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# Behavioural Health of the Police Personnel - Breaking the Silence

Dr. B. SANDHYA, IPS\*

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## 1 Introduction

Behavioural health of Police Officers did not get much attention as there was always an overstress on physical fitness. Presumption was always that all Police Officers are mentally strong. They are trained to cope with any situation. So there is no need to see the mental health condition as a matter of concern.

Though psychological tests are common for entry into Armed Forces, such tests are not yet introduced in the Police Forces. Physical fitness is the only criterion, apart from written test for entry into Police Services. Hence the mental health of a new entrant in the Police is as good or bad as that of a commoner.

In the recent times a number of Police Officers committed suicide in Kerala Police. This is apart from natural deaths due to various lifestyle diseases. It was felt that Police Officers' suicide is an issue which needs attention. It is in this light that an effort was done to study the cases of suicide in the last two years in the Kerala Police, so that a policy and strategy for behavioural health of Police Officers could be chalked out.

## 2 Literature Survey

Increasing rate of suicide is a major concern in the Military Forces and the Police. In the U.S, in 2010 there were 301 suicides among the military personnel. This is equating to a rate of 18 suicides per 100000 population. (Luxton et al 2012).

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IACP (International Association of Chiefs of Police) along with the Community Oriented Policing Services (COPs), U.S Department of Justice, hosted a symposium on 'Law Enforcement Office Suicide and Mental Health' in 2013, to develop a strategy to address officer mental wellness and suicide prevention. They established early warning and intervention protocols to identify and treat 'at risk' officers. They also suggested to begin mental wellness training at the academy and continue the training throughout the officer's career with a particular emphasis on first time supervisors. They also decided to include family training.

Parity of physical and mental wellness has been stressed in the symposium. The fear of consequences of seeking help has to be overcome. The symposium suggested a checklist for comprehensive mental wellness and suicide prevention.

IACP symposium also found that retirees, those who get disabled during their career and veterans are 'at risk' groups for mental wellness. Sending periodic updates and cards to retirees and reiterating that they are welcome to the Department and utilizing them for peer group support are welcome moves. Preparing officers for retirement life is a requirement. After an injury no officer shall feel 'abandoned' by the Department.

IACP symposium suggested mental wellness and suicide prevention training right from the stage of induction training. In-service training and routine resiliency and critical incident training and family training are required. Monthly family meetings and family networks can give training to officers' families. Children also shall be involved.

It is extremely important to change the stigma of officers going to mental health services by establishing voluntary routine confidential checkups. Such resiliency checks shall be part of annual medical checkups. Each officer shall designate at least one person to be contacted in emergency. In U.S Marines, the Manpower and Reserve Affairs Division provides an 'Are you listening' programme. Each installation command has a Suicide Prevention Programme. Every commander is provided with a copy of Automated Inspection Reporting System checklist. Commanders are responsible for ensuring that all personnel at risk for harm to self or others are kept in sight and escorted to an evaluation with a competent medical authority and that all personnel who make suicide gestures are evaluated by a behavioural health professional and appropriate follow ups are done. Awareness education and preventive training need to be given to everyone.

## Behavioural Health of the Police Personnel – Breaking the Silence

Life skill training to reduce the incidence of problems has to be given to everyone. Counselling facilities need to be made available for everyone in need.

IACP symposium suggests providing interventions with peers and therapists together to further break down the stigma of getting mental health assistance. It also suggested developing a mental health module and intervention protocol. Assessing potential ‘at risk’ groups for early warning signs of mental health, making tailored intervention programmes is also suggested. Managing behavioural projects need to be initiated.

The U.S Chief of Staff, Air Force regularly sends Memoranda to the staff in order to inform them of the importance of suicide prevention. Procedures are established for restricting access to lethal means as far as ‘at risk’ groups are concerned. Incident reports are reviewed to improve future prevention efforts. Trend analysis is also done. Among the Marine Corps, Commanders are provided with a copy of the Automated Inspection Reporting System checklist that outlines command requirements. Those who make suicide gestures are evaluated by a behavioural health professional and appropriate follow up appointments are completed. It is ensured that a Personal Casualty Report is submitted on all suicide attempts and gestures. ‘Are you Listening’ programmes are conducted for the Marine Corps as a Suicide Prevention Strategy.

The Officers need to be trained to look for symptoms like alcohol or substance abuse, being involved in domestic violence, use of excessive force, facing serious disciplinary actions, relationship trauma etc. Such personnel may need counselling. These could be warning signs for underlying mental health issues.

The Defence Centre of Excellence for Psychological Health and Traumatic Brain injury funded the RAND corporation, a private non-profit research and development organisation to conduct a research study to better understand the role and experiences of front line military leaders and members of the chaplaincy in preventing suicide. They examined the effectiveness of gatekeeper training and presented a theoretical model describing how gatekeeper training may influence individual characteristics that may in turn result in intervention behaviours. The term ‘gatekeeper’ refers to individuals in a community who have face to face contact with large number of community members as part of their usual routine. They may be trained to identify persons at risk and refer them to treatment or supporting services as

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appropriate. Studies on gatekeeper trainings have shown that training reduced reluctance to intervene and stigma. Studies have also shown that females are better and effective gate keepers.

### 3 The Study

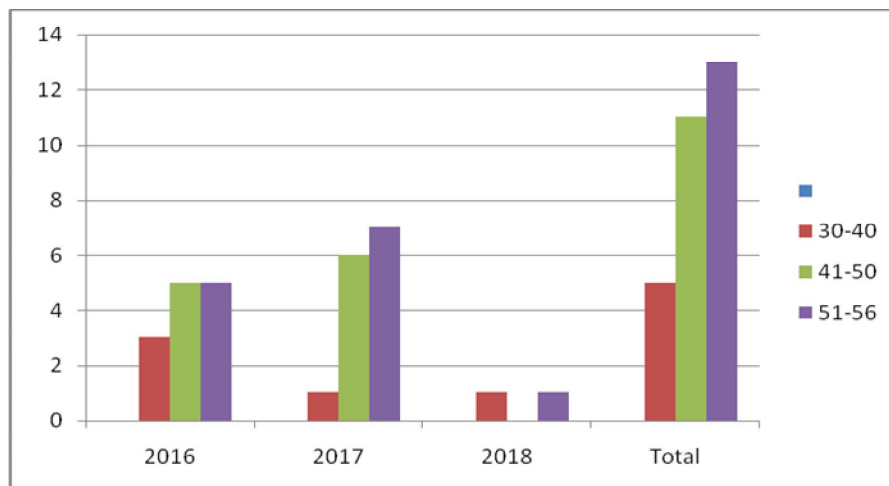
In the year 2017, fourteen Kerala police personnel of various ranks committed suicide. In 2016, the number was thirteen. The present strength of Kerala Police Force is 54,920 that means the suicide rate is 25.4 persons per 1,00,000 population. This suicide rate is much above the national average (NCRB 2015) of 10.6 per 1,00,000 population. Based on the data available with the National Crime Records Bureau, Kerala's suicide rate is almost three times that of the national average.

It is reported that India's adjusted annual suicide rate is 10.5 per 1,00,000, while the suicide rate for the world as a whole is 11.6 per 1,00,000.

Demographic details of police personnel who have committed suicide in Kerala in the year 2016, 2017 and 2018 (Jan 1st to 31st) are given below.

#### a. Age Group

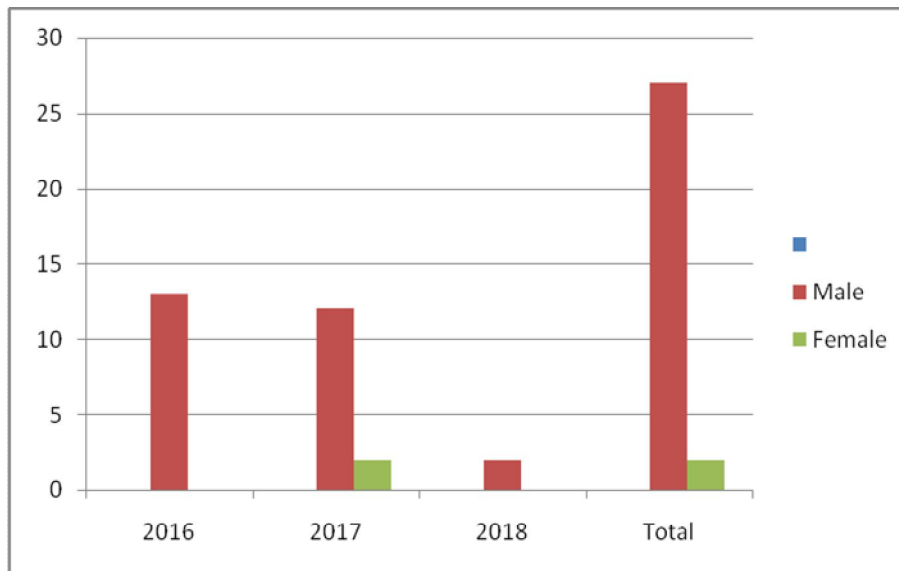
Age	2016	2017	2018 (up to 31.01.2018)	Total
30-40	3	1	1	5
41-50	5	6	0	11
51-56	5	7	1	13
Total				29



