democratic institutions and to an approach of inclusive and just social order.

I am 65. I am still learning about India. At times, India's history, its achievements and failings makes one happy, at times feels one with anger. But I always feel proud not in narrow sense of nationalism which in itself is significant but in the wider sense of values that India provides to her children: a simple living, family ties including marriages, tolerance for points of view of others, spiritual quest and respect for ecology. This journey of understanding India is always absorbing and full-stop is not in sight.

RIGHT TO INFORMATION AND FREEDOM OF SPEECH

Romen Kumar Singh

*"Truth, fact, is the life of all things;
falsity, "fiction" or whatever it may call itself, is certain to be the death."*-

CARLYLE

*'Lead us from untruth to truth', is a spiritual message to Vedic vintage, for,
without realizing Truth, humanity never rises to its due diversity and soon descends to
the Status of Slave*

No democratic Government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the Government . . . that an open society is the new democratic culture towards which every liberal democracy is moving and our society should be no exception. The concept of the open Government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a). Therefore, disclosure of information in regard to the functioning of the

Government must be the rule, and secrecy an exception, justified only where the strictest requirement of public interest so demands.

Justice V.R. Krishna Iyer in *S.P. Gupta v. Union of India*, 1981 Supp SCC 86 observed that the right to express one's thought is meaningless if it is not accompanied by a related right to secure all information on matters of public concern from relevant public authorities. However, to ensure that there is no misinterpretation, there may be no harm in inserting freedom of information as a specific corollary to Article 19 of the Constitution.

RIGHT TO INFORMATION GAINING MOMENTUM

Right to information was recognized by international documents such as, Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, and European Convention on Human Rights and Fundamental Freedoms. Following the judgment of the Supreme Court in a case as reported in *Dinesh Trivedi v. Union of India*, 1977 (4) SCC 306 in which it has been held that the right to information is as much a fundamental right as the freedom of speech, the right to information is gaining momentum. Realising the importance of this right as emphasized by the Supreme Court giving new perspective of this right and need to provide transparent and accountable governance, the Government of India passed the Right to Information Act, 2005. The basic premise is that the informed citizenry and transparency of information is necessary to contain corruption and make the government accountable.

LEGISLATIVE HISTORY

A conference of Chief Ministers was held on 24th May 1997 at New Delhi on “Effective and Responsive Government”. It was unanimously felt in the conference that time has come to enact a law on ‘right to information’ so as to make the government more transparent and accountable to the public. The Parliamentary Standing Committee on Home Affairs in its 38th report also recommended for the enactment of such a legislation. Finally, the Government of India appointed a working group to examine the feasibility and need for a full-fledged Right to Information Act in order to promote open and responsive government. The working group submitted its report along with a draft Freedom of Information Bill to the Government. The draft bill was subsequently deliberated upon by the group of ministers, the final outcome of which was introduced in the

Parliament and became Freedom of Information Act, 2002. This Act is enacted to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest. It aims to promote openness, transparency and accountability in administration.

The Freedom of Information Act, 2002 could not come into force for want of notification by the Central Government. This Act only provided for freedom to access information but did not provide any rightful entitlement with respect to securing information. This Act is, therefore, repealed and replaced by Right to Information Act, 2005. This Act is an attempt in the direction of achieving the goal of promoting transparency and accountability in the working of every public authority. This Act turns into reality the right of citizens to secure access to information under the control of public authorities.

IMPORTANT FEATURES OF THE ACT RIGHT UNDER THE ACT

The preamble of the Act delineates the extent to which information could be made available or withheld. It recognizes the conflict inherent in providing information to the public as it may, at times, be at odds with other public interest including efficient operation of the government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information. This recognition of conflict, however, does not undermine the importance of democratic ideal of ensuring transparent and accountable government. In view of this, the Act seeks to provide for furnishing ‘certain’ information.

THE ACT CONTAINS 30 SECTIONS AND 6 CHAPTERS

This Act supplies the statutory basis for right to information, which means all the citizens have a right to information accessible under this Act,

held by or under the control of any public authority. This right includes the right to inspection of work, documents, records, taking notes, extracts, or certified copies of documents or records, taking certified samples of material and obtaining information in the form of floppies and diskettes or any other electronic mode. This right is limited to only individual citizens of India, which excludes the foreigners and the companies. Companies or corporations, however, can avail this right only through individuals who constitute their management.

DEFINITION OF INFORMATION

The Act defines information as any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

The definition of information and Section 4 of the Act shows that the information relating to administration, third party information and information about an individual relating to public activity while not invading privacy may be obtained as a matter of right. However, information relating to personal information having no relation to any public activity or interest that causes unwarranted invasion of privacy of individual cannot be sought if the information officer feels that the larger public interest justifies the non-disclosure of such information. It may be submitted that the information regarding third party and the private institutions so far as it affects the public and which concerns the government may be sought. For instance, one may seek information regarding enforcement of labour laws by private institutes or compliance with environmental laws, etc. In such cases, the information

officer is liable to procure the information from the institution concerned and supply the same to the applicant. The matters already known or notified cannot be sought as a right. The information sought may relate to present as well as up to 20 years in the past.

APPLICABILITY OF THE ACT

The preamble of the Act does not indicate that purpose of the Act is to confine its applicability to government and instrumentalities of government. Applicability of the Act is to be determined based on provisions of statute also. Applicability is not confined to bodies answering definition of "State" under Article 12 of the Constitution of India. In a case as reported in *M.P. Varghese v. Mahatma Gandhi University*, AIR 2007 Kerala 230, the Kerala High Court held that for coming within the definition of 'public authority' either control or financing by Government need be satisfied. In this case, both the conditions are satisfied. The aided private colleges are bodies controlled and substantially financed directly or indirectly by the funds provided by appropriate Government. Further, these colleges deal with information relating to educational activities pertaining to students who pay fees to the Government and teachers and staff whose salaries are paid by the Government. When these colleges are financed and controlled by the Government and Universities and they are privy to information relating to students and staff, those informations do not have the character of private or sensitive information, the public have a right of access to such information so as to ensure transparency in the conduct of the management of the colleges in which the public are vitally interested. Denial of such information would be against the very object of the statute. Essentially much of these informations relate to students, teachers, and staff of these colleges, and not to any information to any private activities of the managements of the colleges. That

being so, these colleges certainly answer the definition of "public authority" under section 2(h) of the Act.

The Court further held that when the Act makes the same applicable to "public authorities" as defined therein there is no need to give a restricted meaning to the expression "public authorities" straight-jacketing the same within the four corners of "State" as defined in Article 12 of the Constitution, especially keeping in mind the object behind the Act. The definition of "public authority" has a much wider meaning than that of "State" under Article 12. Further, the definition of "State" under Article 12 is primarily in relation to enforcement of fundamental rights through Courts, whereas the Act is intended at achieving the object of providing an effective framework for effectuating the right to information recognized under Article 19 of the Constitution of India.

INFORMATION TO BE SUPPLIED NOT CONFINED TO THE INFORMATION MENTIONED IN SECTION 4

Information to be supplied under this Act is not confined to those mentioned under section 4. Apart from those mentioned in section 4, information can also be supplied by public authority, nationalized bank in respect of employees of that public authority. In a case as reported in *Canara Bank v. Central Information Commission*, Delhi, AIR 2007 Kerala 225, the Kerala High Court held that the information required to be supplied by a public authority to a citizen on request are not confined to the information mentioned in section 4. That section only casts certain obligations on public authorities for maintaining records and publishing the particulars mentioned therein. That does not amount to laying down that only those information which the public authority are required to publish under section 4(b) alone need be supplied to the citizens on request. The information

mentioned in section 3 is not circumscribed by section 4 at all. Obligations laid down under section 4 are to be compulsorily performed apart from the other liability on the part of the public authority to supply information available with them as defined under the Act subject of course to the exceptions laid down in the Act. The information detailed in section 4 has to be compulsorily published by the public authority on its own without any request from anybody. Further, there is no indication anywhere in the Act to the effect that the 'information' as defined in section 2(f) is confined to those mentioned in section 4 of the Act. Therefore, it cannot be held that only information mentioned in section 4 need be supplied to citizens on request.

PUBLIC AUTHORITIES TO SUPPLY INFORMATION

Section 5 mandates the public authorities to designate some of its officers as Central/State Public Information Officers and Assistant Information Officer as the case may be at each sub-divisional or sub-district level within 100 days of the enactment of this Act. The assistant officers are to receive application for information or appeals under this Act to forward it to the Central/State Information Officers. The information officers are designated from the existing officers in the public authorities.

The right to information would not become a reality if the information officers were left without any aid and assistance. The information officers may seek assistance of any other officer for proper discharge of his/her duties, who is under an obligation to render all assistance. For the purposes of any contravention of the provisions of this Act, such officer shall be treated as a Central/State Public Information Officer.

ENTITLEMENT TO INFORMATION

In a case as reported in *B. Bindhu v. Secretary, Tamilnadu Circle Postal Co-*

op. Bank Ltd., Chennai, AIR 2007 Mad 13, where the petitioner submitted an application for post of Clerk in respondent Bank, being not reached within stipulated time, was not considered by Bank for appointment. The same was communicated to the petitioner. Petitioner never challenged the said communication. In such case, the Madras High Court held that she was not entitled to details of recruitment of clerical post as sought for by her under provisions of Right to Information Act.

PERSONS SEEKING INFORMATION IS NOT REQUIRED TO GIVE REASON FOR INFORMATION HE SEEKS

The provision of section 6 of the Act does not obligate the person seeking information to give reason. In a case as reported in Surupsingh Hrya Naik v. State of Maharashtra, AIR 2007 Bom 121, the Bombay High Court held that a consideration of provisions of Act would indicate that ordinarily the information sought for by a person must be made available and such person need not give reasons for the information he seeks. Another important aspect of the matter is that in respect of information relating to a third party the concerned Public Information Officer must give notice to the third party and if such third party makes submissions then to consider the said submissions. The test always in such matter is between private rights of a citizen and the right of third person to be informed. The third person need not give any reason for his information. Considering that, it can be said that the object of the Act, leans in favour of making available the records in the custody or control of the public authorities.

EXEMPTION FROM DISCLOSURE

The Act provides for around ten exemptions against the disclosure of information out of which six are absolute where there is no option for the public information officer but to refuse to make

information available. However, in other instances, the information officers have the powers to assess the comparative weight of the public interest in disclosing and withholding of information. Where the disclosure of information prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence or is expressly forbidden to be published by any Court of law or tribunal or the disclosure constitutes contempt of Court or causes a breach of privilege of Parliament or State Legislature or impede process of investigation or endangers the life or physical safety of any person. Besides information received in confidence from foreign government or that identifies the source of information of assistance given in confidence for law enforcement or security purpose shall be exempted from the disclosure. Whereas the information relating to commercial confidence, trade secrets or intellectual property, the disclosure of which will harm the competitive position of a third party or made available in a fiduciary relationship or relating to personal information having no relationship to any public activity or interest but causes invasion of the privacy may not be disclosed unless the authority is satisfied that larger interest warrants the disclosure of such information. There is a third kind or clause wherein the cabinet papers including records of the Council of Ministers, Secretaries and other officers cannot be disclosed but the decisions of the cabinet may be disclosed after the decision is taken along with reasons and material on the basis of which decision is taken.

There is proviso after clause (j) of sub-section (1) of section 8, which says that the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person. By virtue of the peculiar place of the proviso, it is slightly confusing whether the proviso is for the entire sub-

section (1) or only for clause (j). Considering the generality of proviso, it may be submitted that it is applicable to the entire sub-section. Moreover, it makes sense not to distinguish between an ordinary citizen and his representation in Parliament or State Legislature as far as supply of information is concerned. It may, however, be argued that if the Parliament wanted this provision to be applicable to the entire section rather than clause (j), it may put this provision in the next sub-section as is the case with another rider in sub-section (2).

This renders the entire exemption clause subject to two important riders – (i) all the information that can be communicated to the Parliament and Legislature cannot be denied to the applicant by the information officer and (ii) notwithstanding anything in the Official Secrets Act, 1923 and all these exemptions, the public authority may allow access to information if the public interest in disclosure outweighs the harm to the protected interests.

RIGHT TO INFORMATION ACT PREVAILS UPON THE INDIAN MEDICAL COUNCIL (PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS) REGULATIONS, 2002

In a case as reported in Surupsingh Hrya Naik v. State of Maharashtra, AIR 2007 Bom 121 where one MLA of the State of Maharashtra was sentenced to one month's imprisonment in contempt proceeding. He was spending most of the period of imprisonment in air conditioned comfort in hospital. Application was filed by private citizen seeking information regarding medical report of the MLA during the period of imprisonment. The public authority refused to give information based on the provision under regulation 2.2 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 providing for secrecy of medical report of patient. In this case Bombay High

Court held that Right to Information Act being an enactment by Parliament would prevail over the regulations framed under the Indian Medical Council Act, 2005. Thus, it is within competence of Public Information Officer to disclose such information.

GENEVA CONVENTION 1948 CANNOT BE ENFORCED IN THE ABSENCE OF ENACTMENT

In the instant case information regarding medical report of convict admitted to hospital during period of imprisonment was sought under Right to Information Act. Said information was sought to be refused by placing reliance on the Declaration of Geneva Convention (1948) adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September, 1948 and as amended thereafter. Under this convention, there is a provision pertaining to right to confidentiality of information about the patient's health status, medical condition, diagnosis, prognosis and treatment and all other information of a personal kind with the exception that descendants may have a right of access to information that would inform them of their health risk. Otherwise the confidential information can only be disclosed if the patient gives explicit consent or as expressly provided in the law. Clause 10 refers to right to dignity. Even if India is a signatory to the said declaration, Parliament has not enacted any law making the declaration a part of the Municipal Law. It is well settled that in the absence of Parliament enacting any law adopting the convention, the convention by itself cannot be enforced. It is only in the area of Private International Law, in jurisdictions like Admiralty/Maritime, that international conventions are enforced based on customary usage and practice. That, however, will be subject to the Municipal Law if there be any. In the absence of the

convention being recognized by law duly enacted, the provisions of the convention cannot really be enforced. The only other way the convention can be enforced is, if it can be read into Article 21 of the Constitution. Similar view was also taken by the Supreme Court as reported in *Union of India v. Azadi Bachao Andolan*, (2004) 10 SCC 1 in which the Supreme Court held that treaty should have been translated into an Act of Parliament to enforce it in a court of law.

INFORMATION RELATING TO POSTING, TRANSFER AND PROMOTION CANNOT BE WITHIN THE KEN OF EXEMPTION

In *Canara Bank v. Central Information Commission, Delhi*, AIR 2007 Kerala 225, where the information requested for by the employee of Nationalised Bank relates to transfer and promotion of employees of the bank. Such information does not pertain to any fiduciary relationship of the petitioner bank with anybody coming within the purview of section 8(1)(e). The information relating to posting, transfer and promotion of clerical staff of a bank do not pertain to any fiduciary relationship of the bank with its employees within the dictionary meaning of word 'fiduciary', such information cannot be said to be held in trust by the Bank on behalf of its employees and therefore, cannot be exempted under this section 8(1)(e). In fact, without knowing this information, one employee cannot know his rights vis-à-vis other employees. In this connection, it has to be noted that one of the information requested for is transfer guidelines pertaining to clerical staff. Any member of the staff of the bank is, as of right, entitled to know what are those guidelines, even apart from the Right to Information Act. Further, these informations have necessarily to be divulged if we are to have an informed citizenry and transparency of information which are vital to the

functioning of the bank and to contain corruption so as to hold the bank which is an instrumentality of the State, accountable to the people, which are the avowed objects of the Act, as proclaimed in the preamble to the Act.

DISCLOSURE OF INFORMATION RELATING TO TRANSFER OF EMPLOYEE OF BANK DOES NOT CAUSE UNWARRANTED INVASION OF PRIVACY TO OTHER EMPLOYEES

The Court further held that the information mentioned in section 8(1)(j) is personal information which are so intimately private in nature that the disclosure of the same would not benefit any other person, but would result in the invasion of the privacy of that person. In the instant case, without the information requested for the employee of nationalized bank would not be in a position to effectively pursue his claim for transfer in preference to others. On the other hand, the disclosure of information relating to transfer of employees of bank would not cause unwarranted invasion of privacy of the other employees in any manner insofar as that information is not one which those employees can keep to themselves. If the employee seeking information is to contest that the transfers made are in violation of his rights for preferential transfer, he necessarily should have the information which cannot be withheld from him by resort to section 8(1)(j). More importantly, the proviso to the section qualifies the section by stating that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. By no stretch of imagination can it be held that the information requested for relating to transfer of employees of bank are information which can be denied to the Parliament and a State Legislature. In fact that proviso effectively nullifies the impact of the main provision to a great extent.