## Behavioural Health of the Police Personnel – Breaking the Silence

### b. Sex

Sex	2016	2017	2018 (Up to 31.01.2018)	Total
Male	13	12	2	27
Female	0	2	0	2
Total				29

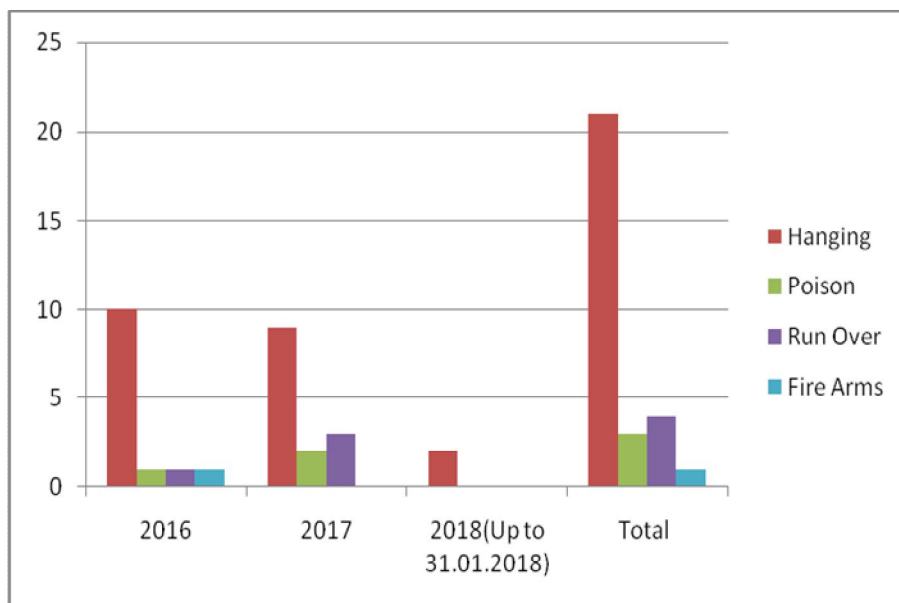


### c. Mode of Commission of Suicide

Mode	2016	2017	2018 (Up to 31.01.2018)	Total
Hanging	10	9	2	21
Poison	1	2	0	3
Run Over	1	3	0	4
Fire Arms	1	0	0	1
Total				29

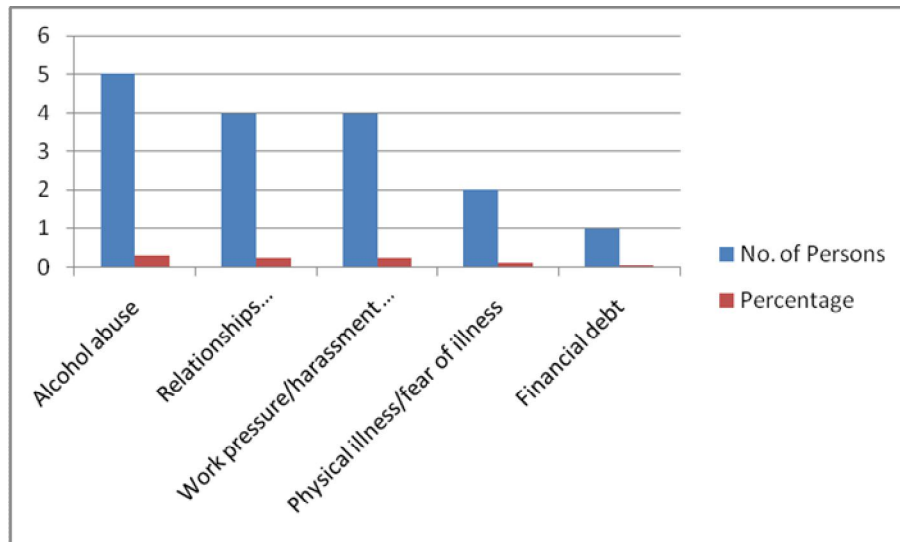


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**d. Probable causes of suicide in the cases reported in Kerala police during 2017**

Probable Causes	No. of Persons	Percentage
Alcohol abuse	5	31.25%
Relationships trauma, depression	4	25%
Work pressure/harassment /work related issue	4	25%
Physical illness/fear of illness	2	12.05%
Financial debt	1	6.25%



#### 4 Analysis

The age group of persons who committed suicide shows that maximum number of suicides is among people within the age group of 51-56. Nearing retirement, the officers feel a sense of worthlessness until they plan post retirement life. This suggests requirement of training on life style management, financial management and post retirement planning for all officers aged above 53 years. Special in-service training programmes may be chalked out for the same.

The sex of the persons who committed suicide shows that there is not much of a gender difference in the rate of suicide. (In Kerala around 6% of women in the Force were women during the period). Statistics show that alcohol abuse is a serious issue which needs to be addressed. Work pressure and related issues are the causes for suicide in 25% of deaths.

Emotional Intelligence to cope with stress in a profession where one daily deals with criminals, stressful law and order situations, pressure to detect cases, pressure to multitask due to serious manpower constraints, media and social media pressure etc. is to be imparted through periodical awareness programmes, counselling, peer group get together, family get together etc.

Unnecessary relationships are developed due to intimacy at work place, availability of communication equipment etc. which finally leads to emotional imbalance, marital issues etc. Emotional intelligence contents are required in in-service training programmes to cope with such circumstances.

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Balance of work and personal life has to be made. This requires recreation facilities, routine physical fitness schedules, enough leave, and professional knowledge to handle day to day functions in a fast changing world where police service also needs very fast development.

## **5 Policy and Strategy**

The strategies which could be adopted to make an integrated approach to mental health and physical health and suitable policies and programmes for making a better Police Force are given a thought.

It is very evident that mental and physical health are interconnected and a holistic approach is required to chalk out effective strategies to cope with the current scenario.

The Department needs to have a definite policy on holistic health of Police personnel at all levels, right from recruitment to retirement and even post retirement.

Many Police Departments in India have Housing Schemes, Health Insurance and various welfare schemes. The Kerala Police Housing Schemes and Welfare Fund Bureau activities are role models.

### **➤ The Kerala Police Housing Scheme**

The Kerala Police Housing Co-operative Society Ltd. is a society registered under Kerala Co-operative Societies Act of 1969. It is established with an aim to fulfill the housing needs of the policemen and officers working in Kerala Police. The society not only provides housing loans and various types of advances to police personnel but also runs a number of welfare schemes for their benefit.

### **➤ The Police Welfare Bureau (PWB)**

The Police Welfare Bureau (PWB) is constituted under section 104 of Kerala Police Act 2011. It intends to meet the welfare needs of Police Force of the State. It has been functioning since November, 2011.

The sources of fund are mainly the subscription collected from Police Personnel. The members of PWB comprises all Police personnel ranging from Civil Police Officers to the State Police Chief.

As a part of welfare measure, PWB is sanctioning Grant and Interest free loans to the serving personnel who are subscribers to PWB fund and grant to the retired personnel for serious ailments. In addition, activities such as installation of biogas plant, assistance to Police Kshemanikethan, One time

grant to Subsidiary Police Canteens etc are also carried out in various police districts in the State as part of welfare measures.

However, as far as an integrated approach to develop and maintain a physically and mentally healthy and balanced Police Force is concerned, Kerala Police has to make new policies and strategies.

- a. For recruit training, recently Kerala Police has included physical fitness modules as per international protocols. Module for human rights, gender equity and active listening skills are also introduced apart from facilities for yoga, music therapy etc. Counselling facilities are also available.
- b. For entry level leaders (Sub-Inspectors) during recruit training, active listening skills and gate keeper training are required to be provided.
- c. Gate keeper training programmes have to be arranged for leaders already in service. An integrated physical and mental health approach has to be adopted apart from awareness on suicide prevention while preparing the training module. Making available online self checking programmes can be thought of. An open declaration from leadership that a mental health check-up is also a required annual routine and it has no stigma attached to it has to be made.
- d. Extending facilities for open discussions and family training is an area where only informal facilities are available now. Monthly family get togethers at unit level has to be made a part of the organisation maintenance system just like the monthly Sabhas held by leadership at the district level. Though the Police Clubs in Kerala used to conduct family get together of officers, currently most of such systems have become defunct except for annual scholarship distribution ceremonies for which only those families receiving awards may attend. Welfare Fund Bureau may provide a lump-sum amount for the Unit Heads for conducting monthly family get together/festival get togethers, annual family health checkups. All these shall be made mandatory with uniform protocols. At least two such family training activities may be arranged by every unit.
- e. Buddy system shall be made effective right from recruit training. At every level, an officer shall have a buddy whose name can be enrolled in one's Annual Confidential Report. A protocol for the Buddy System shall be followed.

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- f. The Housing Society (most of the police personnel are members) may take up the responsibility of developing extensive awareness programmes and holistic health schemes, post incident redressal schemes, de-addiction schemes, counselling schemes, family training etc.

As far as integrated mental and physical health is concerned, Kerala Police would be able to make a bench-mark for the rest of the country, if a policy is adopted and strategies are chalked out now.

#### **6 Further Study**

An analysis of natural deaths due to lifestyle diseases also need to be undertaken so as to get a complete picture of the holistic health scenario. An analysis of the current rate of Welfare Fund Bureau Assistance for treatment of serious diseases and surgery of police officers also would help to make the picture complete.

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## Investigation of FICN under the provisions of the Unlawful Activities (Prevention) Act, 1967

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### FICN or Fake Indian Currency Notes

FICN or Fake Indian Currency Notes were being investigated by most police units under the provisions of section 489(A) to (E) of the IPC. When the IPC was passed, there was no paper currency and the IPC had just chapter XII to deal with fake coin and stamps. FICN came into the system when paper currency was introduced and till the insertion of sections 489(A) to (E) in IPC, FICN was being investigated and prosecuted only u/s 467, 471 IPC.

Law evolves, albeit slowly, in response to evolving crime. Sections 489(A) to (E) IPC have been used to investigate offences of FICN till recently. However, with the advent of use of terrorism as a tool of state policy by Pakistan, the last two decades have seen the new phenomenon of '**High Quality FICN**' or **HQFICN**. HQFICN is FICN printed in Government mints of Pakistan and is of such high quality that frequently fools the bankers themselves.

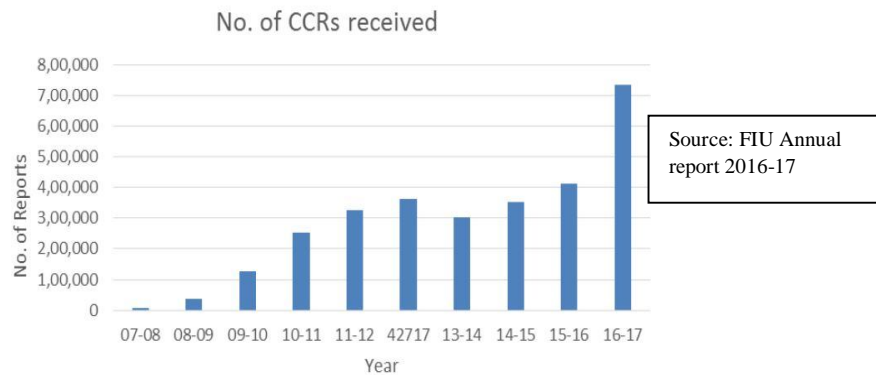
One of the stated purposes of the demonetization of Rs 1000 and Rs 500 currency notes on 8<sup>th</sup> November 2016 was to impact the counterfeiting of these notes.

India's Financial Intelligence Unit (FIU) annual report of 2016-17 stated that the country's banks not only received an all-time high amount of fake currency in 2016-17, but also detected an over 480 per cent jump in suspicious transactions post demonetization. "A noteworthy growth was also

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seen in the number of counterfeit currency reports (CCRs) which increased from more than 4.10 lakh in 2015-16 to over 7.33 lakh in 2016-17, which may also be attributed to the demonetization exercise," said the FIU report, but it did not specify the value of such fake currencies detected. That's an increase of over 3.22 lakh such cases in banking and other economic channels in just a year. CCRs are "transaction based reports" and they are generated only when a fake Indian currency note (FICN) is detected or where any forgery of a valuable security or a document has taken place during a cash transaction at a bank. The annual spike registered in 2016-17 is the highest since 2012.



The Reserve Bank of India's annual report for 2016-17 also stated that "in Reserve Bank's currency verification and processing system, during 2015-16, there were 2.4 pieces of FICNs of Rs 500 denomination and 5.8 pieces of FICNs of Rs 1000 denomination for every million pieces notes processed; which rose to 5.5 pieces and 12.4 pieces, respectively, during the post-demonetization period."

### HQFICN

Many of the design features of the Indian Currency are built around precision printing that can be achieved only by the highly specialized presses used in the production of bank notes. These can be extremely complex and intricate exercises. Inks used in the printing of the banknotes offer certain amount of the security since they are not commercially available and hence not available to ordinary counterfeiters. All those security features, which are made integral constituents of paper at the time of manufacturing of paper such as non-fluorescence, watermarks, security thread etc., behave differently under reflected light as well as transmitted light. Therefore, it is extremely

difficult to reproduce such features even with modern image acquisition and reproduction technology, which are used by most domestic counterfeiters. Therefore HQFICN by its very nature is the fake currency that is produced from government mints in Pakistan.

### **The earlier roundabout route to UA(P)A**

The circulation of high value (denomination Rs. 500/- and Rs. 1000/-) and HQFICN which are printed in Pakistan and smuggled into India mostly via Bangladesh, Nepal and Dubai affect the security of India. The circulation of FICN in India amounts to damage to genuine currency notes (property) which are printed by RBI for India and it results in the destabilization of monetary system of India. This is also an offence U/s 16 of Unlawful Activities (Prevention) Act of 1967 or the UA (P)A 1967. These offences are committed as a part of conspiracy to damage the property (Genuine currency notes) by circulating FICN and should also be investigated and charged as an offence U/s 16, 18 of UA(P)A 1967.

As far as invoking the provisions of UA(P)A is concerned, it was opined by the Reserve Bank of India that Indian currency notes in physical form are the property of RBI i.e. Government of India. Indian Bank notes are paper currency and they hold their value because they are legal tenders of Government of India; otherwise bank notes do not have any intrinsic value of their own. Genuine Indian currency is the property of Govt. Of India and large scale printing and large scale smuggling of high value HQFICN by a hostile country clearly damages the credibility of Indian Currency i.e., causes damage to a property of Indian State. Therefore, the act of large scale printing, smuggling and circulation of high value high quality FICN in an organised manner with the support of a hostile country comes within the definition of a terrorist act as per section 15(a) (iv) of UA(P)A.

This was the interpretation and the legal route that agencies like the NIA were using to bring their investigations into HQFICN under the provisions of UA(P)A. However, it was becoming difficult for the investigators to establish that the HQFICN was printed in Pakistan and this was not a very satisfactory arrangement and was bound to be impugned legally sooner than later.

On 13<sup>th</sup> April 2018, a full bench of the High Court of Kerala has also held, by a 2:1 majority, that circulation of high-quality counterfeit currency cannot be regarded as a 'terrorist act' as per Section 15 of the Unlawful Activities(Prevention) Act, before the 2013 amendment. The full bench was



answering a reference made doubting the correctness of a division bench decision in *Shereef vs. State of Kerala* 2013(4) KLT 60, that had held that counterfeiting of Indian Currency amounted to a ‘terrorist activity’ even before the 2013 amendment.

### **The 2013 amendment**

The Unlawful Activities (Prevention) Amendment Act, 2012 did away with the requirement of this roundabout route on 3/1/2013 and amended section 15 of the UA(P)Act (which defines Terrorist act) and included therein economic security and damage to the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material as the existing provisions of the UA(P)A did not include within their scope an act done with an intent to threaten or threaten likely to economic security of India and counterfeiting Indian paper currency or coin.

Section 15(1) (a) (iia) of the amended UA(P)A now includes ‘... production or smuggling or circulation of HQFICN’, thus bringing HQFICN under the definition of a ‘terrorist’ act and therefore liable for punishment u/s 16 of the UA(P)A. As to what is HQFICN, section 4(iv)(b) of the Amendment Act stated that it was ‘...counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the third schedule.’ The Third Schedule of the Act listed the security features to define HQFICN as

- a) Water mark
- b) Latent image; and
- c) See through registration in the currency notes

### **The history of the amendment**

This amendment in the UA(P)A has not come about easily. There was resistance offered by some members in the Parliament to adding of more draconian provisions to the twice-amended Unlawful Activities (Prevention) Act (UA(P)A). From the Terrorist and Disruptive Activities (Prevention) Act (TADA) through the Prevention of Terrorism Act (POTA) to the various incarnations of UA(P)A, the fear of the lawmakers was that such laws do not necessarily deter terror crimes but do lend themselves to gross misuse. POTA was enacted in the aftermath of the December 2001 attack on Parliament despite alleged instances of human rights violations recorded

during the pendency of TADA, which in fact had led to its repeal. POTA's definition of what constituted a 'terrorist act' was said to be too broad, allegedly criminalizing even political activism.

The law, it was claimed, permitted prolonged detentions without charge and reversed the presumption of innocence which is the bedrock of the Indian criminal justice system. However, the Government was obliged to strengthen UA(P)A by its membership of the Financial Action Task Force (FATF), an inter-governmental body responsible for setting global standards against money laundering and terror financing.

### **Precautions**

Therefore, it is very essential that this salutary amendment in the UA(P)A should not get discredited like the TADA and the POTA by improper or indiscriminate use. After all, prosecuting every single case of HQFICN under the provisions of the UA (P)A would defeat the very purpose of the amendment. One has to be very careful that the HQFICN in question is a part of a larger operation. It is for this reason that the 'investigation of HQFICN offences Rules, 2013' were notified u/s 52(1) & 52(2) (f) of the UA(P)A by GSR 661(E) & 780(E) dated 19/9/2013 & 17/12/2013. I was associated in the framing of these rules. It is sincerely hoped that young officers will familiarize themselves with these rules and ensure that the UA(P)A is invoked in suitable cases, as this is a powerful tool now in the hands of the police to deal with this menace.