SECTION 8 OF THE ACT DOES NOT EXEMPT VOLUMINOUS INFORMATION FROM DISCLOSURE

The Court further held that it is not as if every day the bank transfers clerical staff. At the most, transfers would be only once in a year. In a request made by the employee of nationalized bank for information, he has specifically stated that the information which he requires is in respect of clerical staff transferred to particular District of the Canara Bank for the period from 2002 to 2006. Such information for a period of five years cannot be said to be that voluminous requiring tremendous manpower and time. In any event, when the act does not exempt voluminous information from disclosure, the Bank cannot deny such information on that ground.

DISCLOSING INFORMATION RELATING TO THIRD PARTY UNDER SECTION 11

Public Information Officer should give opportunity of personal hearing to third party before disclosing information relating to him. In a case as reported in *Reliance Industries Ltd. v. Gujarat State Information Commission*, AIR 2007 Guj 203, the Gujarat High Court held that it is duty vested in the Public Information Officer to give an opportunity of personal hearing to the third party, to get his submission whether he treats the information as confidential and whether information should be disclosed, if the information is relating to or is supplied by the third party.

When public body collects the information relating to or given by third party, it might not have been treated as confidential but third party can make a submission that now it is treating the said information as confidential. More so, when information is relating to third party it may not even be known to that third party, when and what information relating to third party, was collected by

public body. Therefore, section 11(1) of the Act, 2005 gives mandate to Public Information Officer to give written notice to third party if he intends to disclose information relating to third party.

The Court further held that time bound schedule given under the Act does not oust right of hearing vested in third party before imparting information to the applicant. Principles of Natural Justice are not diluted by time bound schedule given under the Act.

STATE INFORMATION COMMISSION CONSTITUTED UNDER SECTION 15(2) OF THE ACT SHOULD BE MULTI MEMBER BODY AND NOT SINGLE MEMBER BODY. IT HAS TO CONSIST OF CHIEF INFORMATION COMMISSIONER AND AT LEAST ONE STATE INFORMATION COMMISSIONER.

In a case as reported in *Virender Kumar v. P.S. Rana*, AIR 2007 H.P. 63, the Division Bench of the High Court held that the way section 15(2) has been worded shows that legislature intended and the Act provides that the State Information Commission should be a multi Member Body consisting of one State Chief Information Commissioner and at least one State Information Commissioner. In case the intention of the State was otherwise, the section could have been worded in a different manner altogether. No doubt, the State has been given the discretion to appoint as many State Information Commissioners as it deem necessary, but this number cannot be less than one and cannot exceed ten. The State has no discretion not to appoint any State Information Commissioners. The State Information Commission has to consist of the Chief Information Commissioner and at least one other member.

Further, if under the provisions of the Act it is the mandate of Parliament that the State Information Commission should be a multi member body then the

State cannot be allowed to plead that it be permitted to have a single member Commission on the ground that the work is less or that it would lead to unnecessary expenses.

POWER OF THE INFORMATION COMMISSION

In a case as reported in *Reliance Industries Ltd. v. Gujarat State Information Commission*, AIR 2007 Guj. 203, the Gujarat High Court held that power of the Information Commission under section 18 is limited to hold enquiry into complaint and if necessary, to impose penalty. Information Commission has no jurisdiction to pass order directing authority to part with information.

THE ORDER OF SUCH INFORMATION COMMISSION IS AMENABLE TO CERTIORARI JURISDICTION OF HIGH COURT

Such Information Commission is exercising judicial powers and as such, it is a tribunal. The order of Commission is amenable to certiorari jurisdiction of High Court under Article 226 of the Constitution of India. In a case as reported in *Poornaprajna House Building Co-operative Society Ltd. v. Karnataka Information Commission*, AIR 2007 Kar. 136, the Karnataka High Court held the Commission while exercising the power u/s 19(3) of the RTI Act is provided with the judicial powers to deal with the dispute between the parties and determine them on merits fairly and objectively. Judicial power is defined as the power to examine questions submitted for determination with a view to the pronouncement of an authoritative decision as to the rights and liabilities of one or more parties. The Commission is a Tribunal entrusted with the task of adjudicating upon special matters and disputes between the parties. It is clear from the various provisions of RTI Act that the Commission is a tribunal vested with

appellate power to decide the appeals. An appeal in legal parlance is held to mean the removal of cause from an inferior subordinate to a superior tribunal or forum in order to test and scrutinize the correctness of the impugned decision. It is settled that any authority or body of persons constituted by law or having legal authority to adjudicate upon questions affecting the rights of a subject and enjoined with a duty to act judicially or quasi judicially is amenable to the certiorari jurisdiction of the High Court. Similarly, Article 227 of the Constitution confers on every High Court the power of superintendence over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction excepting any Court or tribunal constituted by or under any law relating to armed forces. Thus, the orders of the Commission are amenable to the jurisdiction of the High Court.

THE STATE INFORMATION COMMISSION IS NOT DIRECTLY SUBORDINATE TO THE HIGH COURT

The Court further held that the Commission cannot be equated to a civil Court. The Commission is neither directly subordinate to the High Court nor its orders are subject to appellate or revisional jurisdiction of the High Court. The Commission is not even under the administrative control of the High Court. Therefore, Commission is a necessary party to the writ proceedings because in its absence, an effective order cannot be made. The presence of the Commission is necessary for a complete and final decision on the question involved in the proceedings and cannot seek deletion of its name from the array of the parties in writ petition.

In case of a writ petition, a writ of certiorari is issued to quash the order of

tribunal, which is ordinarily outside the appellate or the revisional jurisdiction of the Court and the order is set aside on the ground that the tribunal or authority acted without or in excess of jurisdiction. If such a tribunal or authority is not made a party to the writ, it can easily ignore the order of the High Court quashing its order, for not being a party, it will not be liable to contempt.

CONCLUSION

No nation can live in isolation and informational invasion can easily generate social tension and even pressurize the shaping of policies in support of multinationals to the detriment of self-government. Therefore, we must beware of transitional communication empires and create mechanism of informational swaraj committed to truth, equality and justice.

***A smooth sea never made a skilful mariner, neither do uninterrupted prosperity and success qualify for usefulness and happiness.
The storms of adversity, like those of the ocean, rouse the faculties, and excite the invention, prudence, skill, and fortitude of the voyager.
The martyrs of ancient times, in bracing their minds to outward calamities, acquired a loftiness of purpose and a moral heroism worth a lifetime of softness and security.***

Anon

VICTIMS OF GENDER BASED CRIMES IN INDIA - A VICTIMOLOGICAL PERSPECTIVE

S Ramdoss

INTRODUCTION

The crimes that are committed exclusively against women are termed as gender based crimes viz. dowry death or harassment, rape, molestation etc. The sufferers of such crimes are known as victims. As per the United Nations Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, "Victims of Crime" means - "persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights through acts or omissions that are in violation of criminal laws operative in Member

States, including those laws proscribing criminal abuse of power".

According to the above definition a person may be considered as victim, regardless of whether the perpetrator is identified, apprehended, prosecuted, convicted and regardless of the familial relationship between the perpetrator and the victim.

CRIME AGAINST WOMEN .

Gender based crimes or crimes against women are generally classified into two broad categories viz., (i) The crimes under the Indian Penal Code (IPC) and (ii) The crimes under the Special and Local Laws (SLL).

(i) **The IPC Crimes**

1. Rape
2. Abduction
3. Dowry death
4. Torture
5. Molestation
6. Sexual Harassment and
7. Importation of Girls

Local Laws such as Indecent Representation of Women (prevention) Act, and Dowry Prohibition Act have shown an increasing trend. It is established from the figures shown in the above table that gender based crimes are increasing.

CRIME AGAINST GIRL CHILDREN

There are certain types of crime that are committed against the girl children - this may also be termed in this article as 'gender based crime' rather the crime against children as these crimes are done against female children/ gender. The following crimes are the gender-based crimes against children.

1. Foeticide (crime against being born)
2. Infanticide (crime against bora child)

(ii) **SLL Crimes**

1. Immoral traffic
2. Sati
3. Indecent representation of women
4. Dowry
5. Child marriage

The trends of gender based crime victimization have been presented in the following table.

Trends of Crime Against Women During 2000 - 2004

S.No.	Types of Crime	Year				
		2000	2001	2002	2003	2004
1	Rape	16496	16075	16373	15847	18233
2	Abduction	15023	14645	14506	13296	15578
3	Dowry death	6995	6851	6822	6208	7026
4	Torture	45778	49170	49237	50703	58121
5	Molestation	32940	34124	33943	32939	34567
6	Sexual harassment	11024	9746	10155	12325	10001
7	Importation of girls	64	114	76	46	89
8	Sati Prevention Act	0	0	0	0	0
9	ITPA	9515	8796	11242	5510	5748
10	Indecent RoW	662	1052	2508	1043	1378
11	Dowry Prohibition Act	2876	3222	2816	2684	^ 5 9

The above table reveals the number of crimes committed against women during the period 2000 - 2004. Gender based crimes alone have been depicted in the above table and crimes such as murder, robbery, etc where women were found to be victims were not included. It is clear from the above table that gender based crime victimization shows an increasing trend. Crimes punishable under the Indian Penal Code such as rape, abduction, dowry death, torture, molestation, importation of girls, have been increasing over the years. Crimes punishable under the Special and

3. Procurement of minor girls (for inducement to force or seduce, to illicit intercourse)
4. Selling of girls for prostitution
5. Buying of girls for prostitution
6. Rape

The abovementioned crimes are punishable under the Indian Penal Code. Besides, these IPC crimes, there are several crimes against female children punishable under the Special and Local Laws. They are:

1. Child Marriage Restraint Act
2. Immoral Traffic Prevention Act

Gender based crimes against children, i.e. female children occurred during 2000 -2004 have been shown in the above table. Certain crimes against female children have shown an increasing trend such as rape, kidnapping, procurement of minor girls, selling of girls for prostitution and child marriage. From the above figures it is concluded that gender based crimes against children are also increasing. However, the crime figures shown here are only one - third of the total of gender based crimes committed in India. The remaining cases were never been reported to the police. Such unreported crimes are known as 'dark figures' or "hidden criminality". Crime victim surveys need to be conducted to obtain the actual number of gender based crimes committed in India.

Trends of Crime Against Girl Children During 2000 - 2004

S.No.	Types of Crime	Year				
		2000	2001	2002	2003	2004
1	Infanticide	104	133	115	103	102
2	Rape	3132	2113	2532	2949	3542
3	Kidnapping	711	2845	2322	2571	3196
4	Foeticide	91	55	84	57	86
5	Procurement of minor girls	147	138	124	171	205
6	Buying of girls for prostitution	53	06	09	24	21
7	Selling of girls for prostitution	15	08	05	36	19
8	Child Marriage Restraint Act	92	85	113	63	93

THEORETICAL EXPLANATIONS OF THE CRIME VICTIMIZATION

There are several theories that explain how and when the crime victimization occurs. General theories of crime victimization have focused on situation as well as individuals (Meier and Miethe, 1993). According to the lifestyle - exposure approach (Hindelang, Gottfredson, and Garofalo, 1978), some situations (places and times) are more dangerous than others, and individuals whose activities, through work, school, or leisure, put them in these situations are more likely to be crime victims. In most cases, individuals who spend more time in public places run higher risk of victimization than those who spend more time at home (Felson, 1998).

Miethe and Meier (1994) have suggested a structural - choice theory of victimization. According to this, there are structural factors that place people at different levels of risk, but within a particular level of risk, some people are still more likely to be targeted as victims. According to Miethe and Meier (1994), proximity and exposure to crime are structural factors that determine the overall level of risk. Several scholars have suggested that victims may sometimes precipitate their own victimization. What constitutes precipitation varies depending on the type of violent crime involved. Amir (1971) examined police reports of rape in Philadelphia and found high rates of victim precipitation.

Rather than arguing that victims precipitate their victimization, Finkelhor and Asdigian (1996) asserted that three types of victim characteristics viz., vulnerability, gratifiability, and antagonism, increase individuals' likelihood of victimization because these personal characteristics are congruent with the needs or motives of offenders. Vulnerability refers to characteristics that increase risk because they reduce the potential victim's ability to resist or deter victimization. These characteri-

stics include small size, physical weakness, and psychological problems. Gratifiability refers to characteristics that increase risk because they are qualities, possessions, skills, or attributes that the offender wants to take, use, or manipulate. These characteristics include valuable possessions or, in the case of sexual assault, a potential victim's gender. Antagonism refers to characteristics that increase risk because they provoke anger, jealousy, or destructive impulses.

A good example of a factor that increases an individual's chances of being victimized is intoxication. Research on sexual assault indicates that alcohol consumption increases the likelihood that an individual will become an offender (Scully and Marolla, 1984), and alcohol consumption by victims increases their risk of being raped (Harrington and Leitenberg, 1994). Victimization risk increases for women who drink alcohol because drinking decreases resistance. Women who are drinking seem less likely to quickly and clearly state that they do not consent to the sexual activity. They may also be less aware that men are interpreting their behaviour as indicating consent. In a survey of female undergraduates who, since the age of 16, had been victims of sexual aggression involving force or the threat of force by acquaintances (25% of the sample), Harrington and Leitenberg (1994) found that 55% of the victims were at least partially intoxicated at the time of the sexual assault. These women were likely to use lower levels of resistance than women who were not at all intoxicated.

Often victims seem to be bom. Often they are society - made. This is true as far as women victims of crime are concerned. Hentig (1948) observed that some crimes require personal contact, first for the approach and preparatory moves, then for the execution. This view of Hentig was confirmed by the results pertaining to the offence of rape by acquaintance/known persons.

The criminal accordingly prefers victims who, for peculiar reasons, after suffering damage cannot breathe a word of it. Why should any victim set silence above retaliation? Criminal prosecution entails publicity. This publicity may be unwelcome for two reasons. Either it would do harm to the social status, marital security, or other vital condition of the victim or the victim is a criminal or a delinquent himself/herself and thus unable to set the mechanisms of the state in operation without himself coming too close to the crime - repressing agencies. This applies to the prostitutes who are sexually assaulted by anti - socials and at times by the men in uniform. These women seldom report about this kind of exploitation rather they prefer to suffer in silence.

According to Hentig (1948), since the practices of birth control and abortion have gained ground the old crime of infanticide has become rather rare. The victims were mostly illegitimate children. On the contrary to this view of Hentig, even today, in a number of states in India, the practice of killing female babies continues to exist.

TRAFFICKING

Many young women in search of a career and independence come to the cities from small towns, where they are met by many undesirable characters at the railway stations and bus stands are taken to homes of questionable repute and brothels. What the girls expect and what happens to them are entirely different (Diaz, 2000).

DOWRY DEATH

Dowry deaths as a form of violent crime against women continue to occur, inspite of the many legal provisions which inflict severe punishments on those involved in such cases. Many women become victims of unscrupulous "in - laws" and commit suicide. Therefore, there is a need to educate parents and the society about the ill - effects of giving and taking of dowry

and also the ensuing after - effects of violence if this dowry is not given or taken. Educated girls should also be counseled to stand up for their rights in such contexts and carve out a useful life for themselves (Diaz, 2000).

Walker (2000) stated that victims of spousal abuse gradually become immobilized by fear and believe they have no other options. This fear and perceived lack of options make battered women stay in their abusive relationships.

Falandysz (1987) said that as far as the problem of the relationship between the offender and the victim is concerned the situation seems to be same. Criminologists discovered the familiar character of homicide by observing that it occurs mostly inside of a family or among the people being close or at least known to the offender. The long, persistent conflict between the people finally involved in a homicide case seems to be the most important criminogenic factor of this kind of violent crime. It should be also mentioned that some Polish studies on forcible rape have shown a considerable percentage of victims known to the offenders.