### **The Rules**

I now give the salient features of the Rules:

**Rule 2.** Definitions. - (1) In these rules, unless the context otherwise requires,-

- (a) "Act" means the Unlawful Activities (Prevention) Act, 1967 (37 of 1967);
  - (b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
  - (c) "Face value" means the arithmetic computation of value printed on the seized counterfeit notes;
  - (d) "section" means section of the Act.
- (2) Words and expressions used herein and not defined in these rules, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

**Rule 3.** Forensic determination of high quality counterfeit Indian paper currency.- No Investigating Officer shall apply the provisions of sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16 unless he obtains a report of the authorised forensic laboratory in respect of the seized currency.

**Rule 4.** Notification of Forensic Authority- For the purposes of section 15, the following shall be authorised or notified forensic authorities, namely:-

- (a) Laboratories under the Bharatiya Reserve Bank Note Mudran Private Limited or Security Printing and Minting Corporation of India Limited ;
- (b) Forensic Laboratories under the Government of India and the State Governments;
- (c) any other establishment having necessary facilities and trained personnel so notified by the Central Government from time to time.

**Rule 5.** Damage to the monetary stability of India.- Damage to the monetary stability of India, referred to in section 15 by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, shall be deemed to have been caused, if in addition to other considerations -

- (a) seizure is of high quality counterfeit Indian currency of face value of such threshold amount as may be decided by the Central Government from time to time, not being less than rupees one lakh (*the Government has not yet decided this threshold value. Although I have made several efforts to sensitise the stakeholders regarding the importance of doing this early, it has not happened. In case of a serious legal challenge to a case registered under these provisions, it is very likely that the Court may treat the invocation of UA(P)A invalid in absence of this threshold*) :

Provided that the said threshold limit shall not apply when the counterfeit Indian currency has been intercepted at the international border, international airport or Immigration Check Post;

- (b) the seized counterfeit currency includes any one of the three highest denominations issued by the Reserve Bank of India, and in circulation at such point in time.

**Rule 6.** Procedure for applying the provisions of sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16.- (1) When a case has been registered upon seizure of currency suspected to be high quality counterfeit Indian currency, the Investigating Officer shall forthwith send the

seized currency or sample thereof to the authorised or notified forensic authority and the said authority shall forward a preliminary report, as to whether the seized currency is “high quality counterfeit Indian currency” within fifteen days of receipt of such samples.

(2) The Investigating Officer shall forward the seized currency by the quickest means to the notified forensic authority, not later than forty-eight hours of the seizure, and the notified forensic authority shall communicate the results of the examination to the requisitioning officer by the quickest possible means including e-mail or facsimile:

Provided that the preliminary report may not contain a detailed forensic report, but may restrict itself to the question of whether the key security features as specified in the Third Schedule to the Act have been imitated or compromised in the seized counterfeit currency and the complete report for the purposes of prosecution shall be provided before completion of the investigation:

Provided further that the procedure referred to in sub-rule (1), shall not preclude the continuation of investigation under any other law for the time being in force.

(3) On receipt of a positive preliminary forensic report, the Investigating Officer shall transmit the same along with a report on the facts of the seizure to the concerned Superintendent of Police or such other officer of equivalent or above rank, and if such officer is satisfied that the act amounts to an attempt to damage the monetary stability of India, he may order applying of the provisions of sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16.

(4) While determining whether the act amounts to damage or an attempt to damage the monetary stability of India, the Superintendent of Police or such officer empowered under sub-rule(3) shall, in addition to the conditions specified in rule 5, shall also take into account any one or more of the following, namely:-

- (a) whether the accused was previously involved in a case of counterfeit currency;
- (b) whether the accused belongs to a terrorist gang or terrorist organisation;
- (c) whether the recovery of high quality counterfeit Indian currency is associated with recovery of arms, ammunition, or explosives prohibited under laws for the time being in force;

- (d) whether the high quality counterfeit Indian currency has been recovered while smuggling through international check posts or borders;
  - (e) whether there is prima facie indication that the high quality counterfeit Indian currency has been produced in a foreign country;
  - (f) whether the high quality counterfeit Indian currency is being produced, smuggled or circulated at the instance of a foreign country, entity, agency, or person situated abroad;
  - (g) whether complex methods have been used to smuggle or transport high quality counterfeit Indian currency, and to collect or move the proceeds of crime;
  - (h) whether the high quality counterfeit Indian currency is mixed with genuine currency in currency chests, Automated Teller Machines;
  - (i) whether the face value of high quality counterfeit Indian currency seized is extremely high, or the proceeds of crime to be generated are extremely large;
  - (j) any other circumstance that reveals that the production, smuggling or circulation of high quality counterfeit Indian currency was undertaken with the object of threatening the monetary stability of the country.
- (5) For the purposes of sub-rule (3) and sub-rule (4), the empowered officer shall while ordering investigation, record the reasons thereof in writing.
- (6) The Authority appointed under section 45 shall take into consideration the order under sub-rule (3), while disposing of the request of sanction for prosecution.
- (7) Notwithstanding anything contained in these rules, an officer not below the rank of Inspector General of Police specifically designated by the Director General and Inspector General of Police of States or Union territories, Commissioner of Police of Delhi and Kolkata, Director and Inspector General of Delhi Special Police Establishment or Director General of the National Investigation Agency may order investigation under sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16 under special circumstances as explained in rule 7 (*the DGPs of states have to appoint an officer as the designated authority under this sub-rule*).

**Rule 7.** Investigation in special cases.- (1) When any case is registered upon seizure of currency suspected to be of high quality counterfeit Indian currency, which does not conform to the conditions laid down in rule 5, but the Investigating Officer submits a report to the concerned Superintendent of

Police, or such other officer of equivalent rank, that there exist special reasons that the offence involves damage or an attempt to damage the monetary stability of India, upon satisfaction, such Superintendent of Police or other officer of equivalent rank shall send the report thereof with his recommendations to the authorised officer under sub-rule( 7) of rule 6, who on being prima facie satisfied, shall cause the seized counterfeit currency to be sent for forensic examination, as per the procedure laid down in sub rule ( 1) of rule 6.

(2) On obtaining a positive forensic report, and on being convinced from the special circumstances of the case, the authorised officer under sub rule (7) of rule 6 may proceed after recording the reasons thereof to order investigation under sub-clause (iiia) of clause (a) of sub-section (1) of section 15 read with section 16.

**Rule 8.** Review of security features.-The Bharatiya Reserve Bank Note Mudran Private Limited, and Security Printing and Minting Corporation of India Limited, shall annually conduct a review of the counterfeit currency analysed by them during the period, and submit a report to Reserve Bank of India for recommending to the Central Government, revisions to the Third Schedule.

**The road ahead- bumpy!**

Thus it is clear that the threshold value, mentioned in rule 5(a) and the security features that will determine the 'HQ' in the HQFICN as per the third schedule, are both subject to revisions by the GOI as per the lessons learnt in the implementation of these provisions. Officers should keep track of this and disseminate it suitably. It will also be advisable for the Economic Offences Wings or State CIDs to review cases of FICN throughout the state regularly and see whether the FICN falls in the category of HQFICN and whether the provisions of the UA(P)A are invokable as per the Rules.

For instance, in my opinion, the MHA notification of 18/03/2014 by G.S.R. 231(E) that amended the third schedule listing the security features to define HQFICN is an error. The earlier 3<sup>rd</sup> schedule was straightforward with three features: the water mark, latent image and the see through registration. The amended schedule reads watermark, security thread and any of the following: latent image, see through registration, print quality sharpness, raised effect, fluorescent characteristics, substrate quality, paper taggant, colour shift effect in OVI and colour shift effect in security thread. Not only the new parameters are complicated, some of them are likely to

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cause subjective variance in the forensic opinions. Compromised security thread has also not been seen in much of the HQFICN seized so far. Therefore, this amendment appears to be quite unnecessary and may actually cause cases to come apart in superior courts.

The more important fixing of the threshold value under rule 5(a), on the other hand, could not be done so far. There has been some misconception that the value of 1 lakh given in the rule is adequate to invoke UA(P)A. Now conceive of a case where an accused is arrested with HQFICN with the face value just over 1 lakh. Is he not going to take the plea that the threshold value might have been decided to, say, 2 lakhs and the UA (P)A should not be invoked in his case? I hope that the MHA notifies the threshold as early as possible to avoid this scenario!

I would also recommend the state CIDs to organize one day seminars on the UA(P)A and HQFICN investigation for all concerned officers in the states. This seminar should also include experts from the FSLs also so that they are adequately sensitized regarding the new concept of HQFICN and the new SOP w.r.t. sending of the preliminary forensic report as per rule 6(2) above.



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## Police Investigation under the I.T. Act: Need for Changes

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The Information Technology Act, 2000, the existing sole special legislation of the country with regard to cyber issues, was enacted in 2000 by the legislature which is based on the Model Law of e-commerce adopted by United Nations Commission on International Trade Law (UNCITRAL) in 1996. The object in synopsis of the I.T. Act, 2000 is to provide the legal infrastructure for e-commerce in India, legal sanctity to be accorded to all electronic records and other activities carried out by electronic means, legal validity and enforceability of e-contracts, cyber torts and crimes, investigation aspects, adjudicatory bodies and civil remedies and punitive measure for civil and criminal proceedings. Chapter-XI of the Act provides for various cyber offences like tampering with computer source documents, publication or transmission of obscene substances in electronic form, identity theft, data theft, child pornography, violation of privacy etc. In view of tackling the new emerging trends of internet based crimes, several practical hurdles and challenges and changing dimension of cyber issues, the Information Technology Act was amended in 2008 which was made effective from 27th Oct., 2009 and it was the last amendment of this enactment. One of the significant amendments, inter alia, is the provision of empowering a police officer not below the rank of Inspector to investigate cyber offences under the I.T. Act. The instant article, intending to be argumentative in regard to this specific issue, efforts to analytically approach for statutory empowerment of police officers for investigating cyber

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offences under the I.T. Act and also urges for immediate review by the legislature of the extant legal provision which is the need of hour especially in consideration of the current cyber era.

At first we should have a glance on Sec.78 under the Chapter XI of I.T. Act, 2000 before its amendment in 2008. It provided ----

*Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Deputy Superintendent of Police shall investigate any offence under this Act.* Needless to mention that the power of investigation of offences under I.T. Act was vested with a Police Officer not below the rank of the Deputy Superintendent of Police. However, in 2008 the same provision was amended empowering a police officer not below the rank of Inspector to investigate cyber offences as specified in the Act.

Sec.78 of the I.T. Act as amended in 2008 provides:

*Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector shall investigate any offence under this Act.*

Let us go for analysis of the statutory provision as to investigator of cyber offences under I.T. Act and need for immediate further review thereof. We may not be able to find any specific statutory definition of “police officer”. Assistance in this regard may be sought from the Police Act 1861. Sec.1 (interpretation clause) of the Act defines the expression ‘Police’. According to this definition, ‘police’ includes all persons who shall be enrolled under this Act. Therefore, it may be submitted in practical sense that *the persons or officials, from the lowest in rank to the highest in rank, who are enrolled under the Police Act of the police department fall within the purview of ‘police’*. In accordance with the provisions of Criminal Procedure Code, 1973 the State Govt. may, by general or special order or notification, stipulate the rank of police officers who may investigate criminal cases.

### **Investigation under Cr. PC and use of technology as per the I.T. Act:-**

Chapter-XII of Criminal Procedure Code is considered to be the backbone of statutory investigational mandates, all provisions of which are to be complied with mandatorily by the investigating agency. The first question which may arise in mind is that who is authorized to investigate criminal cases. If we go through the codified provisions under the Chapter XII of this Code commencing from Sec.154 to Sec.173, we may find certain settled principles

## Police Investigation under the I.T. Act: Need for Changes

of laws embodied therein practically empowering the Officer-in-Charge of a police station or a police officer not below the rank as prescribed by the State Govt., by its general or special order, to take all necessary steps for investigation of a criminal case.

Now we should make an effort to ascertain who is an Officer-in-Charge of a police station. The statutory definition of 'Officer-in-Charge' of a police station is embodied in Sec.2(o) of Cr.PC, according to which, "Officer-in-Charge of a police station" includes when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or when the State Govt. so directs, any other police officer so present.

One of the significant practical facts is that the existing statutes are silent as to which rank entitles a police officer to hold the chair of an Officer-in-Charge of a police station or a station house officer. In some states of our country the police officer of the rank of Inspector holds the chair of Officer-in-Charge of a police station. In some states a police officer of the rank of Sub-inspector holds the chair of Station House Officer. Further, some states empower the police officers of the rank of Asstt.Sub-inspectors or Head Constables to do the investigation. Therefore in the context of investigation of a criminal case it may be submitted that there is no uniformity among the states of our country with regard to investigational powers and a police officer of the rank of Head Constable/Asstt.Sub-inspector/Sub-inspector/Inspector is authorized to investigate. Apart from that by virtue of Sec.36 of CrPC any police officer superior in rank to the Officer-in-Charge of a police station may also investigate any criminal case.

With regard to the use of technology by a police officer acting as Investing Officer in investigation of a criminal case, some statutory provisions have been incorporated by the legislature in Criminal Procedure Code in view of the emerging trends of electronic records and means. Let us have a glance over the issue.

Proviso-II to Sec.154 CrPC provides that if the allegation of commission of an offence or attempt to commit an offence U/s-354, 354A-D, or u/s-376, 376A-E or u/s-509 of IPC arises against the accused and the victim is temporarily or permanently mentally or physically disabled, such information shall be recorded by a police officer at the residence of the person seeking to report such offence or at a convenient place of such

person's choice, in the presence of an interpreter or a special educator and the recording of such information shall be videographed. Thus it appears that the instant statutory provision empowers a police officer of any rank, without specifying the rank, to record mandatorily the statement of the victim at the place of her choice in the form of First Information Record and he has to mandatorily videograph the entire proceeding for recording her statement.

Sec.161 empowers any police officer making the investigation, i.e. the I.O., or any police officer not below the rank as prescribed by the State Govt. by general or special order, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. He is also empowered to record the statement of such person given to him, by reducing into writing and by making separate and true record of the statement. The Proviso-I of the same section provides that the statement of such person or persons may also be recorded by audio-video electronic means. It means that if the police officer acting as I.O. so desires, he may use audio-video electronic means to record the statement of any person appearing to be a witness. Another significant implication of this provision is that the I.O. can record the statement of a person acquainted with the facts and circumstances of the case through video conferencing if he is based at certain distance location.

Sec.164 (1) CrPC, empowers any Metropolitan Magistrate or Judicial Magistrate may record any confession or statement made to him in the course of an investigation at any time afterwards before the commencement of the inquiry/trial. Any confession or statement made u/s-164(1) **may** also be recorded by **audio-video electronic means** in the presence of the advocate of the accused. Further, Sec.164 (5A) CrPC, provides that in case of prosecution for an offence or attempt to commit an offence U/s-354, 354A-D or u/s-376 (2), 376A-E or u/s-509 of IPC against the accused and the person making the statement is temporarily or permanently mentally or physically disabled, her statement shall be recorded with the assistance of interpreter/social educator and the recording of her statement shall be videographed. Although the instant statutory provisions appear to be bestowing the responsibility on judicial magistrate or metropolitan magistrate, a police officer acting as I.O. must know about the same because it is the I.O. who has to highlight the issue before the competent court, considering the facts and circumstances, to get the statements of the accused

or victim or witness as described therein, recorded by the judicial or metropolitan magistrate and also to make all necessary arrangement for causing the accused or victim or witness to be brought to the court of such judicial or metropolitan magistrate. Another significant implication of both Sec.164(1) and Sec.164(5A), similar to Sec.161 CrPC, is that the statement of the accused or a person acquainted with the facts and circumstances of the case may also be recorded through video conferencing if he is based at certain distance location.

Proviso-II of Sec.54A CrPC if the person identifying the arrested person is mentally or physically disabled, the identification process (TIP) shall be videographed. In such case TIP shall be conducted by Judicial Magistrate. Though a police officer acting as I.O. can't be present personally in the premises of Test Identification Parade, it is the I.O. who has to make all necessary arrangements for the videography of the identification proceeding by the mentally or physically disable person of the arrested suspect as embodied in the instant statutory provision. The entire process may also be done through video conferencing for which the I.O. will have to make necessary arrangements.

#### **Offences based on or relating to electronic records/means under Indian Penal Code:-**

In view of I.T. Act and growing trends of crimes based on electronic records or means in the society several amendments have been made in Indian Penal Code from time to time by the legislature. Some of the amended provisions under IPC may be summarized herein below.

Firstly Sec.4 of IPC titled as extension of IPC to extra-territorial offences covers the offences relating to computer resource or system. As per Sec.4(3), Indian Penal Code is applicable to any offence committed by any person in any place without and beyond India committing an offence targeting a computer resource located in India. The meaning of the provision may be summarized as follows:-

- (a) the perpetrator may or may not be an Indian national
- (b) the perpetrator may be based at any place throughout the world
- (c) the perpetrator must commit any offence targeting a computer resource
- (d) the computer resource so targeted must be situated within Indian territory

(e) if all the above conditions are fulfilled, then the perpetrator may be prosecuted under relevant sections of IPC

As per the Explanation to Sec.4, the expression ‘computer resource’ shall have the same meaning as defined in Sec.2(1)(k) of I.T .Act.

If we go through Sec.354A(1) of IPC, we may find that a man showing pornography against the will of a woman<sup>1</sup> or making sexually coloured remarks<sup>2</sup> shall be guilty of the offence of sexual harassment. The perpetrator may commit any of these two offences through electronic means which will be tantamount to be a sexual harassment and therefore this provision may be attracted against him.

Sec.354C of IPC provides that a man who watches or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image, shall be said to have committed ‘Voyeurism’ and liable for punishment as prescribed therein. ‘Private act’ is also defined specifically in the same provision.<sup>3</sup> In this context the perpetrator may capture the image of the victim woman engaged in any private act as defined in this section, by using electronic means and the photograph or videograph so captured by him will become an electronic record kept in electronic form. Moreover, the perpetrator may disseminate such photograph or videograph to any third person through any electronic means or upload the same in social media. Therefore the perpetrator will be liable to be booked under this section for commission of any of these types of conducts falling within the purview of this section.