The two things mentioned in the above paragraph apply to the Indian situation as well i.e. the long persistent conflict between the people finally involved in a homicide. This reflects the cases of dowry deaths that occur in India. Dowry death does not occur suddenly, it occurs at the end of the long and persistent conflict between the bride and the groom and his family members over the payment of dowry. The bride has to suffer all sorts of abuse and harassment from the groom and the members of the groom's family, if she fails to fulfill the dowry demands. Another important criminogenic factor is that of a rape by known person. The recent Crime in India reports confirm the results of the Polish studies on forcible rape that considerable percentage of

victims known to the offenders. As per the Crime in India - 2004 more than 85% of the cases of rape were committed by the offenders known to the victims.

The victimologic interaction is a process in which there is observed actual harm or direct threat of the victim in the result of the offender's action or renunciation in the conditions of causal nexus between his activity and the sustained harm. It is a system of situation factors influencing one another, individual features of a person or a social group to which it belongs. Depending upon the determination degree of the decision to commit an offence on the side of the offender, and depending upon the victim's activity, the above-mentioned elements occur in the forms of susceptibility, contribution and provocation (Falandysz and Holys, 1975).

Violent reaction in the form of battery was increased by alcoholic intoxication of the persons participating in the interaction. Kubala (1987), in a study found that in 9 cases both the victim and the offender were intoxicated, in 11 cases - only the offender, in 3 cases the victim.

RAPE VICTIMIZATION

Sexual offences, especially rapes, are very often examples of anti - victimologic attitude in science and practice (Weis, 1978). Especially some theoretical studies illustrate in what way Victimology can become an art of accusing harm and additionally insult of the victims (Weis and Weis, 1978).

The forms of the victim's participation in the offence of rape are: contribution, provocation, indiscretion or recklessness. Most often contribution occurs in the form of the victim's visit in the offender's flat, (in many cases the acquaintance is new), no protest against sexual behaviour of the future offender. Provocation includes several activities suggesting

the woman's approval (real or presumed) for a sexual intercourse with the given partner or an approval for a contact excluding a sexual intercourse. The most frequent form of the victim's conscious behaviour is according to many authors' indiscretion or recklessness. It includes entering in acquaintance with men met by chance, going with them in an isolated place (for instance a park) and also similar women's behaviour (Jablonska et al, 1976).

Studies with rape victims reveal that many victims continue to manifest PTSD (Post Traumatic Stress Disorder) more than a year following the assault (Calhoun et al., 1982; Kilpatrick and Resnick, 1992; Kilpatrick et al., 1981). In addition, although these rape victims' negative psychological symptoms decreased over time, victims still had significantly higher distress levels compared to women with no history of rape at the 1 year follow - up (Kilpatrick et al., 1981).

The problems of the victims of rape are varied relating to physical, social, emotional, medical, legal and psychological dimensions. Rape is the most serious offence against the dignity and modesty of a woman and it leaves the stigma for ever over the victim. Rape is a heinous crime of aggression. It is a total attack against the whole person, affecting the woman's entire personality and social identity. Rape is a humiliation, dehumanization, and violation of self-determination, a heinous attack on the woman's personhood.

After the rape, the woman is faced with the conflicting problem of relating the incident - whether or not to tell any one about the rape, to whom it should be told and what information should be conveyed and what to withhold. Each choice is associated with varying degree of mental agony. The final option may be the best among miserable alternatives. The fear of pregnancy and venereal disease add to the raped woman's mental agony. Even the father/

husband may question the raped woman's honesty. The knowledge of rape may cause disorder or break in the family life. The raped woman who reports to the police is often further traumatized and humiliated. Psychologically, rape involves at least two major crises for the victim. The first is the rape itself. The second is her experience going through the medical examination and Criminal Justice System, with her appearance in court being the most painful part (Paramaguru, 1985).

To avoid this kind of secondary victimization from criminal justice system, the victims of crime in general, and the victims of sexual offences in particular, may not prefer to lodge a complaint with police. The reasons for not reporting rape to police include:

1. The raped woman's psychological condition forbids rational post-rape planning;
2. Not knowing how effectively to inform the law enforcement officials;
3. Fear of retaliation from the rapist(s);
4. Decision to deal with the matter privately;
5. Fear of further humiliation, shame or embarrassment to herself, family, relatives, or friends; and
6. Fear that the rapist will not be taken into custody or punished (Chockalingam, 1985).

How police respond to victims can affect the quality of the information victims give as well as their immediate coping and long-term recovery (Lurigio and Mechanic, 2000)

REPEAT VICTIMIZATION

Repeat victimization is most pronounced in partner violence. A Government report estimated that in 1998, intimate partners committed about 1 million violent crimes. Of these, about 85% were against female victims. In the

period between 1993 and 1998, almost half of the women who were victims of intimate partner violence were physically injured. About 40% of those who were physically injured sought medical treatment for their injuries (Rennison and Welchans, 2000). Women victimized by partners are more likely than women victimized by non-partners to experience ongoing violence at the hands of the same perpetrator. This has been supported by data from both the National Violence Against Women Survey (NVAWS) (Tjaden and Thoennes, 2000) and the NCVS (Mahoney, 1999).

There is also evidence that some victims of sexual assault are repeat victims. For example, data from a nationally representative sample of 8,000 women indicated that

18% of the women who had been raped before the age of 18 were also raped after the age of 18 (Tjaden and Thoennes, 1998).

CONCLUSION AND SUGGESTIONS

Gender based crime victimization has been increasing over the years in India. The sex ratio is declining due to foeticide and female infanticide. Women have been facing numerous problems at home in the form of dowry harassment or domestic violence; at work place in the form of sexual harassment. The following figures provide an alarming picture of how women in India are victimized. 1 crime committed against women in every 3 minutes; 1 cruelty by husband or relatives case in every 9 minutes; 1 molestation case in every 15 minutes; 1 rape case in every 29 minutes; 1 sexual harassment case in every 53 minutes and 1 dowry death case in every 75 minutes (Crime in India, 2004). Unless, the proper measures are initiated the gender based crime victimization would continue to rise in future. The following measures are suggested to prevent and contain the gender based crime menace.

- Awareness programs should be conducted to prevent gender based crime victimization in different places such as workplaces, educational institutions, and grassroots levels.
- Media can play a vital role in creating awareness about the importance of preventing gender based crime victimization and protecting women. Particularly, the electronic media can be of immense useful in the awareness generation.
- The Department of Women and Child Development can support the awareness programs and sensitization programs such as street plays, skit, drama etc. This in turn would bring down the number of crimes committed against women and female children. Awareness creation assumes a greater significance because; due to lack of awareness many women and girl children were exploited by the traffickers.
- Police department can organize programs such as sports, cultural etc. in which both police and members of the public can participate. This will improve the image of the police among the public in general and women in particular. Thus, women will not hesitate to report about the crime to police. It is very important for the police to be public friendly to combat crime in general and gender based crime in particular.
- Women should not tolerate crime victimization. Moreover, the functionaries of the criminal justice system should be sensitized to handle cases of gender based victimization.
- The victims of gender crimes should be provided with proper and adequate assistance services, such as, counseling, medical treatment, shelter and compensation.

VICTIMIZATION OF CHILDREN WITH SPECIAL REFERENCE TO CHILD PROSTITUTION IN INDIA

S M Mahendra Simha Karna & S Ramdoss

INTRODUCTION

“.....That children are given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment” *Art. 39(f), Constitution of India*

Crimes against children are increasing every year. The crimes committed against children are of difference forms and have different kinds of impact on the child victims. Of late, children are vulnerable and prone to sexual exploitation especially prostitution. The flesh trade is booming

and the children are in great demand. This situation poses a serious threat and challenge to the future of India. It is often said that today's children are tomorrow's leaders; if we were not protect the tomorrow's leaders today there would be no bright future for India. Hence, we need to initiate measures of identifying the real cause to prevent child prostitution, and of rehabilitating the innocent child victims rescued from the evil of flesh trade.

Commercial sexual exploitation of children is a global problem of pernicious nature. In the present contextual framework of the materialistic, multi-ethnic and divisive

sociality, this form of violence on children is flourishing like a major industry/business controlled by swell organize international crime syndicates. Since it is lucrative, innumerable strong criminal networked are very actively involved in the trafficking of children from one state to the other and from one country to another contributing to the rapid growth of this form of violence on girl children from a very tender age (Kumar, 2005).

Child sexual exploitation is an abhorrent and intolerable crime that strikes at the heart of humanity. Children inherit the past and they themselves are the future. They own the right to live and grow as children. They must not be treated as sexual plaything, thrown – away entertainment, and more commodities for buying, selling and reselling. Those who investigate the working of this industry are shocked by the volume, spread and nature of the activity. It is an organized crime utilizing the children for profitable business. Tourism has further aggravated the gravity of the situation globally. Asia has been targeted as key destination, sex ‘haven’ for business and vacation travelers.

We find ourselves today at a historical juncture, where progress and development in human society has created two contradictions. On the one hand, there is modernity with improved qualities of life while on the other, the same change threatens many aspects of community life, such as the loss of ethics and moral values to the corrupting influence of modernity itself.

There is, therefore, a growing movement towards that globalization in the solution of problems caused by development itself. After all, it does not exist in isolation but in the interdependence of the nation state system. Today’s consultation is to resolve a national dilemma; how to stop the commercial sexual exploitation of

children in different forms; prostitution pornography and sexual trafficking.

We have a growing population of children and young people expose not only to the seduction of capitalism, but to the economic pressure of survival. The social condition emerging out of this phenomenon has become a fertile ground for the easy recruitment of innocent victims into the vicious market of human flesh.

Every single day without fail, news papers carry report about a child being raped by a neighbor, a daughter or the daughters sexually molested by the father; children working as “guest relations officer”, a euphemism for sex entertainers in disco houses and beer joints, children serving the pleasure of the men in ships that dock in our ports, street children who are often a rash and vulnerable to prostitution and pedophilia.

We are faced with the evil effects of a flourishing industry operating worldwide that capitalizes on the sale and trafficking of children through Internet and other means. It is an industry that can even buy political power.

Although admitting that economic poverty breed’s exploitation, one cannot assume that in more successful economies, children are safer; they are equally exposed to dangers of commercial sexual exploitation.

In India with 28,000 kms of spanning dimension and a rich tradition of civilization, inhabited by diverse people of diverse economic levels and cultural attainments, speaking a variety of languages, is a country which presents a distinct flavour how and low, ugly and beautiful, these contradictions are nowhere manifest and in the case of prostitution and child prostitution with steady increase in the levels of income, different level of affluence as a result of international trade, economic

liberalisation and green and white revolutions. The scene is indeed pathetic when we discuss child prostitution (Kumar, 2005).

The Convention on the Rights of the Child states that the Child Prostitution is the practice whereby a child is used by others for sexual activities in return for remuneration of any other form of consideration (Article 2(b)).

THE MAGNITUDE OF CHILD PROSTITUTION

In India, despite emphasis and solemn resolves for the safeguard of a child from all sorts of abuse under the constitution and despite the fact that India is a signatory to the UN Convention which guarantees, rights of the child, the phenomenon of child-prostitution does exist in the country. This has started assuming monstrous proportions as is sometimes depicted in some of the press reports – by foreign media in particular (Kumar 2005).

The number of women and children in sex work in India is stated to be between 70,000 and 1million. Of these, 30% are below 20 years of age. Nearly 50% began sex work when they are below 15 and 25% entered between 15 and 18 years (Mukherjee and Das 1996).

Rozario’s sample survey indicated that 35% of the sex workers below the age of 18 years. 53% of the women reported that their age at the time of initial sexual exploitation was below 18 years (Rozario, 1998).

A news item published in the statesman (12th August, 2003) states that roughly 2 million children are abused and forced into prostitution every year in India. A rough estimate prepared in 2000 by a NGO, End Children’s Prostitution in Asian Tourism, (ECPAT), reveals that there are around 2 million prostitutes in India; 20% of them are minors. A study conducted in 1992 estimated that at any

given time, 20,000 girls are being transported from one part of the country to another (Gupta, 2003). There are reportedly 3, 00,000 to 5, 00,000 children in prostitution in India (Patker and Patkar, 2001). A UNICEF study on Maharashtra found that at any given time, approximately 40% of the victims of CSE (Commercial Sexual Exploitation) and trafficking are below 18 years of age. Empirical studies conducted by as indicated that besides economic factor (poverty being the main motivation) and lack of awareness, two other factors responsible which are a) growth of international tourism, and b) consumerism.

Girl child prostitution can be designed as prostitution practiced by a girl who belongs to the age group of 10 to below 18 years. The differences between girl child and adult prostitution can be explained on the basis of certain aspects.

The above discussion makes it quiet clear that it's becoming more prevalent because of the economic returns. Hence increasing the number of girl child prostitutes on a day-to-day basis.

Given below are some of the other factors for the increasing demand for girl child prostitutes.

- General degeneration in human values leading to moral degrading; here it is important to point out that brothels are no longer run by pimps only. The operators now could also be a serving police officer, politician or a businessman.
- Role of media – specially the electronic media leading to indecent exposure of girls anatomy (Physical attraction)
- Increased use of alcohol and other intoxicants.
- The false belief that sex with young girls may add years to one's lifespan such beliefs being more predominant in people living in feudalistic environs and mofussil areas.
- The superstitions that sex with a young girl may cure sexually transmitted diseases.
- The belief that in having sex with young girls there is little danger of HIV infections.
- The ease with which a young girl can be trapped and initiated into the vice with little fear of her complaining against her tormenters because of elements of fear and social stigma attached (Kumar, 2005).

Girl Child Prostitution – some causes and consequences

S.No	Aspects	Girl Child Prostitute	Adult Female Prostitute
1.	Demand	Greater demand, contributing to their becoming traffickers' main target	Lesser demand
2.	Entry into prostitution	Mostly involuntary, forced to enter into prostitution by traffickers some times by family members and caste group.	More for economic and psychological than other factors,
3.	Factors contributing to entry into prostitution	Combination of socio-economic, religious and cultural factors along with failure of police and administrative machinery	More for economic and psychological than other factors
4.	Duration of stay of Prostitution	Longer duration this again makes them target of different categories of persons, who thrive on than flesh trade.	Shorter duration mostly the adult prostitutes retire from the life of prostitution at the age of 35 years.
5.	Sex act	Often become object of perverse desire in addition to meeting sexual urge through inter course.	May not be so. Mainly confine to sexual inter course.
6.	Consequences	Deprives the girls child her childhood, besides affecting her physically, emotionally and socially	Effect physically, emotionally and socially.
7.	Elements of suppression exploitation and vulnerability	More	Less.

THE SITUATION AND CIRCUMSTANCES WHY A GIRL CHILD ENTERS THE PROFESSION:

There has hardly been any success in the prevention of child prostitution and its trafficking. The problem shows no signs of even having been contained. On the contrary, media and other reports seem to suggest that child prostitution is on the decrease (Menon, 2000).

Source: Mukherjee (1997)

Girls are kidnapped, induced, lured and sold (in many cases by parents themselves). Nearly 80 – 85 per cent of victims come into prostitution through this pathway.

About 10 percent are off - springs of the prostitutes – unwed – wedded. In such cases even though the mothers do not like the daughters to follow them in their profession the powerful nexus of Gharwalis (brothel keepers), pimps and pahalwans (Muscleman) decide otherwise.

Then there is caste/community specific and area – specific prostitution. Going from generation to generation, this is the type of child prostitution which is practiced in specific areas by some communities under the gaze of the family itself.

And finally we have special types – the profession with links in some of the religious customs. Instances are of the *Devdasis* in Karnataka, Andhra Pradesh, Orissa and Maharashtra, *Bhavanis* in Goa, *Kudikars* on West Coast, *Jogirs* in Andhra Pradesh, *Thevardiyar* in Tamil Nadu, *Basavis* in Karnataka and *Muralis*, *Jogateens* and *Aradhinis* in Maharashtra.

LEGISLATIONS RELATED TO CHILD PROSTITUTION

There are a number of International, Regional and National level instruments to combat child prostitution and to guide nations to initiate certain measures to stop trafficking in children. Some of such instruments are discussed under several heads in the ensuing paragraphs.

INTERNATIONAL STANDARDS

There is extensive international human rights laws prohibiting child prostitution. In particular, under article 34 of the Convention on the Rights of the Child (CRC), state parties undertake to protect the child from all forms of

sexual exploitation and sexual abuse. For this purpose, state parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent the exploitative use of children in prostitution or other unlawful sexual practices (CRC Article 42).