Sec.354D (1) provides that a man, who monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking.<sup>4</sup> This is a specific provision where the perpetrator monitors or stares at the use of internet, e-mail or any other kind of

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<sup>1</sup> Clause (iii) of Sec.354A (1) IPC

<sup>2</sup> Clause (iv) of Sec.354A(1) IPC

<sup>3</sup> Explanation-1 of Sec.354C

<sup>4</sup> Clause (ii) of Sec.354D(1) IPC

## Police Investigation under the I.T. Act: Need for Changes

communication (including sms, social media) through electronic means by a woman and the conduct of the perpetrator is termed as online stalking. Surprisingly there is no specific provision for cyber stalking under I.T. Act till date. Therefore the perpetrator can only be booked under the instant section of IPC by the police officer.

We may find specific provisions with regard to some offences under IPC which may be committed through electronic records or means, such as Forgery [Sec.463], Making a false electronic record [S.464], Forgery of electronic record of the court or public register etc. [S.466], Forgery for the purpose of cheating using the forged electronic records [S.468], Forgery for the purpose of harming reputation of someone by using forged electronic record [S.469], Forged electronic record [S.470], Using as genuine a forged electronic record [S.471], Having possession of forged electronic record knowing it to be forged and intending to use it as genuine [S.474], Falsification of accounts [S.477A]. All these sections are very much specific about the offences relating to electronic records by the perpetrator.

Apart from the above several sections are there in IPC in which offences of various nature relating to electronic records are implicit and the perpetrator may be booked under the relevant section or sections read with Sec.4 of I.T. Act. The significance of Sec.4 of I.T. Act is that this is the sole statutory provision which legally recognizes the conduct through electronic means or records. It provides ---

Where any law provides that information or any other matter shall be in writing or type written or printed form, then despite anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is ----

- a) Rendered or made available in an electronic form and**
- b) Accessible so as to be usable for a subsequent reference.**

Hence, criminal defamation [Sec.499], criminal intimidation [Sec.503], Criminal intimidation by an anonymous communication [Sec.507], word, gesture or act intended to insult the modesty of a woman [Sec.509], cheating [Sec.415], cheating by personation [Sec.416], Statements conducing to public mischief [S.505]. All these provisions may be invoked against the perpetrator read with Sec.4 of I.T. Act.

From the above it appears that the legislature intended to confer the powers on the law enforcement agency to apply these provisions of IPC in all criminal cases where use of electronic means or electronic records are involved in the commission of crime. Now the question arises police officer of which rank will investigate these offences after booking the perpetrator. In absence of any statutory provision to this extent we may probably find the answer that the same practice will ensue as in case of any other conventional circumstances, i.e., a police officer of any rank who is notified by the State Govt. concerned as competent for investigating a criminal case, will do the investigation of the offences of these categories also.

**Offences based on or relating to electronic records/means under POCSO:-**

The Protection of Children from Sexual Offences Act, 2012 also contains some provisions where offences through electronic means may be committed under this Act.

Sec.11 of POCSO Act, 2012 provides that a person is said to commit sexual harassment upon a child if such person (he or she) with sexual intent -

- (i) Utters any word or makes any sound/gesture or exhibits any object/body part with the intention that such word/sound shall be heard or gesture/object/body part shall be seen by the child
- (ii) Makes a child exhibit his body or any part of his body so that it could be seen by such person/any other person
- (iii) Shows any object to a child in any form/media for pornographic purposes
- (iv) Repeatedly or constantly follows/watches/contacts a child directly or through electronic/digital or any other means
- (v) Threatens to use in any form of media, a real or fabricated depiction through electronic/film/digital/any other mode, of any body part of the child or involvement of the child in a sexual act
- (vi) Entices a child for pornographic purposes or gives gratification therefore

In the above provision the first five clauses show commission of the offence of sexual harassment over a child through any electronic means or records.

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Sec.13 of POCSO Act, 2012 provides that whosoever uses a child in any form of media (including a programme or advertisement telecast by television channel or internet or other electronic form or printed form, whether or not such programme or advertisement is intended for personal use or for distribution) for the purpose of sexual gratification which includes:-

- a) Representation of sexual organs of a child
- b) Usage of a child engaged in real or simulated sexual acts with or without penetration
- c) Indecent or obscene representation of a child

Shall be guilty of the offence of using a child for pornographic purposes.

Offences may be committed under this section through electronic means or records.

Sec.14 of POCSO Act provides several forms of offences for or by using children for pornographic purposes. Sec.15 of POCSO Act provides that any person, who stores, for commercial purposes any pornographic material in any form involving a child, shall be inflicted with the quantum of punishments as prescribed therein.

POCSO Act, 2012 is silent about the rank of the police officer who is competent to investigate. So presumably the same practice will ensue as in case of any other conventional circumstances, i.e., a police officer of any rank who is notified by the State Govt. concerned as competent for investigating a criminal case, will do the investigation of the offences of these categories also.

Sec.26 of POCSO provides that wherever possible, the Magistrate or Police Officer, as the case may be, shall ensure that the statement of the child is also recorded by audio-video electronic means.

It is the I.O. who has to comply the same provision as mandated in this provision. Further, in *Rajesh Mund@Bulu vs. State of Orissa*<sup>5</sup> Hon'ble High Court of Orissa observed that the police office should specifically mention the compliance of the provisions U/s-24 & 26 of POCSO Act in the case diary while recording the statement of the child victim. Such provisions are made for the benefit of the victim not for the benefit of the accused. Any procedural infirmity in recording of such statement of the child victim by the police officer would not be a ground for rejection of such statement if it is

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<sup>5</sup>BLAPL No.37/2016 Order dt.18.04.2016



otherwise cogent and coherent. Such infirmity will also not vitiate the trial nor can the accused claim acquittal on that ground. If the trial court is of the opinion that the police officer while recording the statement of the child victim has deliberately flouted the provisions prescribed under POCSO Act, in appropriate cases the *court can recommend for initiation of departmental proceeding against such erring police officer.*

Thus it is mandatory for the police officer acting as I.O. to record the statement of the victim child under POCSO Act through audio-video electronic means, failing which departmental enquiry may be ensued against him as per recommendation of the trial court. If it is not possible for him to use audio-video electronic means he has to justify his inability or constraint in the case diary to the satisfaction of the court, which is quite difficult for an I.O. specially in the current days of cyber era.

Another significant provision under POCSO Act is Sec.28(3) which provides that the Special court constituted under POCSO Act, notwithstanding anything contained in Information Technology Act, 2000, shall have jurisdiction to try offences under section 67B of that Act in so far as it relates to publication or transmission of sexually explicit material depicting the children in any act or conduct or manner or facilities abused of children online. It means that a case of child pornography U/s-67B of I.T. Act can be tried by the same Special Court in addition to any offence under relevant provisions of POCSO Act against the accused person or persons.

Interestingly several categories of offences may fall within the ambit of both the laws which are very common and almost every day feature in the present cyber era. but it is not practically feasible to detail a police officer of the rank of Inspector for investigating the part of I.T. Act and another police officer of S.I./A.S.I. for the part of POCSO Act. Furthermore, because of paucity of adequate number of police officers of the rank of Inspector or above in a police station or circle, it is also not possible to keep such type of cases reserved for them only.

**Certain mandatory provisions/proceedings relating to electronic records/means under Juvenile Justice (Care & Protection of Children) Act, 2015:-**

Sec.74(1) of J.J. Act, 2015 provides that no report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, shall disclose the name, address or school or any other particular, which may

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lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published.

For reasons to be recorded in writing, the J.J.Board or CWC, as the case may be, holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child.

Sub-section (2) of Sec.74 says that the police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of.

The above provision must be known to every police officer considering the sensitivity of the matter, investigation of the case and above all the best interest of the child who may be a child in conflict with law, a child in need of care and protection, a victim or a witness. Further, it is the police officer, irrespective of the rank, who has to take necessary action for any contravention of this provision and do the proper investigation for such contravention also.

Secondly, Rule-92(4) of Juvenile Justice Rules, 2016 the police shall ---

- (i) Collect a recent photograph of the missing child and make copies for District Missing Persons Unit, Missing Persons Squad, National Crime Records Bureau/Media etc.
- (ii) Fill the form on the designated portal
- (iii) Fill the specified designed 'Missing Persons Information Form' and immediately send to MPS, DMPU, NCRB, SCRB, CBI and other related institutions.
- (iv) Send the copy of the FIR by post/email to the Office of the nearest Legal Services Authority along with addresses and contact phone numbers of parents or guardian of the missing child or child care institution, after uploading the relevant information onto the designated portal.
- (v) Give widely publicity or telecasting the photographs and the description of the missing child, as feasible in --
  - a) Leading newspapers
  - b) Television/**electronic media**
  - c) Local cable television network and **social media** and thereafter submit for ratification by the JJB or CWC or Children's Court, as the case may be.

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- (vi) Give wide publicity in the surrounding area through the use of loud speakers and the distribution and affixture of Hue & Cry notice at prominent places. **Social networking portals, Short Message Service alerts** and slides in cinema halls can be used to reach out to the **masses**.
- (vii) Scan the recordings of the Closed Circuit Television Camera installed in the vicinity of the area from where the child was reported missing and on all possible routes and transit destination points like bus stands, railway stations and other places.

Neither J.J.Act nor J.J.Rules provide any stipulation as to the rank of the police officer who is competent to comply the aforesaid provisions. So presumably it may be submitted that the above provisions are to be complied with by all police officers irrespective of their ranks.