The Convention on the Rights of the Child (CRC) is further strengthened by the adoption in 2000 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children. Child prostitution and child pornography, whereby state parties shall prohibit child prostitution. Accordingly, the optional protocol defines prostitution as the use of a child in sexual activities for remuneration. Moreover, such acts must be covered under the state parties criminal or penal laws “where these offences are committed domestically or trans-nationally or on an individual or organized basis” (Optional Protocol, Article 3).

Other international standards are in International Labour organization (ILO) Convention No.182 on the Worst Forms of Child Labour, which includes child prostitution as one of the worst forms of child labour and calls upon state parties to prioritize its elimination. Therefore, the convention requires state parties to condemn child prostitution and adopt penal sanctions to eliminate it. Similarly, the trafficking protocol calls for the elimination of prostitution and other forms of sexual exploitation. The Declaration on the elimination of violence against women calls upon state parties to eliminate violence against women, especially forced prostitution.

REGIONAL STANDARDS

2002 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

The SAARC Convention on trafficking defines trafficking “as the moving, selling or buying or buying of

women and children for prostitution within and outside a country for monetary or other consideration with or without the consent of the person subjected to trafficking”. The Convention further defines child as any person below 18 years of age and designs “persons subjected to trafficking” as “women and children victimized or forced into prostitution by traffickers by deception threat, coercion, kidnapping, sale, fraudulent marriage, child marriage or any others unlawful means”. The Convention also defines prostitution and traffickers.

NATIONAL LEGISLATION AGAINST CHILD PROSTITUTION:

Immoral Trafficking (Prevention) Act 1956 (ITPA): pursuant of the International Convention for the Suppression of the Traffic in persons and of the Exploitation of the prostitution of others, 1949 that was signed by the Indian Government in New York on May 9, 1950 the Central Government passed the Immoral Trafficking (Prevention) Act, 1956 (ITPA). This is the principal legislation on Commercial Sexual Exploitation in the country, and all cases of prostitution are registered under it.

The ITPA is the only statute that defines prostitution. Unfortunately, it does not contain any special provisions relating to children, particularly with respect to the treatment of rescued children. According to the ITPA, “Prostitution means the sexual exploitation or abuse of persons for commercial purposes and the expression ‘Prostitute’ shall be construed accordingly”. Since the ITPA does not define person “it is understood include children”. In support of this reading of the law, throughout the Act, there are references of offences against children and prescribed punishments, where children are detained for prostitution. In addition, the law defines “a child as a person who has not completed 16 years of age, a minor is person between 16 –

18 years of age and a major a person who has completed 18 years of age (Bhat, 2000)

While this Act does not directly state that prostitution is illegal, it penalizes the act of prostitution. The ITPA defines prostitution as sexual exploitation or abuse of persons for commercial purposes, but it does not define the term sexual exploitation or commercial purposes. Under the ITPA, prostitution in or in the vicinity of a public place is illegal and it is illegal to solicit commercial sex in any form from any place visible from a public place. Public place is defined as “any place intended for use by or accessible to the public, as well as public conveyances”. The ITPA also makes it an offence to keep a brothel or allow premises to be used as a brothel, live on the earnings of prostitution, solicit for prostitution or detain a person in a place where prostitution occurs. The ITPA prescribes punishments for all of these violations and increases the punishment for repeated violations.

Further more, this law provides for the closure of brothels and the eviction of offenders from these premises. A person in prostitution may make an application to the local magistrate for an order directing that she be kept in a protective home. State Governments have discretion to establish protective homes and corrective institutions and those homes and institutions must be maintained according to standards set forth in law. The state can also issue licenses to others to establish and /or maintain protective homes.

INDIAN PENAL CODE 1860 (IPC):

The Indian Penal Code framed during the time of the British, it is the standard code with respect to all criminal offences. The penal code covers all criminal offences and contains some sections relevant to the prostitution of children, although it does not define prostitution.

Incidence of Crimes Against Children – in India during 2003 to 2005

S. No.	Crime Head	Year		
		2003	2004	2005
1.	Murder	1212	1304	1327
2.	Infanticide	103	102	108
3.	Rape	2949	3542	4026
4.	Kidnapping & Abduction	2571	3196	3518
5.	Foeticide	57	86	86
6.	Abetment of Suicide	25	33	43
7.	Exposure & Abandonment	722	715	933
8.	* Procurement of Minor Girls	171	205	145
9.	* Buying of girls for Prostitution	24	21	28
10.	* Selling of girls for Prostitution	36	19	50
11.	Child Marriage Restraint Act	63	93	122
12.	Other crimes	3700	5107	4697
	Total	11633	14423	15083

(Source: *Crime in India 2005*) *forced to flesh trade

Section 366 A of IPC makes it illegal to procure a minor girl by any means and induce girl under 18 years of age into prostitution or any form of “illicit sexual intercourse” and violators are sentenced up to ten years of imprisonment and fine. Similarly, section 367 of the code make it illegal to bring a girl less than 21 years of age into a situation with the intention or awareness that it is likely, that the girl may be forced or seduced to have intercourse with another person. Punishment for this violation is up to ten years imprisonment and fine. Finally, under the sections 372 and 373, it is illegal to sell or buy a minor for the purposes of prostitution and violators are subject to ten years imprisonment and fine. In case of this nature, the burden of proof shift to the person who allegedly sells or buys a girl knowing that the girl will be forced into prostitution.

The above table reveals the various crimes committed against

children during 2003 – 2005. In this statistics, the cases relating to, exclusively, child prostitution, *inter alia*, are: procurement of minor girls and buying/selling of girls for prostitution.

Cases relating to procurement of minor girls reported a decrease of 29.3% in 2005 as compared to 2004. incidence of buying/selling of girls for prostitution reported an increase.

CAUSES OF CHILD PROSTITUTION – AN OVERVIEW OF STUDIES

Child prostitution is viewed as a factor contributed to dehumanization of future generation because it is detrimental to the child socially, physically, emotionally and also deprives the kid of his/her rights to lead a normal life. Despite this realization the situation is deteriorating and the number of child prostitution is rapidly increasing. Because of the factors like physical

attractiveness and vulnerability, there has been no redemption from grinding poverty and ignorance/illiteracy. Moreover, temptation, greed, desire to have sex with young girls to maintain strength and to secure protection from diseases like STD/AIDS and need for new kind of sensations, specially by pedophiles are on the rise and they create a demand for child prostitutes.

A study conducted by Janus and Bracey (1980) on child prostitution and pornography in the United States, identified three broad groups among children who leave their home environment.

1. Run away who persistently and determinently leave the home.
2. Walk away who come and go from their homes.
3. Throw away who are rejected, (or) whose absence are of little (or) on consequence to the parents.

The researchers also found that the majority of the children are involved in this practice, come from households with one (or) more of the following characteristics.

- a. The family is non nuclear (73%)
- b. There is parental drug abuse (26%) or alcohol abuse (60%)
- c. There is sexual abuse in the home (64%)

A study conducted by the Central Social Welfare Board (1991) in six metropolitan cities in India showed that 36% prostitutes were below 20 years of age at the time of entering in to prostitution. The study further revealed that

- 14.9% was below 15 years.
- 24.5% was between 16 to 18 years
- 27.7% was between 19 to 21 years and
- 32.9% were 20 years and above.

The causes of entry into prostitution were economic distress (44%) (Maharukh, 2000).

A study conducted by women's rehabilitation center of Katmandu on child of Nepalese origin in Bombay brothels, revealed that more than half of the respondents cited, poverty and unemployment as the reason for prostitution. In addition, the children also said they were deceived by village men and relatives. Finding of this study also showed that each year 5000 – 7000 girls and women were trafficked into other countries for prostitution, 20% of them are under sixteen years (Tandon, 1997).

Gosh (1996) said that Travel Agencies and leaders in West Germany who advertise most especially for Thailand, the Philippines and Hong Kong, but also forcefully for African countries and Kenya in particular, reject the suggestion that they are promoting sex trade and prostitution, it emphasize seriousness. There are no statistics about the numbers of advertisement for sex tours, nor about number of trippers who visit the mentioned countries specially because of sexual interests.

A study was conducted by Sen (2005) on 'Trafficking of Women and Children in India' sponsored by Human Rights Commission in 2004. The findings of this study clearly stated that of 4006 persons, a large majority being children were trafficked for prostitution, labour and other exploitation. It is also shocking to note that 90.9% of the victims have not been rescued even once. 6% have been rescued once before and 2.7% have been rescued twice but were subsequently re-trafficked into brothels.

In 1996, the UN special rapporteur on the sale of children, child prostitution and child pornography stated that, "all reports indicate a dramatic escalation of the number of sexually exploited children all over the world" (Baker, 1999).

A study was conducted by The Indian Child on child trafficking (1990-97) the researchers found that the ratio of child prostitutes to total prostitutes is 30:100. One-fourth of the estimated 2.3 million sex workers are minors. A majority of girl prostitutes are from urban slums, rural areas of drought prone and backward districts (The Indian Child, 2002).

CONCLUSION

A large number of children are in difficult circumstances and need carefully designed welfare services. Unfortunately, no much is known either of the nature of the problems faced by such children or the number involved. Child prostitution cannot be tackled by just legal and administrative measures. Strong political will, development of intelligence on trafficking, training of enforcement agency official, accountability for deliberate lapses, and stringent measures by police to crack trafficking networks, apprehend and prosecute the criminals, and secure their conviction are necessary. Moreover, Non Governmental Organizations can play a very important role in identifying families at risk, developing contacts for supplying information, setting up short stay homes, and keeping vigil at railway stations, bus stations, pilgrimage centres, tourist spots, and the like. Since interventions and programmes should not be based on hunches, it is important that new and old problem areas are researched in depth so that long and short tem strategies can be designed, so that the focused and need based services can be organized.

SUGGESTIONS

The authors of the present article suggest the following measures for the prevention of child victimization.

1. To combat child prostitution, improvement in access to and quality of education, consciousness raising in

- communities and advocacy for the child should be provided or made available.
2. Sensitization programmes should be conducted for those who are dealing with children rescued from the flesh trade. They should be sensitized because the sensitization has its potential for prevention of secondary victimization of the children.
 3. Crisis intervention centers should be established and maintained by the Government in association with reputed Non Governmental Organizations to look after and to take care of the needs of the child prostitutes rescued from brothels.
 4. The middlemen, brokers give false promises to the gullible parents that they would employ their children as domestic help, helpers in cottage industries etc., but they sell the children to the flesh trade. Therefore, awareness programs should be conducted for the vulnerable parents. In this context, the State machineries and NGOs should organize special programs for the parents of children who are vulnerable to prostitution to prevent the victimization.
 5. The members of the community in general and the parents, relatives, neighbours and friends of the child prostitutes in particular need to be sensitized. This is vital because they use to blame the child victims for their victimization. Almost all the children were trapped into flesh trade. They do not enter into prostitution either voluntarily or willingly. This point should be made clear to all those concerned. This will help to stop victim blaming.
 6. The media can play a vital role in providing preventive tips to those who are vulnerable to child prostitution. Especially the visual media has a significant role to play in term of portraying some documentary films on how to prevent child prostitution and also the different characteristics of the traffickers can also be portrayed. This will have a very good impact on the society in general and the vulnerable groups in particular.
 7. The police can play a very vital role in the prevention of child prostitution and the rehabilitation of the rescued child victims. The police can effectively prevent child prostitution by uprooting the underlying causes. In the process, the police alone cannot yield the desired results. However, it can be achieved by joining hands with the member of the community. Hence, it is very important for the police to get public support to combat crime in general and child prostitution in particular.
 8. The law enforcement agency could be of great help to the rescued child victims of the flesh trade. Immediately after rescuing the children from the flesh trade, it should be the bounden duty of the police to house them in a safer place. The police can arrange for a group or individual counselling by the trained counsellor. The police can also arrange for vocational training to the children. This apart, the police can help them to get medical assistance or treatment.
 9. The student volunteers in the National Social Service (NSS) scheme can play an important role in preventing child prostitution. They can organize programmes such as skit, miming and street plays etc., to create awareness of the circumstances and situations in which the children are found to be vulnerable to prostitution.
 10. The Government of India should enter into an agreement with the neighboring countries, particularly Nepal and Bangladesh in effectively preventing the migration or transport of children for prostitution in India.

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Three GOLD MEDALS in GOLF for INDIA in WORLD POLICE & FIRE GAMES, 2007 ADELAIDE, AUSTRALIA

World Police and Fire Games are organized by World Police and Fire Games Federation, San Diego USA every two years. The last games were organized at Quebec city Canada in 2005. In 2007 they were held in Adelaide Australia since 16th of March 2007 to 25th of March 2007. In the tournament about 12000, athletes participated in around 80 events. Golf is one of them. I participated in World Police & Fire Games 2003 held in Barcelona, Spain, for the first time in Golf from India. That was the first ever participation by any Indian Police Officer from India. I won Gold medal in my category. I also participated in 2005 games held at Quebec city Canada in Team net category and won Silver medal.

In the presently held tournament at Adelaide Australia the Golf event was held on following three Golf courses, on 18th, 19th & 20th of March, 2007

1. Garange Golf Club
2. Koyoonga Golf Club
3. The Royal Adelaide Golf Club

A dream coming true, performing for my country, was done by me in Golf in the recently concluded World Police & Fire Games, 2007 Adelaide Australia, and won three Gold Medals for my country, INDIA.

I come from a small village namely KULTANA in District Rohtak Haryana. I knew nothing about Golf till in 1997, when I took up golf as a challenge and practiced hard. In 1999 I not only won a prestigious “Wills Northern Open” Golf tournament but also established myself as a good golfer. After that there was no looking back. I participated in golf tournament of National and International level. Some of the important ones are..

1. Northern Wills Open - 1999 (Amateur) - Winner
2. Northern Wills Open - 2000 (Amateur) - Runner up
3. Participated in **National Games-2001** held at Punjab as member of **U.P.State Golf Team**.
4. Winner of - 2001 UPPAC open Golf Cup - 2002 U.P.Police open Golf Cup.
5. **Winner of All India Police Golf Championship-2001** both in Individual event as well as Team Event, & was declared **Best Golfer of the Indian Police**.

DETECTION OF DECEPTION THROUGH SCIENTIFIC METHODS-POLYGRAPHY, NARCO-ANALYSIS AND BRAIN FINGER PRINTING-THEIR VALIDITY AND LEGAL ACCEPTABILITY

Swapneshwar Goutam and M P Goutam

INTRODUCTION

Lying in humans is commonplace and relevant to many areas in life. The successful implementation of a deceit may provide the deceiver with obvious advantages, and unmasking a lie may provide social and economic advantages for the lie catcher. This is especially true in criminal investigations where evidence is gathered from information elicited from suspects. Better understanding of the lying behavior may therefore be useful in finding out whether a given person is deceptive regarding a specific, usually criminal, event. Toward this end, efforts

are invested in developing individual skills to detect deception from other people's verbal and nonverbal behavior. However, research in social and cognitive psychology has demonstrated the inability of human lie catchers to detect deceit. The critical task of the criminal justice system is to determine who has committed a crime. The key difference between a guilty party and an innocent suspect is that the perpetrator of the crime has a record of the crime stored in their brain, and the innocent suspect does not. Until the invention of Polygraph, Narcoanalysis and Brain Fingerprinting testing, there was no scientifically valid way to detect this fundamental difference.

The search for effective aids to interrogation is probably as old as man's need to obtain information from an uncooperative source and as persistent as his impatience to shortcut any tortuous path. Historically, many of the early attempts to detect deception were founded on magic and mysticism. According to Elaad¹, all the ancient attempts could be classified as trial by torture, combat or ordeal. Torture was used to make the presumed guilty person confess his guilt. Torture was used as investigation of truth and not as punishment. Therefore, it was used for witnesses as well. However, there were some limitations to the use of torture. It was only used when the accused was about to confess. The presumption of guilt led to the use of cruel methods to force the accused to confess. Hence all the odds were turned against the accused and only few escaped.

Trial by combat was based on the adoption of divine judgment and contestants let the outcomes of the battle decide who is truthful and who is not. Such a belief assumes that the adversaries should defend their claims themselves. However, the efficacy of judicial combat is questionable. The injustice of both torture and trial by combat, their fallibility, and the advance of civilization encouraged the search of more modes to detect guilt.

Ordeal was based on the belief that God will protect the innocent and punish the guilty person. It is another way by which people cast their doubts on a higher power. The literature refers to ordeal of boiling water, the ordeal of cold water, the fire ordeal, the ordeal of balance, the ordeal of rice chewing and

a variety of other ordeals. In an era of skepticism, ordeals cannot provide the solution. Hence, it has to be replaced by methods that better reflect the spirit of time.

These methods were discarded in the long run of time due to their unscientific base and their reliability. Therefore, alternative methods for detection of deception were applied from time to time. In these efforts *paper and pencil integrity tests* were developed to predict future thefts and other counterproductive behaviors of employees in the workplace. These tests were used in pre-employment screening and for other selection purposes. These tests can be divided in to two groups: (1) Overt integrity tests that ask applicants about their attitudes towards theft and other dishonest activities and about their own involvement in such behavior.

(2) Other tests disguise their purposes and include questions about dependability, conscientiousness, social conformity, trouble with authority and hostility. Integrity tests assume that honest people will be honest in all situations, and dishonest people are consistent in showing dishonest behavior.

Integrity tests are controversial². The US Office of Technology Assessment (OTA)³ reviewed the research on integrity tests and concluded that there is no scientific support for the claim that integrity tests can predict dishonest behavior. The report asserts that integrity tests are biased against the applicant yielding a high rate of false positive errors - classifying an honest applicant as dishonest. Other methods which were

invented to detect deception are based on the *analysis of statements*. Transcripts of statements made by suspects or by witnesses in which they detail what they did or what they saw are analyzed. The methods assume that truthful statements differ from false ones in both content and quality. One method, which was developed for the assessment of child witnesses in sexual abuse cases, is known as 'Statement Validity Analysis' (SVA). Another method through which deception may be detected is the Scientific Content Analysis (SCAN). A third method suggested that the number of distinct words in a statement (types) should be divided by the total number of words (tokens). It was suggested that a higher type token ratio may indicate deception. But these methods are not in use now-a-days.

Another approach for lie detection was tried, i.e. *Detection of emotional stress in the voice*. Several devices were invented for this technique. The Psychological Stress Evaluator (PSE) was invented and received more attention than others. The PSE was said to detect changes in the infrasonic frequency modulation that vary between 5 Hz and 20 Hz. These modulations are controlled by the central nervous system and disappear during stress. The theoretical basis of the PSE was criticized as invalid, and experimental studies failed to establish its validity. The popularity of the PSE declined, and today it is rarely used. However, the interest in the voice as a potential channel for the detection of deception remains intact. New technologies were developed, and recently a computerized system called the 'TrusterPro' was introduced. However, the validity and legal acceptability is in question.

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1. Elaad, E., Detection of Deception In Encyclopedia of Forensic Science, Siegel, J. A., Saukko, P. J. and Knupfer, G. C., Academic Press, London, 2000, Vol. II, p. 550
 2. In reference 1 p 552
 3. Scientific validity of polygraph testing, A research review and evaluation, A technical memorandum, Wahnington, D.C., U.S. Congress Office of Technology Assessment, Nov., 1983

ADVANCED TECHNOLOGIES

Gradually the detection of deception methods became more sophisticated and use of more advanced technologies came into existence. Use of hypnosis in detecting deception was tried with views that hypnosis represents a special form of consciousness which permits access to hidden parts of the mind and/or that the hypnotized individual is affected by the social situation. But in both the conditions, hypnosis has no truth-compelling capacity. The person under hypnosis retains control and is able to judge events, and therefore can lie.

PSYCHOLOGICAL DETECTION OF DECEPTION

Psycho-physiological disorders received a good deal of study by psychologists, psychiatrists and physiologists. It was found that these disorders of the body, or soma, are due to psychological events. The theory emphasized that a close relationship between 'body' and 'mind' exists and the interaction between the two is named psycho-physiological or psychosomatic reaction. Although the theory of psychosomatic interaction appeared to be a new development, yet historically it was as old as human thinking about mind and matter. There are enough instances where this theory had been successfully applied for medical diagnosis. The modern lie detection techniques are also based on the principles of psychosomatic interaction. The emotions experienced by an individual cause certain physiological disturbances. The emotions and the physiological effects are always found to go together. Thus, the emotions of a person can be visualised from the physiological manifestations. The traditional polygraph works on the principle that perception or consciously held feelings of guilt produce a defence

reaction which manifests itself in the form of physiological changes (in blood-pressure, pulse-rate, respiration rate, electrical resistance of the skin, etc.). The fear induces a person to tell lies. This psychological phenomenon causes mental excitation. The individual attempts to conceal the excitation, known as 'defence mechanism'. It stimulates the adrenal glands to secrete the hormone, adrenaline, which on entering the blood stream steps up the blood pressure and rate of pulse and respiration of the individual.

Polygraph tests were developed to help criminal investigators in situations where they are required to decide whether or not to believe the suspect. There are two major polygraph procedures, the CQT and the GKT.

CONTROL QUESTION TECHNIQUE (CQT)

The most common psychological detection methods are the variety of procedures known as the Control Question Technique (CQT). Basically the CQT contains three types of questions

1. Relevant Questions
2. Control Questions
3. Irrelevant Questions

The inference rule underlying the CQT is based on a comparison of the responses evoked by the relevant and control question. Deceptive individuals are expected to show more pronounced responses to the relevant questions whereas truthful individuals are expected to show larger responses to the control questions.

GUILTY KNOWLEDGE TEST (GKT)

Guilty Knowledge Test also known as Concealed knowledge test (CKT) is a less controversial polygraph

test. The GKT is used in applied settings to detect information that a suspect cannot or does not wish to reveal. The test utilizes a series of multi-choice questions, each having one relevant alternative (e.g. feature of the crime under investigation) and several neutral(control) alternatives, chosen so that an innocent suspect would not be able to discriminate them from the relevant alternative. Inferences are made on the basis of the GKT by comparing the responses elicited by the relevant item with the responses to irrelevant items. Only if the responses to the relevant item are consistently larger, is guilty knowledge inferred. This provides a proper control against false positive outcomes, in as much as the likelihood that an innocent examinee might show consistently greater responsiveness to the correct alternative just by chance can be reduced to a low level by adding irrelevant items and by utilizing more GKT questions. In the robbery case, the guilty suspect, who later confessed, responded to both relevant items.

To evaluate the validity of utilization of GKT Tests studies were carried out at different levels. A review of 15 GKT mock crime experiments revealed that the rate of correct detection reported in simulated GKT experiments is quite impressive. It was found that across these 15 studies, 80.6% of 299 guilty examinees and 95.9% of 291 innocent examinees were correctly classified. Furthermore, in eleven of the studies, no false positives were observed. This supports the notion that the GKT can protect the innocent from false detection. To establish the accuracy of the GKT in real-life criminal investigations, two field studies were designed⁴. In both studies, the amplitude of the electrodermal response was used as an index of guilty knowledge. Excluding inconclusive

4. Elaad,E., Detection of Guilty knowledge in real life criminal investigation ,Journal of Applied Psychology, 1990, 75:521-529

outcomes, a very high detection rate for innocent suspects (97.9% and 97.4%, respectively) has been obtained. However, both studies reported a considerably lower detection rate for guilty suspects (50% and 53.3%, respectively). It was concluded that the GKT is a standard psychological test.

However, there is major controversy regarding its validity. Opponents of the CQT suggest it should be replaced with the more standardized and scientifically based GKT. However, in many cases the GKT can not be an alternative for the CQT. Furthermore, GKTs are considered unimportant by federal law enforcement agencies in the US and are almost never used in criminal cases.

According to William G Iacono⁵, A Distinguished McKnight University Professor and Director, Clinical Science and Psychopathology Research Training Program at the University of Minnesota published a research paper on Forensic Lie Detection : Procedure without scientific basis in 2001. He reported that “Although the CQT may be useful as an investigative aid and tool to induce confessions, it does not pass muster as a scientifically credible test. CQT theory is based on naive, implausible assumptions indicating (a) that it is biased against innocent individuals and (b) that it can be beaten simply by artificially augmenting responses to control questions. Although it is not possible to adequately assess the error rate of the CQT, both of

these conclusions are supported by published research findings in the best social science journals (Honts et al.⁶, Horvath⁷, Kleinmuntz & Szucko⁸, Patrick & Iacono⁹). Although defense attorneys often attempt to have the results of friendly CQTs admitted as evidence in court, there is no evidence supporting their validity and ample reason to doubt it. Members of scientific organizations who have the requisite background to evaluate the CQT are overwhelmingly skeptical of the claims made by polygraph proponents”.

LIE-DETECTOR

Lombroso, the founding father of criminology in 1895, was the first to experiment with a machine measuring blood pressure and pulse to record the honesty of criminals. He called it a hydrosphygmograph. A similar device was used by Harvard psychologist William Marston during World War I in espionage cases, who brought the technique into American court systems. In 1921, John Larson added the item of respiration rate, and by 1939, Leonard Keeler, one of the founding fathers of forensic science, added skin conductance and an amplifier, thus signaling the birth of the “polygraph” as we know it today. Polygraph (Lie-Detector) is based on the principle of psychosomatic interactions of an individual, i.e. psychologically a change in a person’s consciously held feeling produces a defence reaction in the form of physiological changes in his blood pressure, pulse rate, respiration and

electro-dermal response(GSR). Actually, the fear of detection, hence, punishment, induces a person to lie, which in turn, produces these uncontrollable physiological reactions. There is mental excitation due to the feeling of guilt and the mental effort put forth by the person in an attempt to conceal the excitation. This stimulates the adrenalin, which on entering the blood stream secrete the hormone adrenalin, which on entering the blood-stream steps up the respiration, blood pressure, pulse rate etc. The polygraph is found to be sound and reliable technique for detecting deception. The vast majority of studies into the reliability of polygraph have given encouraging results. Numerous research findings, and works in the field of medicine, have justified the connection between involuntary (sympathetic nervous system) physiological changes and emotional states related to truth-telling or deception. However, polygraphic examinations are not legally admissible unless there is a stipulated agreement prior to trial.

In spite of its proven utility, its legal admissibility has attracted considerable debate in countries where it is being extensively used. In India, where the expertise at the moment is in its infancy, the issue is likely to be raised when other States will also have functional Polygraph Divisions. Deb¹⁰ remarks that according to section 162 and 342 of the C. P. C. of India, Section 25 of the Indian Evidence Act and Sub Clause 3 of Article 20 of the Constitution

5. Iacono, W. G., Forensic Lie Detection : Procedure without scientific basis, Journal of Forensic Psychology Practice, 2001, 1(1):75-86
6. Honts, C. R., RAskin, D. C. and Kircher, J. C., Mental and physical countermeasures reduce the accuracy of polygraph tests, Journal of Applied Psychology, 1994, 79:252-259
7. Horvath, F., The effect of selected variables on the interpretation of polygraph records, Journal of Applied Psychology, 1977, 62:127-136
8. Kleinmuntz, B. and Szucke, J. J., A field study of the fallibility of polygraphic lie detection, Nature, 1984, 308:449-450
9. Patrick, C. J and Iacono, W. G., Validity of the control question polygraph test: The problem of sampling bias, Journal of Applied Psychology, 1991, 76:229-2381
10. Deb, R. , Principles of Criminology, Criminal Law and Investigation, Sircar & Sons, Calcutta, 1968 , Vol. I

of India there are insuperable difficulties in the way of the acceptance of Lie detection evidence against the accused. Nevertheless, if the test is conducted by an expert other than a police officer, the Courts may not have objection to accept it evidence. Therefore, following above, it should not be concluded that the test, if conducted by a person other than a police officer, the Indian courts may admit the results as evidence. In all probability, similar objections as were raised in other countries may arise in India. Against this backdrop, the present study was undertaken, mainly drawing from other countries to see the criticism against its use, the rebuttal by experts and the basis on which finally some judicial recognition came along¹¹.

According to Chris Gugas¹², a Polygrapher, on the Validity of Polygraphy viewed that

"When we lie, our blood pressure goes up, our heart beats faster, we breathe more quickly (and our breathing slows once the lie has been told), and changes take place in our skin moisture. A polygraph charts these reactions with pens on a moving strip of paper... The result is jagged lines that don't convey a lot to you. But... an examiner can tell from those mechanical scribbles whether or not you've spoken the truth..."

Much have been told about use of polygraphic technique for lie detection and its validity and its legal status. If polygraphy is based on scientific principles in that case for what reason(s) its legal admissibility is challenged? What are the main arguments against its use? What

explanations are given by experts to that the question of applications and legal admissibility- of polygraph could properly be assessed. Efforts have been made to review the different views by various authorities in above references.

THE NATIONAL ACADEMY OF SCIENCES REPORT

In January 2002, the National Research Council, the research arm of the National Academy of Sciences, USA established a Committee to Review the Scientific Evidence on the Polygraph, Chaired by Dr. Stephen Fienberg, a professor of statistics at Carnegie-Mellon University, the panel comprised experts in psychology, psychophysiology, statistics, systems engineering, mathematics, neurology, signal detection, and issues concerning science and the law.

The Committee published its findings in a report titled 'The Polygraph and Lie Detection' (National Research Council, 2003). Regarding the basic science behind polygraphy, the Committee concluded.

- *Almost a century of research in scientific psychology and physiology provides little basis for the expectation that a polygraph test could have extremely high accuracy.*
- *The theoretical rationale for the polygraph is quite weak, especially in terms of differential fear, arousal, or other emotional states that are triggered in response to relevant or comparison questions.*

- *Research on the polygraph has not progressed over time in the manner of a typical scientific field. It has not accumulated knowledge or strengthened its scientific underpinnings in any significant manner.*
- *The inherent ambiguity of the physiological measures used in the polygraph suggest that further investments in improving polygraph technique and interpretation will bring only modest improvements in accuracy*

Estimating the accuracy of polygraphy, the Committee concluded:-

Notwithstanding the quality of the empirical research and the limited ability to generalize to real-world settings, we conclude that in populations of examinees such as those represented in the polygraph research literature, untrained in countermeasures, specific-incident polygraph tests for event-specific investigations can discriminate lying from truth telling at rates well above chance, though well below perfection¹³.

OTA REPORT

The Congressional Office of Technology Assessment in 1983, published a Study on the scientific validity of polygraph testing that one area of special concern in personnel security screening is the incorrect identification of innocent persons as deceptive¹⁴. All other factors being equal, the low base rates of guilt in

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11. A. K. Ganguly, Polygraph (Lie Detector) and its legal admissibility, Indian Journal of Criminology and Criminalistics, 1983, 3(3&4): 88-95
 12. Chris Gugas, On the Validity of Polygraphy, The Silent Witness, 1979
 13. National Research Council. (2003) The Polygraph and Lie Detection. Committee to Review the Scientific Evidence on the Polygraph. Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available on-line at :<http://www.nap.edu/books/0309084369/html>)
 - 14 See reference 3

screening situations would lead to high false positive rates, even assuming very high polygraph validity. For example, a typical polygraph screening situation might involve a base rate of guilt of one guilty person (e.g., one person engaging in unauthorized disclosure) out of 1,000 employees. Assuming that the polygraph is 95 percent valid, then the one guilty person would be identified as deceptive but so would 50 innocent persons. The predictive validity would be about 2 percent. Even if 99 percent polygraph validity is assumed, there would still be 10 false positives for every correct detection. The OTA review assumes that a polygraph screening validity rate of 95% entails that 95% of guilty subjects will be detected. But with an extremely low base rate of guilt, as is the case with espionage, such an assumption is not warranted. If we allow that not more than one in a thousand persons examined are actually spies, then an accuracy rate of at least 99.9% can be achieved by simply ignoring the polygraph charts altogether and peremptorily declaring all examinees innocent. Of course, the usefulness of such a "test" for catching spies would be zero. Yet this is essentially how the remarkably high accuracy rates claimed for some security screening programs (such as those of the Departments of Defense and Energy) are achieved. The interpretation of polygraph charts is manipulated so that almost everyone "passes."

OTA recognized that NSA and CIA believe that the polygraph is a useful screening tool. However, OTA concluded that the available research evidence does not establish the

scientific validity of the polygraph for this purpose. In addition, there was a legitimate concern that the use of polygraph tests for personnel security screening may be especially susceptible to: 1) countermeasures by persons trained to use physical movement, drugs, or other techniques to avoid detection as deceptive; and 2) false positive errors where innocent persons are incorrectly identified as deceptive.