#### **Relevant Provisions under Information Technology Act:-**

As per Sec.69 of I.T. Act, 2000 (as amended in 2008) Government may by order, **direct any agency** of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any **information generated, transmitted, received or stored in any computer resource**.

By virtue of this provision a police officer may intercept, monitor or decrypt any electronic message or communication for the purpose of investigation of any offence or some other grounds as mentioned in Sec.69, in compliance with the norms as prescribed in Rule-3 of I.T. (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009.

In the current scenario of cyber era every police officer needs to know the extant provision of Rule-3(4) of I.T. (Intermediaries Guidelines) Rules, 2011 which confers mandatory responsibility on every intermediary (Internet Service Providers) to preserve the certain information and associated records as categorized in I.T. **(Intermediaries Guidelines) Rules, 2011 for at least ninety days for investigation purposes**.

In both of provisions mentioned above there is no stipulation as to the rank of the police officer since the data so collected from any ISP or through interception/monitoring/decryption, appear to be very useful, cogent and admissible piece of evidence in all criminal investigations. Therefore a police officer of the rank of S.I/A.S.I. should know properly the implications

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of these significant provisions under I.T. Act and thereafter implement them in case of necessity in the correct manner.

Sec.80 of I.T. Act provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer, not below the rank of an Inspector or any other officer of the Central Govt. or a State Govt. authorised by the Central Govt. in this behalf may –

- a) enter any public place
- b) search and
- c) arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

In case of entry, search and arrest as mentioned above, the provisions of Cr.P.C. has to be followed.

Explanation to this section provides that the expression "public place" includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

The above provision stipulates the rank of the police officer who may implement the provision in connection with any offence, whether bailable or non-bailable, under I.T. Act. Most interestingly the section may be implemented in cases of any offence which has already been committed or which is being committed or which is likely to be committed. So in the current cyber era where different categories of cyber offences in public places are everyday's common feature, cases may happen where a police officer of below the rank of an Inspector, who may be urgently and instantly in need of implementing this section, may not actually be able to do so only because of the stipulation of the rank and he has to wait for arrival of his superior officer holding the rank of Inspector or above, in order to enter and/or search a public place as defined in this section and thereafter to execute arrest, if so required, of the suspect. Therefore it appears to be practically difficult and also not feasible for a police officer of below the rank of Inspector for implementation of this section.

The Information Technology Act, 2000, being a special law, has overriding effect on Criminal Procedure Code in the context of empowering police officers for investigation of cyber offences under I.T. Act. Sec.78 of I.T. Act starts with a non-obstante clause, i.e., "*Notwithstanding anything contained in the Code of Criminal Procedure, 1973,*" which specifically debars the application of Criminal Procedure Code in case of authorization

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or empowerment of a police officer for investigation of any offence under I.T. Act. Consequently no question arises as to the application of Sec.168 of CrPC also.

*Sec.168 of CrPC provides that when any subordinate police officer has made any investigation under the Chapter-XII of CrPC, he shall report the result of such investigation to the officer in charge of the police station.*

By dint of non-application of Sec.168 of CrPC, no police officer below the rank of Inspector as stipulated by I.T. Act, has the authorization to do investigation or any other proceeding, in case required, under the I.T. Act.

### **Relevant Provisions of Indian Evidence Act, 1872:-**

Since a police officer of any rank, i.e., the police officer of the rank as stipulated by the State Govt. by general or special order, may investigate or conduct other necessary proceedings in connection with any offence under any law other than I.T.Act, he must know the implications of the following provisions:-

Sec.59 provides that all facts may be proved by oral evidence except the contents of documents or the contents of electronic records. It means oral evidence is not permissible under law of evidence to prove the contents of any electronic record.

Along the line of this provision, if a matter prima facie involves any computer system, computer resource, computer network or any other communication device as the target or tools, a police officer acting as the duty officer in a police station should not register FIR, he should ask the complainant or informant for production of any computer output, i.e., print out, CD,DVD, hard drive, hard disk etc. (as defined in Sec.65B) on the basis of which FIR may be lodged. Similarly during the course of investigation a police officer acting as the I.O. should not merely record the verbal statement of a person U/s-161 of CrPC with regard to the contents, entirely or partly, of any electronic records (e-mail, sms, social media message, contents of any web page etc.), in addition to the same he must collect copy or copies of any computer output (as defined in Sec.65B) as piece or pieces of evidence since mere verbal statement of a person will not prove the contents of such electronic record.

Secondly, the issue of admissibility of any electronic record has been provided in Sec.65B of I.E. Act, according to which it is mandatory for fulfillment of four technological conditions as set out therein in all cases where admissibility of any electronic record is concerned and to that effect a

certificate will have to be prepared by a person occupying a responsible official position relating to the operation or management of the system and then to be tendered before the court. Then only the impugned electronic record will be admissible by the court.

Hon'ble Supreme Court of India in *Anvar P.V. Vs. P.K. Basheer & Others*<sup>6</sup> made it compulsory for submission of the certificate U/s-65B of I.E.Act before the Court for admissibility of electronic records in all cases. Again in *Shafhi Mohammad vs. State of Himachal Pradesh*<sup>7</sup> Hon'ble Apex Court observed that a party who is not in possession of device from which the electronic document is produced, can't be required to produce the certificate U/s-65-B(4) of the Indian Evidence Act.

Where a police officer, below the rank of an Inspector, acting as I.O. in a case registered under any law other than I.T.Act, finds any electronic record as a cogent piece of evidence during the course of investigation, he must go for implementation of Sec.65B of I.E. Act for admissibility of such electronic record. Even where any kind of audio-video electronic means are used by the I.O. for recording of statement of any person or for any other necessary proceeding during the course of investigation, such electronic record needs to be supported with the certificate U/s-65B of I.E.Act and it is the I.O. who has to get the certificate issued properly from the competent person in accordance with the terms of Sec.65B of I.E.Act, otherwise the electronic record will not be admissible before the court and all efforts of I.O. will be wasted.

Thirdly Sec.88A of I.E. Act provides that the Court may presume that an electronic message, forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission; but the Court shall not make any presumption as to the person by whom such message was sent.

By virtue of this section merely the fact that an offensive e-mail has come from the e-mail address of one person does not render him liable. A police officer, below the rank of an Inspector, acting as I.O. in a case registered under any law other than I.T. Act must know the implication of this section

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<sup>6</sup>SC/0834/2014

<sup>7</sup>SLP (Cr) No.2302 of 2017 order dt.30.01.2018

where no presumption can be drawn by the court about the sender of an e-mail, whereas the content of the e-mail may be presumed to the same as fed

into the computer system. Therefore, to this effect other pieces of cogent evidence would have to be collected by I.O. for successfully prosecuting the person.

Apart from the special laws as analysed hereinabove, some more enactments, e.g., Arms Act, 1949, Explosives Act, 1884, Explosive Substances Act, 1908, NDPS Act, 1985 etc. are equally attracted along with I.T. Act against the perpetrator in the cases where his online offensive conducts fall within the prohibitory ambits of these enactments. The menace of dark web leads to online mode of selling, buying, offering for sale, publication, uploading, transferring, propagation etc. in regard to arms, ammunitions, explosives, drugs, psychotropic substances etc. which are prohibited in the extant enactments.

#### **Judicial observations:-**

In *Youth Bar Association of India v Union of India & Others*<sup>8</sup> Hon'ble Supreme Court observed that the copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location. Now the question arises who has the responsibility to do the needful for actually uploading the copy of FIR in the concerned portal. Nowhere the rank of a police officer has been stipulated to this effect.

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<sup>8</sup>W.P. (CRL) No.68/2016 order dt.07.09.2016



In **Shafhi Mohammad vs. State of Himachal Pradesh**<sup>9</sup> Hon'ble Supreme Court observed that Videography of crime scene during investigation is of immense value in improving administration of criminal justice. It is also observed that notwithstanding the fact that as of now investigating agencies in India are not fully equipped and prepared for the use of videography, the time is ripe that steps are taken to introduce videography in investigation, particularly for crime scene. In this case Ministry of Home Affairs, Govt. of India has been directed to set up a Central Oversight Body (COB) which will be responsible for further planning and implementation of the use of videography. Now the question arises who will do the videography of the crime scene during investigation. Nowhere the rank of a police officer has been stipulated to this effect. Therefore the same practice will be followed as in case of any other conventional circumstances, i.e., a police officer of any rank who is notified by the State Govt. concerned as competent for investigating a criminal case, will do the videography of the crime scene also. In consonance with the observation of the Apex Court it may be submitted that it is absolutely necessary in the present scenario to impart proper and effective training on videography to all police officers irrespective of their ranks and at the same time statutorily empower them to use videography during investigation.