Accuracy may be highly variable across situations. The evidence does not allow any precise quantitative estimate of polygraph accuracy or provide confidence that accuracy is stable across personality types, sociodemographic groups, psychological and medical conditions, examiner and examinee expectancies, or ways of administering the test and selecting questions. In particular, the evidence does not provide confidence that polygraph accuracy is robust against potential countermeasures. There is essentially no evidence on the incremental validity of polygraph testing, that is, its ability to add predictive value to that which can be achieved by other methods.

According to Inbau & Reid¹⁵ although, of late, the lie detector and deception tests have been able to the basic technique of detecting deception by interpreting the polygrams (recorded physiological responses) has occasioned to invite some criticism element of subjectivity present in the interpretation of polygrams. Some legal experts are of the view that the measurement of physiological changes

still have not gained sufficient scientific recognition. Other views are, however, not limited to the moral or ethical arguments only. They contain elements of all dissenting positions i.e. (i) the polygraph is not sufficiently accurate; (ii) it is not reliable; (iii) it is misused; and (iv) it is humiliating and degrading^{16,17}.

In recording his rebuttal, Cook¹⁸ observed; "Detecting deception through instrumental means from all outward appearance seems to be a relatively uncomplicated process, yet, it is only one facet of the entire investigation process which is aimed at garnering the truth. Truth, it is believed by some critical observers, can better be gained and can be more reliable, when elicited by means other than recording instrument. Perhaps this attitude is due, in part, to an ignorance of what the polygraph is and what its capabilities are when used by a qualified operator in a proper environmental situation".

Further, as an explanation to such criticism Holms¹⁹ elaborated that the method of polygram interpretation is subjective, experts observe that an able and experienced polygraph examiner by taking specific deception criteria into account can easily eliminate the subjective element from his interpretation.

Another criticism often labeled against the use of polygraph is its inflated blood pressure cuff which not only causes inconvenience and physical pain to the subject but also psychological injury in the sense that

15. Inbau, F.E. and Reid, J.E. Lie detection and criminal investigation, Willias & Wilkins, Baltimore, USA, 1953, 3rd ed.

16. Romig, C. H. A., The status of polygraph legislation of the fifty states, Police, 1971, 16:35- 41 (Pt. I), pp. 54-61 (Pt. II), pp. 55-61 (Pt. III)

17. Romig, C.H.A., Does the polygraph invade the mind, Security Management, 1973, 18: 16

18. Cook, R. E. (1968) Truth, Statistics and the polygraph, Police, 12:36-41

19. Holmes, W.D.(.) The degree of objectivity in chat interpretation, Academy Lectures on Lie Detection, Springfield, Thomas, USA, 1958, Vol. II

the develops a feeling of being tortured in a mild and indirect way.

According to Professor John J. Furedy²⁰ of the University of Toronto, the validity of the CQT has never been scientifically established, nor can it be: the so-called "Control Question Test" is utterly lacking in scientific "control," and it is not a standardized psychometric "test" such that its validity might be determined through scientific experimentation. Furedy explains regarding the "Control" Question "Test" that ...basic terms like "control" and "test" are used in ways that are not consistent with normal usage. For experimental psychophysiolgists, it is the Alice-in-Wonderland usage of the term "control" that is most salient. There are virtually an infinite number of dimensions along which the R [relevant] and the so-called "C" ["control"] items of the CQT could differ. These differences include such dimensions as time (immediate versus distant past), potential penalties (imprisonment and a criminal record versus a bad conscience), and amount of time and attention paid to "developing" the questions (limited versus extensive). Accordingly, no logical inference is possible based on the R versus "C" comparison. For those concerned with the more applied issue of evaluating the accuracy of the CQT procedure, it is the procedure's in-principle lack of standardization that is more critical. The fact that the procedure is not a test, but an unstandardizable interrogatory interview, means that its accuracy is not empirically, but only rhetorically, or anecdotally, evaluable. That is, one can state accuracy figures

only for a given examiner interacting with a given examinee, because the CQT is a dynamic interview situation rather than a standardizable and specifiable test. Even the weak assertion that a certain examiner is highly accurate cannot be supported, as different examinees alter the dynamic examiner-examinee relationship that grossly influences each unique and unspecifiable CQT episode.

Thus according to Professor Furedy, the CQT is not a standardized "test," but an "unstandardizable interrogatory interview." Polygraph evidence has a long history of legal and scientific controversy in courts throughout the country. This paper examines the major case law in this area and illustrates the current state of the law of polygraphs.

POLYGRAPH EVIDENCE - OVERVIEW

The first landmark decision addressing the admissibility of polygraph evidence was *Frye v. United States*²¹. The issue in *Frye* was the admissibility of the systolic blood pressure test, an unsophisticated precursor to the modern polygraph. The *Frye* court excluded the test, finding the evidence was not admissible unless the proponent of the evidence showed that the science involved with this test was generally accepted in the relevant scientific community from which it emerged. The *Frye* test subsequently became the primary standard for determining the admissibility of scientific evidence throughout the country²².

Following *Frye*, for 50 years, virtually every state and federal court refused to admit polygraph evidence. In 1993, the Supreme Court replaced the *Frye* test with the standards set forth in *Daubert v. Merrell Dow Pharmaceuticals*²³. Under *Daubert*, the proper inquiry concerning scientific evidence is based on Federal Rule of Evidence 702 and asks whether the scientific evidence is relevant and reliable. The pertinent factors to consider under *Daubert* included, (1) whether the theory or technique on which the testimony is based is capable of being tested; (2) whether the technique has a known rate of error in its application; (3) whether the theory or technique has been subjected to peer review and publication; (4) the level of acceptance in the relevant scientific community of the theory or technique; and (5) the extent to which there are standards to determine the acceptable use of the technique. None of the factors was considered dispositive and the test was to be applied in a flexible manner. This view was also adopted in *Kelly v. State*²⁴, adopting a similar test under Texas Rules of Evidence.

Following *Daubert*, state and federal courts throughout the country began to re-examine the per se ban on polygraph tests. The results have ranged from a significant number of jurisdictions adhering to the per se rule against admissibility, while others relaxed their rules and began to admit polygraphs in limited circumstances. In fact, the per se exclusion of polygraph tests is now the minority view among the Federal Circuits. See *United States v. A & S Council Oil Co.*²⁵, noting that

20. Furedy, J. J., The North American Polygraph and Psychophysiology: Disinterested, Uninterested, and Interested Perspectives, *International Journal of Psychophysiology*, 1996, 2:2-3

21. 293 F. 1013 (D.C. Cir. 1923).

22. Sevillo, Polygraph 1984: Behind The Closed Door of Admissibility, 16 U. West L.A. L. Rev. 5, 6, (1984).

23. 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 468 (1993)

24. 3824 S.W.2d 568 (Tex. Crim. App. 1992)

25. 947 F.2d 1128, 1134, n.4) (4th Cir. 1991)

circuits that have not yet permitted evidence of polygraph results for any purpose are now in the decided minority.

New Mexico has the most liberal rules (New Mexico Rule of Evidence 11-707) and generally admits polygraph evidence in the same way as other expert evidence²⁶. At least fourteen states follow a standard for admissibility similar to Daubert²⁷.

According to Bailey and Rothblatt²⁸, the courts place a higher standard on the acceptance of polygraph evidence than any other scientific evidence e.g. finger prints, handwriting analysis, ballistics, etc. the courts are seeking infallibility before granting judicial recognition to polygraph evidence.

In the same context, Wicker²⁹, of the College of Law University of Tennessee, wrote *"If and when convincing evidence is produced that reasonably reliable scientific methods of exposing falsehoods either in or out of the courtroom are available, these methods should be promptly utilized by the legal profession"*.

Ansley³⁰ said that the polygraph, even with the strict rules of evidence against its use, has progressed to the point where many courts in USA now use the results of polygraph examination in their decisions.

Judge Rodger Alton Ptaff of the Supreme Court of Los Angeles Country

has stated (1964): *"An adequate polygraph in the hands of competent examiner can be an adequate aid in the administration of justice"*. In a similar context Badroski³¹ states: "The present legal attitude with respect to the lie detector reflects a position which has not been materially recast since 1923. At that time, the instrument was merely a device concerned with the recordings of blood pressure variations. It has since matured into a sophisticated procedure employing numerous physiological measurement, which when in the hands of a competent examiner, is commensurate with, and even superior to most of the presently approved forms of evidence, scientific as well as non-scientific, that feature in criminal and civil trials".

Although, value of polygraph technique, when used in a proper manner, warrants judicial reorganization, yet this does not imply unconditional acceptance. The endorsement is limited strictly to the area where the examination has exhibited at high degree of reliability in the hands of a competent examiner under the proper test conditions. The examiner, in all cases, must be available for cross-examination and court inquiry into the test environment, the reliability issue, and his personal qualifications.

Inbau³², clarifies that in criminal cases, the defendant must be advised of the right to counsel and the right to remain silent. On the issue of the lie detector test results their admissibility remark as evidence, Bailey & Rothblatt³³

that polygraph tests could be of immense help to courts in protecting the innocent, and in corroborating complaints for the just conviction of the guilty. The use of such evidence could effectively streamline our system of criminal justice and eliminate the need for many trials, without in any way imparting, the fairness or efficiency of the jury process' "In these troubled times when courts are backlogged with controversies of every kind and lawyers and judges are forced to rely on a system where mendacity among the litigants, is more often the rule than the exception, the polygraph technique could precipitate dramatic and bountiful improvement in our law. The concerned speculation that juries will give away to polygraphs as a system of justice, if perhaps plausible, is by no means sound. Much more likely is the fact that those litigants and witness who are not inhibited by an oath will, knowing that means of checking their proposed testimony is available, make much less frequent appearances on the witness stand. If guilty defendants are persuaded to plead guilty because of the presence of the polygraph in our column of scientific evidence, goodwill certainly be the product of this development. Certainly other scientific progress in the past has reduced the opportunity of the guilty to escape justice and enhanced the likelihood that the innocent will not be tried at all.

In late 1972, the New Jersey Supreme Court ruled that results of lie detector tests may be used as evidence

26. State v. Dorsey, 88 N.M. 184,539 P.2d 204 (N.M. 1975)

27. Peeples Exulpatory Polygraphs in the courtroom: How the truth may not set you free, 28, Cumbo L.Rev.77,115,n6,1997-98.

28. Bailey, F. L. and Rothblatt, H. B. , Investigation and preparation of criminal cases , Federal and State Lawyers Co-op., Banerfort Whitney, Rochester, NY, USA, 1970

29. Wicker, W. , Polygraph truth test and the law of evidence, Tenn. L. Rev., 1953, 22:711.

30. Ansley, N. , Legal admissibility of polygraph, Charles C. Thomas, Springfield, USA, 1973

31. Badroski, A. S., The polygraph revisited: an argument for admissibility, Criminal Law, 1970, 6:2

32. Inbau, F. E., Legally permissible Criminal interrogation tactics and techniques, Jr. Police Sc. Admn., 1976, 4(3):249-251

33. Bailey, F. L. and Rothblatt, H. B. , Investigation and preparation of criminal cases , Federal and State Lawyers Co-op., Banerfort Whitney, Rochester, NY, USA, 1970

in criminal trials, when the defence and the prosecution agree to it. **Judge Mark A. Sullivan**, who wrote the decision remarked “*we conclude that the polygraph testing has been developed into such a point of reliability that in a criminal case when the state and defendant enter into stipulation to have the defendant to submit to a polygraph test, and have the results introduced as evidence, such a stipulation should be given effect. Polygraph testing has sufficient probative value to warrant admissions under these circumstances. It must also appear that the examiner is qualified and the test administered in accordance with established polygraph techniques*”.

In Israel, contribution of polygraph is quite positive. Although, results are not acceptable as firm evidence, yet, in many cases the courts have expressed a positive opinion on polygraph test results. In a verdict cited by Cohen³⁴ the Judge stated: “I am pleased to see that the results of the polygraph test confirm the conclusion I arrived at through process of thought independent of the test. The findings of the Polygraph examination were helpful to the court in deciding in favour of the party whose words were found worthy of trust”. Similarly in another case cited by Cohen³⁵ the judge in a paternity case in 1960 stated, “It gave me a feeling of satisfaction to see that the polygraph in its own way, which in a sense in a step forward, arrived at the same point I reached in the lengthy and traditional way. I am not qualified to pass judgment on the effectiveness of the polygraph machine, but it seems to me the time has come consider whether this examination made by means of the polygraph should not be included among the beneficial and even essential laboratory tests for detection of the trust. Naturally, this authority lies in the hands of the

legislators, but perhaps the time has come for them to inquire into the matter, perhaps through a committee of experts which will check to see if it is desirable to turn the polygraph examination, along with other examination, into an auxiliary tool for arriving at judgements”. Similar to USA, in Israel too, the prosecution and the defence in criminal cases frequently agree among themselves of the use of the polygraph examination on condition that the results will be a binding on both the parties.

It can be concluded that detection of deception by polygraph is an effective and valuable weapon and an indispensable aid in the investigation of the crime. By and large, lie-detector evidence has limited judicial recognition. In a few courts of America polygraph test results have been recognised for their value as an aid to investigation and in some cases the expert evidence relating to polygraph has been accepted. The experts in areas like fingerprints, firearms, identification questioned documents etc. have been widely acclaimed. But the polygraph experts have not received acceptance and recognition from the court.

Sharma³⁶ stressed that it is unfortunate because the polygraphists have established 95 to 98% accuracy of the lie detector in detecting deception or the truthfulness of the subjects in criminal investigations. On the basis of relevant scientific data on lie detector, it is strongly felt that the courts should accept deception test because it can furnish a fairly effective method and technique for the exposure of deception in a subject. Since polygraph interrogation is the best available method to detect deception, the time has come for the courts to admit this type of evidence.

NARCO-ANALYSIS

Another technique applied is that of Narcoanalysis (‘truth drugs’). According to Webster’s Dictionary, the word narco analysis had its origin in the 20th century and is coined from ‘narco-’ + ‘analysis’. It means psychoanalysis using drugs to induce a state akin to sleep. It is believed that if a person is administered a drug which suppresses his reasoning power without affecting memory and speech, he can be made to tell the truth. Some drugs have been found to create this ‘twilight state’ in some persons. In this analysis, the narcotics are used to induce a trance like state wherein the person is subjected to various queries. Under the influence of the drug, the subject talks freely and is purportedly deprived of his self-control and will-power to manipulate his answers. The underlying theory is that a person is able to lie by using his imagination. In the narcoanalysis test, the subject’s imagination is neutralized and reasoning faculty is affected by making him semi-conscious. The subject is not in a position to speak up on his own but can answer specific and simple questions. In this state it becomes difficult for him to lie and his answers would be restricted to facts he is already aware of. His answers are spontaneous, as a semi-conscious person is unable to manipulate his answers. Narcoanalysis was first used in psychiatric proceedings to facilitate communication with the emotionally disturbed patient. Drugs such as sodium amytal and sodium pentothal induced relaxation, ease, confidence and a marked verbal release. It seemed that the patient under the influence of the drug did not stop talking. The relief from inhibitions and the decreased self-protective censorship of speech led to the idea that using drugs would reveal the hidden truth. However, it soon turned out that

34. Cohen, H.V., The polygraph and research in Israel, Polygraph(Jr. American Polygraph Assoc., 1976, 5(3):235-243

35. Ibid

36. Sharma, B.R, Scientific criminal Investigation, Universal Law Publishing Co. Pvt. Ltd, Delhi, 2006,p. 67.

guilt-ridden people confessed under narco-analysis to offenses they had imagined but had not committed, and others denied crimes that objective signs indicated they had committed.

APPLICATION OF NARCOANALYSIS IN CRIME INVESTIGATION

This technique helps in eliciting useful information from the subject without the use of third degree. It also helps in eliminating the innocent person. Thus, its approach is the most humanitarian one as far as the field of criminal investigation is concerned. If an individual agrees to submit to such a test without coercion as he might submit himself to a "lie detector" test and if he is aware of the implications of such an exposure, there could be no objection to its use as an auxiliary to a properly conducted examination. In India, Gujarat FSL has made a beginning in using this technique and some of the famous cases like *Nithari Kand*. Legal acceptability of this technique in the courts as an evidence is yet awaited. According to Vaya³⁷, it is scientific, precise and humane in its approach when handled by the skilled experts. Scientific aids used for verifying the testimony includes lie detector or polygraph examination, forensic psychological assessments, and the new emerging technique of brain electrical activation fingerprinting. All these techniques are non invasive, humanitarian in their approach with established methodology on a scientific base. However, these techniques help in only verifying the veracity of the available information.

BRAIN FINGERPRINTING

Brain Fingerprinting is a standardized scientific procedure. The

input for this scientific procedure is the probe stimuli, which are formulated on the basis of the investigation and the interview. The output of this scientific procedure is a determination of "information present" or "information absent" for those specific probe stimuli, along with a statistical confidence for this determination. This determination is made according to a specific, scientific algorithm, and does not depend on the subjective judgment of the scientist. The electrical responses of the brain are involuntary and automatic. When a memory response is triggered by recall of past event or incident embedded in the experiential knowledge, the person may speak it out or express it in some way if he so chooses to do, or he may decide not to disclose it, in order to avoid undesirable consequences. Thus, the perpetrator of murder on suddenly seeing a photograph of the person whom he killed will have his memory triggered in form of a brain wave of certain recordable frequency, duration and voltage, but, he will, ordinarily, not speak about it to anyone and no one will know that he recognized that photograph. The same person when subjected to the process of brain electrical activation fingerprinting during investigation and probed in a scientific way will again recognize the photograph of the person killed by him, in the context of his involvement and the EEG would at that very moment record the cognitive information-processing activity in the brain (manifested by a P300 wave discovered in 1960's, which was probably the most thoroughly researched event related brain potential), betraying the recognition of the photograph, though, if asked, the person may flatly deny having seen or known that person. Here lies the evidentiary value of the relevant fact - whether the person probed had known the person killed? When he puts up a

flat denial in his expressive statement, the fact that his recorded brain waves i.e. the event markers showed recognition would indicate that the person is lying and though he knew the victim, he was denying having seen or known the victim. Likewise, in the assortment of the objects displayed on the computer screen during his probe, if he is suddenly confronted with the weapon which was familiar to him and used by him while committing the crime, his brain will recognize that weapon and that spark of the triggered memory will again be recorded in form of the measurable typical brain wave, the P300 event marker, which will betray his knowledge about the weapon being the same, which he may, if asked, consciously deny. The brain fingerprinting process is therefore projected to be a tool for collecting the evidence about the fact whether the person probed knows about the salient facts associated with the crime of which he has experiential knowledge stored in his memory. The process of subjecting the suspect to brain fingerprinting may reveal that he had no knowledge of the event or incident and an accurate probe may even establish his non-participation in the crime. The success of test would depend on how scientifically the probes are designed and the readiness of the concerned person to subject himself to the test.

Brain Fingerprinting determines scientifically what information is stored in person's brain. It does not determine how that information got there. In order for determination that certain information is (or is not) stored in a suspect's brain to be useful to a judge and jury, the significance of this finding with regard to the crime must be established. This is accomplished by the investigation and the interview, not by the Brain Fingerprinting test itself. Brain

37. Vaya, S. L., Narcoanalysis in crime investigation, Workshop on technical legal issues in connection with Polygraph, Narcoanalysis and brain mapping, LNIN NICFS, New Delhi, 26-28 Dec. 2006, p. 47-52.

Fingerprinting is similar to other sciences in this regard. For example, a fingerprint test can determine that a suspect's fingerprints match the fingerprints found at the scene of the crime, but the fingerprint test does not tell us whether that was because the suspect is guilty or because he was at the scene for a legitimate reason before the crime.

Science can only provide scientific data - in the case of Brain Fingerprinting, a determination of "information present" or "information absent" regarding specific details of a crime in a specific brain. Science, no matter how accurate and valid, is only useful in the context of an effective investigation. For example, the investigator must determine whether or not there is some innocent, legitimate reason why a suspect's fingerprints are at the scene of the crime in order for the scientific finding of a fingerprint match to have value in legal proceedings. In the absence of adequate investigation, science - no matter how accurate and valid - may have little weight in the judicial process. Brain Fingerprinting is no exception.

No science, including Brain Fingerprinting testing, determines whether or not a suspect is guilty of a crime. This is not a scientific but rather a legal determination. Science provides data that a judge or jury evaluate on the basis of common sense in making such a determination. Just as there is no scientific protocol that will determine exactly where a fingerprint expert will look for fingerprints, and what implications the presence or absence of fingerprints in a specific location have for the question of guilt or innocence, there is no standard scientific protocol in Brain Fingerprinting testing that will

determine what information stored in the brain, the scientist will test for. These are idiosyncratic details that will be very different from one case to another. As with every forensic science, such considerations are not determined by scientific protocol. Science can determine what information is or is not stored in a person's brain. Judges and juries determine on the basis of common sense and applicable law what implications these scientific facts have for their determination of whether or not the suspect committed the crime. *This distinction is not a weakness or shortcoming of Brain Fingerprinting testing or of science in general, but simply the demarcation line between what can be determined by science and what must be decided by human beings using their judgment in a legal arena.*

VALIDITY

The validity of this technique has been the matter of debate. **Dr. Rosenfeld**, a professor of Psychology and member of the Institute for Neuroscience at Northwestern University, believes that a considerable amount of research and field testing is necessary to establish the validity of event-related potential measures in detecting deception using a Guilty Knowledge Test. He indicated that only one field test has applied the Guilty Knowledge Test in a law enforcement setting, which resulted in an accuracy rate of about 44 percent³⁸. In addition, Dr. Rosenfeld does not believe that the developer had done the extensive validation of the test items for field use that has been recommended by the Guilty Knowledge Test's main proponent. Specifically, he believes that in administering the Brain Fingerprinting test to the defendant in the **Harrington case**, the developer used "art rather than science" in developing the stimuli that

were administered to the defendant. He questioned how one would know whether the items selected for a guilty knowledge scenario would be sure to work on any guilty party.

Dr. Rosenfeld also indicated he does not believe that memory automatically stores all of life's experiences forever. He indicated that current research has shown that memory is affected by various chemicals and conditions, such as alcohol and drugs, brain damage, mental illness, and extreme anxiety, during crime situations. He pointed to the example of extreme anxiety, suggesting that if someone just killed his wife, anxiety might prevent him from noticing what color shoes she was wearing. He does not believe the developer has done research on these issues. In terms of the Bain Fingerprinting's test results, Dr. Rosenfeld questioned the developer's claim of a 100% accuracy rate.

Furthermore, Dr. Rosenfeld believes that the **P 300** is a good index of recognition, but an indirect index of deception. It assumes that if the subject states that he or she does not recognize the murder weapon, yet elicits a P 300 when he or she sees it, then the subject is lying. He adds that such a conclusion leads to a reasonable, but not infallible inference that the subject is lying. However, a P300 response only indicates that there is something special and recognizable to him or her about that weapon may be because the subject committed the murder, but maybe because he or she read about the weapon in the news or because a brother has such a weapon. Dr. Rosenfeld indicated that there are no direct deception indices known at present but noted that researchers are working on one³⁹.

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38. Miyake, Y., Mizutani, M. and Yamahura, T., Event related potentials as an indicator of detecting information in field polygraph examinations, *Polygraph*, 1993, 22(2): 131-49.
39. United States General Accounting Office, Report to Honorable Charles E. Grassley, U. S. Senate entitled *Federal Agency Views on the Potential Application of "Brain Fingerprinting"* Oct 2001,

Similarly Dr. Donchin co-authored a journal article with Dr Farwell in 1991 in which use of the P300 in a Guilty Knowledge Test was first described⁴⁰. Dr. Donchin believes that the procedure described in the article (labeled more recently as “Brain Fingerprinting” by Dr. Farwell utilizes the scientifically well-established observation that rare events (i.e. stimuli) presented within the so-called “oddball paradigm” will elicit a P 300 component of the event-related potential. He indicated that a large body of peer-reviewed scientific literature, developed since 1965, supports this observation. However, Dr. Donchin believes that the specific application of the oddball paradigm for interrogations requires much further research. He indicated that it is important to realize that memory is an active, creative process and not a passive repository of stored images. He believes that while the P 300 is a well-established and documented phenomenon for determining whether an event (i.e. stimulus) has been classified as an item of a rare category, it is not clear that every item that is classified is one to which the person has been exposed to in the past. He referred to the phenomenon of “false memory” and said he believes that research has amply demonstrated that individuals can report a vivid memory that may be quite false. For example, a subject presented with a list of sleep-related items — such as “bed,” “sheet,” “dream,” and “snore”- will be certain that he or she had also been presented with the word “sleep,” even though it had not been included among the items presented. Dr. Donchin pointed out that the “falsely recognized item,” however, will elicit a sizable P300 response. In addition, he firmly believes that more research is needed to understand the effects of age; substances, such as alcohol and drugs;

and psychological disorders on memory and the P 300.

United States General Accounting Office submitted a detailed report to Honorable Charles E. Grassley, U. S. Senate entitled Federal Agency Views on the Potential Application of “Brain Fingerprinting” in 2001. According to this report, officials representing CIA, DOD, Secret Service, and FBI do not foresee using the Brain Fingerprinting technique for their operations because of its limited application. For example, CIA and DOD officials indicated that their counterintelligence operations and criminal investigations do not usually lend themselves to a technique such as Brain Fingerprinting because use of the technique requires a unique level of detail and information that would be known only to the perpetrator and the investigators. These officials indicated that they need a tool to screen current and prospective employees, which as indicated above, involves questioning a subject about events unknown to the investigator. Report also included the views of scientists on this technique.

A Brain Fingerprinting test can provide scientific evidence in answer to a scientific question: does a person have particular crime-relevant information stored in his brain, or not? This evidence must be evaluated, along with other available evidence, by a judge or jury to reach legal decisions such as whether a person is innocent or guilty of a crime. The legal issues - like whether a person is innocent or guilty - are decided not by science but by the judgment of the people empowered to make such decisions, the judges and juries, who take into account not only this science but also all the other evidence at hand.

As stated by Hon’ble Abichandani J.⁴¹, the judicial process is, by its very nature, aimed at deciding the controversies that arise before the courts and a scientific expert can hardly be able to grasp the significance of the entire judicial process in the context of various laws and myriad disputes that continue to be effectively dealt with by the courts.

According to Dr. Farwell all that is required is the eagerness on the part of the court to get the nature of the scientific tool and adduced before it. If the scientific expert is able to intelligibly articulate the nature of evidence, there is no reason why the court should not be able to understand and appreciate it.

The scientific evidences produced by forensic scientists, Psychologist and medical expert have been viewed differently in different cases and situations. The constitutional issues related to the brain finger mapping, e.g. Witness against himself, Expert witness, The credibility of an expert witness and Provisions of Section 45 of the Indian Evidence Act are being discussed briefly.

CONSTITUTIONAL ISSUE

No person accused of any offence shall be compelled to be a witness against himself as per the protection granted by **Article 20(3) of the Constitution**. Therefore, a suspect of the crime cannot be compelled to disclose facts, which he can recall from his memory, likely to implicate him in a crime in which he was involved. A person accused of an offence, therefore, cannot be compelled to subject himself to EEG test for finding out whether the information relating to the offence is stored in his brain. When on seeing the object familiar to the offender, his brain

40. Farwell, L. A. and Donchin, E., *The truth will out: interrogative polygraph (lie detection) with event related brain potential*, *Psychophysiology*, 1991, 28(5), 531-47].

41. Abchandani, R. K., *Evidentiary Significance of Brain Fingerprinting*, Workshop on Brain Fingerprinting :An important tool in the investigation of crime, Ahmedabad, 2004

emits a microvolt response of recognition, he may refrain from disclosing that fact under the constitutional guarantee. If he is agreeable to the knowledge of the crime being detected by subjecting him to the computer brain testing, he would rather give his version in response to an oral interrogation. Before subjecting a person accused of an offence to brain fingerprinting test, he should, therefore, be told in no uncertain terms that the information connected with the offence if it is stored in the memory of his brain will get detected and this would be done without his becoming aware of such information being extracted from his memory. Anything short of obtaining informed consent of the accused might raise a constitutional issue of violation of the fundamental rights guaranteed by Article 20(3) of the Constitution.

WITNESS AGAINST HIMSELF

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person accused of an offence to brain fingerprinting test, he should, therefore, be told in no uncertain terms that the information connected with the offence if it is stored in the memory of his brain will get detected and this would be done without his becoming aware of such information being extracted from his memory. Anything short of obtaining informed consent of the accused might raise a constitutional issue of violation of the fundamental rights guaranteed by **Article 20(3) of the Constitution**.

EXPERT WITNESS

An expert witness is not a witness of fact. His evidence is really of an advisory character. The duty of an expert witness is to furnish the judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the judge to form his independent judgement by the application of such criteria to the facts proved by the evidence of the case. The scientific opinion-evidence, if intelligible, convincing and tested, becomes an important factor for consideration along with the other evidence of the case.

THE CREDIBILITY OF AN EXPERT WITNESS

The credibility of an expert witness depends on the strength of the reasons stated in support of his conclusions and the data and material furnished, which form the basis of his conclusions, (See, **State of H.P. v. Jai Lal (1999)7SCC 280**). The evidence of an expert is considered rather a weak type of evidence and the Courts do not generally consider it as offering "conclusive" proof and therefore, safe to rely upon the same without seeking independent and reliable corroboration, (See, **S.Gopal Reddy v. State of A.P.(1996)4 SCC 596**).

Provisions of Section 45 of the Indian Evidence Act :

In the Scheme of the provisions of Section 45 of the Indian Evidence Act, 1872, it is the Court which has to form an opinion upon a point of science etc. for which purpose the opinion of the expert who is specially skilled in the field would be a relevant fact. The judge must, therefore, decide:

1. whether the witness is indeed expert in the field;
2. whether the field is a genuine area of science;
3. whether, given a positive answer to (1) and (2), his particular depositions are credible.

There would also be question of credentials of the expert witnesses. The most spectacular cases of lying detected, involved Chief of Serology at the West Virginia State Police Crime Laboratory, a pathologist for forty-two Texas counties, and an anthropologist "for hire" who is remembered for her bogus shoeprint and "Cinderella" testimony in a number of criminal cases, as noted by Richard H. Underwood, in his commentary: "Evaluating Scientific and Forensic Evidence" (See **American Journal of Trial Advocacy, Summer 2000, 24 AMJTA 149**). He has discussed how an anthropologist was available "for hire" by prosecutors who were shopping for an expert, and has observed: "*Despite the fact that forensic scientists may join, then tout their memberships in a variety of professional organizations, many of which have adopted codes of ethics, there is virtually no risk of sanctions from professional organizations.*"

CONCLUSION:

The key issue, of course, is regarding the acceptability of these

42. Workshop on technical legal issues in connection with Polygraph, Narco-analysis and brain mapping, LNIN, NICFS, New Delhi, 26-28 Dec. 2006.

forensic results in the courts. Between December 26 and 28, 2006, a workshop⁴² on technical and legal issues in connection with the polygraph test, narco-analysis and brain-mapping was held at the National Institute of Criminology and Forensic Science in New Delhi, which was also attended by senior police and judicial officers. The admissibility of these tests in courts was discussed at length and certain favourable recommendations with regard to their reliability were drafted for further action. It was felt that courts may accept the results of these tests as they are 'reliable' and based on modern

technology. The only point to be considered by the courts was that these tests be carried out by trained and qualified scientists. There is, however, a dearth of such experts in Indian forensic labs today. So the answer lies in providing extensive training within India and abroad to qualified scientists so that they can acquire expertise in these fields. In the process, they will be able to assist courts in a more meaningful manner without any shadow of doubt cast over their expertise and deductions. In the case of narco-analysis, in particular, the test merely confirms an already known fact. Such tests merely

make it easier for the court to accept the facts. Most importantly, nowhere is it written that these tests are not to be accepted in court proceedings.

It can be concluded that the methods applied for detection of deception have been found useful and sophisticated methods of interrogation, however their scientific validity and legal acceptability is a matter of debate among scientific and judiciary but **significant utility of Polygraphy, Brain fingerprinting and Narco-analysis in the criminal investigation cannot be overlooked.**

*Keep forever in view the momentous value of lie;
aim at its worthiest use—its sublimest end;
spurn, with disdain, those foolish trifles and frivolous vanities,
which so often consume life, as the locusts did Egypt;
and devote yourself, with the ardor of a passion,
to attain the most divine improvements of the human soul.
In short, hold yourself in preparation to make the transition to another life, whenever you shall be claimed by the Lord of the world.*

J. Foster

OPERATION AMAN

(A CRPF initiative on bridging the gap with people of J & K)

A P Maheshwari

BACKGROUND & OBJECTIVES

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

redeeming feature is the inherent commonality of purpose that is to establish normalcy and allow socio-economic activities to take place.

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

resentment against Indian security forces and personnel.

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

It is obvious that a routine approach would never yield expected results. Secondly, whatever may be the environmental constraints, unless a complete synergy with people is attained, the real multiplier effect of our endeavours may not be felt on the ground. It was, therefore, decided to tackle the environmental factors seriously and take proactive steps turnaround the negatives in our favour.. This led to the identification of the opportunities for intervention, the ideal tools to do it, finally culminating into what was condemned 'Operation Aman'.

IDENTIFICATION OF PROBLEMS

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

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

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

Misunderstandings : The breakdown in normal democratic channels of communications for long periods of time at the local political level has created an atmosphere of mistrust. The situation lends itself to misunderstandings of motives, aims, modus operandi and procedures of the security forces. It is easy to provoke and incite the people against the security forces when the people and inadequately briefed about the reasons behind most of the operations and actions of the forces.

KEY INNOVATIONS

Reaching out: The first and most important innovation has been the recognition of the fact that the forces and specially the leadership within the

force will have to take the initiative to reach out the people through whatever means available.

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

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

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

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

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

- Cultural programmes on important occasions for better public interface in an informal friendly environment.
- Broadcasting of “Hello Kashmir” programme on All India Radio/Radio Kashmir. This aimed at interacting with CRPF Jawans posted in the valley at various places and broadcasting messages for public too along with popular songs.
- “Phone In” programme on Radio Kashmir, in which both the force personnel and the local people participated where people could phone in at given time for resolving their problems and solutions were aired on Radio Kashmir. It led to accessibility with accountability and transparency.
- Musical jingles and drama spots were made and broadcasted on Radio Kashmir.
- A number of documentary films on local themes were made and telecasted on local television networks including private channels and government run Prasar Bharti.

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

- Adoption of villages (Kamalkote and Sarai Bundi) for infrastructure development was a major task. These villages were ravaged by the J & K earthquake, and in the immediate aftermath of the quake, the force had to provide

these two along with many other villages with food and essential commodities for several months.

- A number of intrinsically rich all India study tours (code named “Ehsas”) conducted for children from interior regions, disadvantaged groups and orphans of militancy. This also carried back home the feeling of National Integration.
- Promotion of sports and distribution of sports items to various schools and organizations remained on agenda. Sports have a universal language and appeal.

The youth in Kashmir have a lot of flair and craving for various sports but the schools are often lacking in facilities. This is being supplemented by the force. Championship tournaments were organized in Table Tennis, Lawn Tennis, Squash etc. “Run for peace” was organized in Srinagar where people from all walks participated.

- Boost to local music was given by organizing stage shows of local artists. Musical instruments were also distributed (Relief and Rehabilitation centre run by an NGO ‘Rahatghar’ in Srinagar).
- Health and hygiene remained high on priority. Mobile and semi-static medical camps in huge numbers were organized especially in interiors. This has made an immediate and expected impact of spreading happiness and goodwill. Regular blood donation camps, eye camps and AIDS awareness drives also yielding great benefits.
- Economic project for widows of militancy also formed part of this mission. Sewing machines

for institutions (Nehru Yuva Kendra, Badgam) helped many destitute women to stand on their own feet by developing economically relevant skills.

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

Respect and humility: It is important that nowhere in dealing with the people, position of superiority is displayed. Even in economic interventions, care has been taken to project utmost-respect towards those who receive the aid. The aim has been to establish partnership rather than domination through Ops Aman. The supervisory officers used by the command in the Operation have been thoroughly sensitized regarding the need to be humble - indeed, the message that is being sent through them is that the security forces are there to help the people get back on their foot and reclaim their rightful lives, rather than become dependent on the forces.

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

Constant and understated : The effectiveness of the project can only be ensured through its continuity and commitment towards its ideals. Single or random interventions of this nature will not have an impact, and Operation Aman is, therefore, getting sustained support from the command. Another important aspect has been to avoid propaganda

and moralizing through this project. The messages have been subtle, understated and pegging on basic principles of humanity and partnership.

Progressive : The ideas and concepts projected through the programme are progressive, integrative and developmental. Thus, the study tours for the children highlight the diverse cultural ethos of the country, promote receptiveness towards new ideas and cultures and foster integrative nationalism. While promoting sports and music, the projects aim at using the universal language of group activities and partnerships. The target groups are mostly the children, the disadvantaged and those living in remote regions that do not have access to modern means of communication and education.

SUCCESS STORIES : VOICES FROM J & K

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

CRPF HELPS EARTHQUAKE VICTIMS

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

HAZI MUSTAFA, HEADMASTER, GOVT. BOYS HIGHSCHOOL, KAMALKOTE

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

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

CRPF has given employment to youngsters and orphans of this village. This is highly motivating for us.

Mr. Fida Hazzan Manaz, Student, Kamalkote:

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

Miss. Jaswada Iqbal, Student Kamalkote:

EDUCATIONAL TOUR ORGANISED FOR ORPHANS AND DESTITUTE CHILDREN OF KASHMIR

Miss Zamrood, Superintendent, Rahat Ghar (An NGO)

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

Ms Naghat and Ms. Ulfat of village Machipora.

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

her younger sister Ulfat are living in Rahat Ghar since 2002. They enjoyed the study tour organized by CRPF. “We had a good time together, and we learnt a lot about our country”.

Master Hussain of Khurhama

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

CRPF WIVES WELFARE ASSOCIATION BLESSES THE YOUNG COUPLE

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

Mrs Mehbooba lived in Rahat Ghar along with her sisters Nageena and Jabina because her father died due to paralysis. One of her brother is mentally challenged. She has seven brothers and sisters. Her mother has no source of livelihood. As Mehbooba was growing older she was having a herculean task of marrying her without any resource. At this occasion regional centre of CRPF Wives' Welfare Association at Srinagar helped them in all possible manner to marry Mehbooba with Abdullah on 19th Sept. 2006. Mehbooba said “CRPF personnel came as angels. I am enjoying my married life with my husband. We will ever be grateful to them”

FAR REACHING CONSEQUENCES

Benign acceptance and reduced hostility : The results of the project started flowing in along expected lines, but faster than anticipated. There was marked decrease in levels of hostility

faced by the force personnel in the areas where the project has been started. Other indicators of the impact have been the increasing number of requests of such programmes in contiguous areas, more enriching interactions with the press personnel and decreased level of violence in general and lesser number of attacks on security personnel in particular since 2006 when the 'OPS AMAN' was first launched.

Closer rapport: Over the past one year, the project has become more meaningful, and has added many more layers and sub-texts. Human interaction, when it is a multi-dimensional and two-way process, tends to become complex and leads to lasting relationships. Such has been the experience with this project also. The various areas where the project was initially started have demanded more and refined

interventions. It is understandable. It is the proof that the initiative taken by CRPF is an integrated format, has been well placed.

(CRPF remains grateful to the Ministry of Home Affairs, Govt. of India for providing the vision and financial support for undertaking Civic Action Programmes)

***Fear is not in the habit of speaking truth;
when perfect sincerity is expected,
perfect freedom must be allowed;
not has nay one who is apt to be angry
when he hears the truth,
any cause to wonder that he does not hear it.***

Tacitus

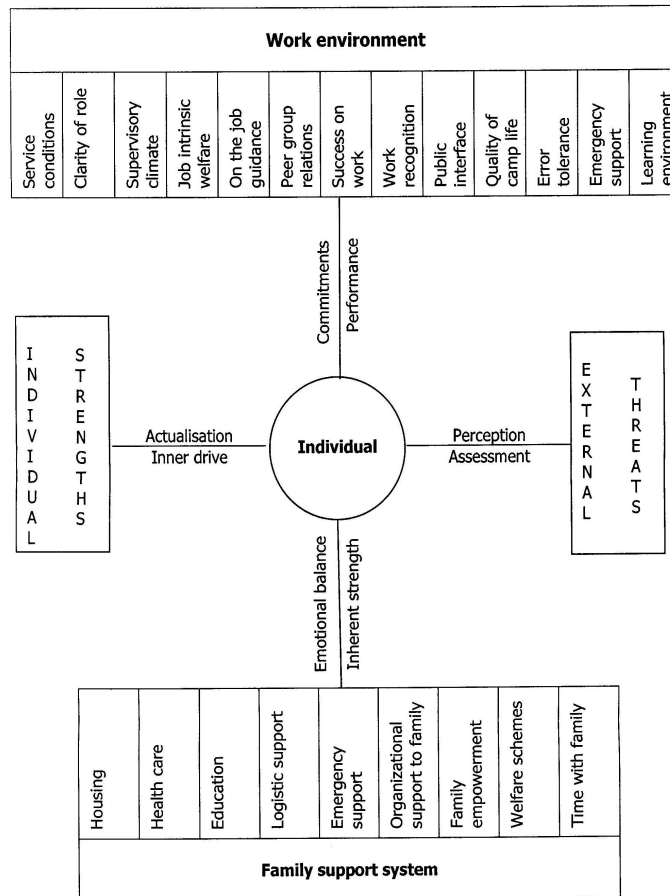
STRESS MANAGEMENT IN INTERNAL SECURITY FORCES-SEARCH FOR NEW WINDOWS

A P Maheshwari

“Cross over these boulders if you can, there is no oasis enroute my house”, said a thinker. And it cannot be more true in the context of the troops heavily deployed in various theatres of low intensity conflict across the country, may it be the J&K, North-East or the LWE affected states. Prolonged deployments without any intermittent relief, where the concept of a soft posting appears to be a mere mirage, have almost eclipsed the organic character of the Force, pushing it further into an intricate web of stress and strain. This has put a great onus on the Force managers to evolve innovative methods, such that the Jawans can function with rejuvenated zeal and fervour, carrying a

content smile on their faces. Various studies made in connection with stress have also, more often than not, focused on measures which can prove to be effective stress busters and take care of the debilitating sense of loneliness, distress and morbidity that tends to take over their lives. It is essential to mitigate the influence of all such factors which otherwise provide a high propensity towards suicides, fratricides and frustrative violence.

A search for potent vectors on the ‘solution-matrix’ often lead us to the holistic approach essential for stress management. The concept of the holistic approach, as such, makes it imperative



to perceive a soldier as an independent systematic entity with varied integrative configurations, given the degree of forward and backward linkages one is capable of handling. If we take an individual soldier as the control mode, the segmental chart can be developed, providing us clear windows for plausible interventions.

Innumerable efforts have been made by the managers of the Forces to provide relief to the individual soldier through planned interventions by improving the quality of work life, improving service conditions, introducing various welfare measures. However, the optimal results have not yet been achieved either due to financial constraints or procedural bottlenecks. Jawans are living in sub-human conditions, being largely dependent on the much disturbed states where they have been deployed. Back home, families

do not have a hundred percent family accommodation and logistical back up as required. Special allowances and insurance schemes are missing to compensate for the extra risks to life. At times, technical support systems are not available on work situation to counter the threats emanating from target groups and so on. It is agreed that under a resource-constraint situation, the optimality has many trade-offs. It is at this juncture that we scan through the stress window and prioritise the intervention areas, given the limitations.

One of the major arenas of inherent strength flows to the individual from his family. The same becomes a cause for imbalance if not tackled properly. This is one arena where we have, perhaps, not paid enough attention. Most of the suicides are taking place on his return from leave when he has been with the family. Realising the

importance of family support for a 'balance' in work, management and behavioural experts forced private organisations to take care of the problems of the spouses and empower them to manage their affairs in the absence of the bread earner. Family intervention programmes were launched and spouses were regarded as a 'resource' and a 'facilitator'.

It is based in these empirical success models that we can now focus on 'family window' for stress redressal. On this aspect, following quote would just be appropriate -

"Not undermining the ever changing paradigms of behavioural responses of a stress ridden 'human being', he is to be perceived as an 'integrated-whole', playing his professional as well as family roles.

Hence, our efforts have to be holistic in nature encompassing not only the avenues of intermittent relief from stress ridden work situations but also empowerment through a happy situation where capacity building for his family is also effectively addressed”.

The intrinsic image of a ‘brave’ husband, a ‘daring’ father, a ‘patriotic’ son or a ‘committed’ officer have motivated the soldiers to perform best during the most dreaded circumstances. This has been true since times immemorial. This intrinsic strength is generated by the ‘women power’ in the house. There have been instances when this resource base has done wonders.

They can be the best motivational managers.

On the other hand, when domestic management is also taken as an official field and organisation facilitates families of workers to manage their affairs well, the demand on the workers from his domestic front considerably comes down and he is able to focus on his job more without experiencing any adverse situation of emotional stress. Illustratively, certain options could be as under:-

- Compact townships with facilities of health care, education, housing, shopping, etc.

- Family Interaction programmes to empower women to manage domestic issues in absence of bread earner.
- Empowerment through avenues for alternate source of income.
- Family integrated learning modules for addressing professional problems.
- Extra privileges to add dignity as well as premium to high risk jobs.

To conclude, innovation holds the key. We need a paradigm shift from administrative outlook to managerial response.

***You may be whatever you resolve to be.
Determine to be something in the world,
and you will be something
“I cannot,” never accomplished anything;
“I will try,” has wrought wonders.***

J. Hawes

THE NATIONAL POLICE ACADEMY - A GLIMPSE

*A gush of thought, like an electric eel
That surpassed my mind with zeal,
The moment I stepped into the National Police Academy,
With my dream come true, to be a part of it, this time as faculty!*

*The National Police Academy
In Hyderabad - the city once of royal hegemony.*

*Located over acres of green stretches
It's a Premier Institute because of the pristine National Glory it fetches.*

*An "Alma Mater" of all IPS Officers nation-wide.
It begins its history here from Nineteen Hundred and Seventy Five.*

*Relocated from Mount Abu to the rocky-terrains of Hyderabad.
It started as a "dream project" in a gigantic wild-set-up.*

*Slowly but steadily over the years
It nurtured and groomed many batches without a smear.*

*In virtues of discipline, duty, service and courage
And relayed them into their cadres for performance of values thus inculcated.*

*P.T., Parade, Swimming and horse-riding,
Sports, U.A.C., and Firing,
Criminology, Investigation, Law, Order and Maintenance, All subjects
indoor and outdoor are to be mastered with equal competence.*

*Cultural programmes, field visits and movie reviews.
It's a never-ending list of things to do.*

*And batches after batches.
Have their own tales of woes and surprises!*

*The state of the Art facilities so well-provided
What with an Olympic size swimming pool inside it.*

*A riding ground to instill O.T's with courage and grit.
And the Millennium Training Complex with modern class-rooms in it.*

*The impressive auditorium, the synthetic athletic track,
And the beautiful "Rajasthan Bhawan" at the back.*

*The Computer and Forensic Lab and the modern library
The Obstacles' Course and the "Dhyan Kendra" in its territory.
Are all symbols of modern training in positive entirety!*

*The lovely 'heights' of the Academy House -
The aboard of the Director of this splendid Academy -
a prestigious post, no doubt.*

*The Central IPS Mess is where the officer trainees reside.
And the Mess Lounge is where they toast to the President on a "mess night", in
loud resound.*

*The Grand Statue of Sardar Vallabhbhai Patel
The Iron Man', who symbolizes Police in Faith.
Stands tall inspiring the Probationers To bow to
be duty-conscious learners.*

*In the midst of the Academy, stands the 'Martyrs' Column'
Reminding us of THEM who laid their lives in harness.*

*Today the NPA stands on world map
With a motto to teach the importance of rule of law, service to the nation,
women, down-trodden, poor and needy*

*Even if it meant to sacrifice life like Shri Ghamandi Singh Arya and
Shri Ajay Kumar Singh, at the altar of duty*

*Proud it stands with its glorious pages of history
Of having mothered brilliant Police officers/martyrs of the country.
Who have passed down year after year the glory to posterity.*

*The 'Gateway' to the Academy
Recasts the minds of all those entering upon with grit and
determination that's sturdy!*

*May our Institute grow and prosper
And stand like a sovereign nation's strength and glitter!*

- Anupam Saxena, Asst. Director (IS.)

For the Authors

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