In *Tehseen S. Poonawalla Vs. Union of India & others*<sup>10</sup> the Bench comprising of Hon'ble Sh.Dipak Mishra, CJI, Sh.A.M.Khanwilkar, J. & D.Y. Chandrachud, J. took into account the contribution of inciting or false messages and videos to the instigation of crowds. The Apex Court, in fact, directed registration of FIRs U/s-153A of the IPC (promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc.) and other relevant provisions of law against people who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind. It is also observed that lynching and mob violence are creeping threats that may gradually take the shape of a Typhon-like monster as evidenced in the wake of the rising wave of incidents of recurring patterns by frenzied mobs across the country instigated by intolerance and misinformed

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<sup>9</sup> *SLP (Cr) No.2302 of 2017 order dt.30.01.2018*

<sup>10</sup> *W.P. (Civil) No. 754 of 2016, together with W.P.s (civil) No.764 & 768 of 2016, 732 of 2017 & W.P.(Crl) No.122 of 2017 judgment dt. 17th July, 2018*



by circulation of fake news and false stories. With deep concern the Supreme Court observed that it shall be the duty of the **Central Government** as well as the **State Governments** to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.

The State Governments shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news. The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.

Internet shut down has become one of the imperative steps to be taken by law enforcement agency U/s-144 CrPC for maintenance of law and order in any disturbed location. Sec.69A, along with the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 provides for a mechanism to block information from public access through any computer resource by a direction from the Central Govt. or any officer specially authorized in this behalf on the grounds of interest of sovereignty and integrity of India, defence of India, security of the state, friendly relations with foreign states or public order or for preventing incitement to the commission of any cognizable offence relating to the above. As observed by Hon'ble Apex Court in **Guarav Sureshbhai Vyas v. State of Gujarat**<sup>11</sup> the scope of operations of Sec.69A and Sec.144 were different and overlapped, only to cover 'public order'. the State Govt., having

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<sup>11</sup> *W.P. (PIL) No. 191 of 2015*

the rightful authority in times of emergency, may deem fit to block entire mobile Internet services, failing which, the situation would have worsened.

Along the line of the above recent observations of the Supreme Court it may be submitted that role of all police officers, irrespective of their ranks, exist everywhere, e.g., in the special task force, local intelligence units, SHOs, as directed by Hon'ble Apex Court for eradication or prevention of hostile environment created through fake, irresponsible and explosive materials in social media platforms.

**In State of Maharashtra vs. Dr Praful B Desai<sup>12</sup> Supreme Court allowed the examination of a witness through video conferencing** and concluded that there is no reason why the examination of a witness by video conferencing should not be an essential part of electronic evidence. As observed by the Apex Court video conferencing is an advancement of science and technology which permits seeing, hearing and talking with someone who is not physically present with the same facility and ease as if they were physically present. The legal requirement for the presence of the witness does not mean actual physical presence. Along the same line Supreme Court observed in the case of Amitabh Bagchi Vs. Ena Bagchi<sup>13</sup> that physical presence of person in Court may not be required for purpose of adducing evidence and the same can be done through medium like video conferencing. In the case of Twentieth century Fox Film Corporation Vs. NRI Film Production Associates (P) Ltd.<sup>14</sup> concrete guidelines in detail are given by Hon'ble Apex Court with regard to the holding of video conferencing in a case. Now, it will be the investigating officer, irrespective of rank, who is to implement the mandates given by the Hon'ble Apex Court for recording the statements through video conferencing.

In the statement of objects and reasons asserted in The Information Technology (Amendment) Bill, 2018 (Bill No. XX of 2018) as introduced in Rajya Sabha on 3rd August, 2018, it has been correctly stated that the information technology has been the biggest change that has been brought in human life during the last few decades. It has touched every aspect of our lives and changed the way we live. With the advent of smart phones, the information technology has reached the hands of each and every individual. Information technology is not an unmixed blessing.

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<sup>12</sup> (AIR 2003 SC 2053)

<sup>13</sup> (AIR 2005 Cal 11)

<sup>14</sup> (AIR 2003 Kant 148)

Today it is a matter of serious concern that the penetration of internet and proliferation of information technology into all sections of society and economy has resulted in increased number of cyber offences. Police officers and cyber experts are being subjected to tremendous challenges and troubleshooting with various forms of cyber offences relating to cloud computing, crypto currency, dark web, TOR network, child pornography, online trafficking etc. In the current scenario of cyber world every day the nature of crimes has been changing rapidly and trends are being developed for commission of crimes through new upgraded cyber technology. As such various cases are happening where the conducts of the perpetrator fall within the ambit of the relevant sections of I.T.Act and other special laws. Police officers are undergoing snagging situation in practical sense because of the extant statutory barriers with regard to their empowerment for investigation and other necessary proceedings.

As reported in media recently further amendment of Information Technology Act, 2000 is under planning stage by the Govt. intending to make it mandatory again for police officers of the rank of Deputy Superintendent of Police and above to investigate cyber crimes for better scrutiny of allegations.<sup>15</sup> Earlier in 2008 the amendment was made considering the huge workload, inadequate number of officers of such rank and paucity of time to deal with cyber crime cases.

The Expert Committee as set up in Jan, 2005 under the Chairmanship of the Secretary, Deptt of Information Technology in order to update the Act as per changing scenario, had examined in detail the Information Technology (Amendment) Bill 2006 and in its report it is averred that according to the Deptt. Of Information Technology & the Ministry of Law and Justice (Legislative Deptt.) such provision of empowering at least a DSP rank officer to investigate cognizable offences has been made on the ground that investigation of offences like cyber crimes need a certain level of technological knowledge is required for investigation of cyber cases which may not be available with all ranks of police officers. The Committee did not accept the reasoning and opined that when SHOs can investigate such sensitive cases like murder and rape, there is no point in conflicting investigation of I.T. related cases to DSP and above rank officers, especially in view of their scarcity and other pressing assignments. It is also stated in

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<sup>15</sup> *Times of India Report dt.27.08.2018*

## Police Investigation under the I.T. Act: Need for Changes

the sand report, *“the general perception that only DSP and above rank police officers can better understand the nuances of information technology does not impress the Committee in view of the fact that now-a-days given the current educational system and avenues available all round, every graduate/post graduate has a passion to acquaint herself/himself with information technology.”*<sup>16</sup>

Several cyber law experts of our country express their concern about the setting up of robust mechanism and special cells in police stations for stricter enforcement especially for dealing with cases against women apart from strengthening the existing law.

The statutory laws appear to be conflicting with each other in the context of authorization or empowerment of police officers for investigation of cyber offences, e.g., a police officer of below the rank of an Inspector, who may do investigation or any other proceeding relating to electronic means/records under IPC, POCSO Act, J.J.Act etc., can't investigate or do other necessary proceeding under I.T.Act. This restriction is seriously required to be reviewed by the legislature. It is the high time to lift the barrier of rank of police officers for investigating cyber offences. The investigation and other proceedings should not be restricted to only a stipulated superior rank of police officers excluding those who are generally considered to be the first responders and investigators under other laws, merely on the ground that technical soundness and efficacy are required for proper understanding and investigation of cyber offences under I.T.Act. Uniformity needs to be maintained under all laws in regard to empowerment of the police officers for investigation and other necessary proceeding of cyber issues. In order to cope up with the current changing nature and trends of crimes all police officers right from the lowest in rank needs to be fully equipped with proper knowledge and efficiency through effective training, both legal and technical, to handle cyber issues and troubleshoot various forms of cyber threats thrown on the law enforcement agencies is-a-vis the society at large. It is really a matter of serious concern and the need of hour to review by the legislature the extant restrictive legislation relating to investigation of cyber offences in our country.

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<sup>16</sup> *Recommendations/Observations page no.59, 50th report of Standing Committee (14th Loksabha) on Information Technology (2007-2008), Ministry of Communications & Information Technology, Deptt of Information Technology dated 31st August, 2007*

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2. Anvar P.V. Vs. P.K. Basheer & Others SC/0834/2014
3. Guarav Sureshbhai Vyas v. State of Gujarat W.P. (PIL) No. 191 of 2015
4. Rajesh Mund@Bulu vs. State of Orissa BLAPL No.37/2016 Order dt.18.04.2016
5. Shafhi Mohammad vs. State of Himachal Pradesh SLP (Cr) No.2302 of 2017 order dt.30.01.2018
6. State of Maharashtra vs. Dr Praful B Desai (AIR 2003 SC 2053)
7. Tehseen S. Poonawalla Vs. Union of India & others W.P. (Civil) No. 754 of 2016, together with W.P.s (civil) No.764 & 768 of 2016,732 of 2017 & W.P.(Crl) No.122 of 2017 judgment dt. 17th July, 2018
8. Twentieth century Fox Film Corporation Vs. NRI Film Production Associates (P) Ltd. (AIR 2003 Kant 148)
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## Analysis of Prisoners' Conditions: A Case Study on Modern Central Jail - Nahan

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### 1. Abstract

The research explains about the living conditions of inmates in Model Central Jail Nahan along with analysis of barrack infrastructure, food quality and sanitation. The study also aims at explaining various facilities provided to the prisoners with special focus on wage earning avenues and educational programmes. It provides an insight into three major crimes encountered during survey i.e. crime related to murder, crime against women and crime under NDPS Act along with the strategies which can be adopted to curb them. It presents a detailed analysis of the problems faced while sending out the prisoners for medical tests and appearance in the courts with an approach to make the process more convenient. Issues in provision of legal aid to the prisoners is another area this study focuses upon. It concludes with showing trends of crime versus various attributes of a prisoner which must be taken care of to reduce the number of cases and also tries to delve upon

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possible solutions to the above mentioned issues with regard to the prisoners in jails.

## 2. Introduction

To provide safe, secure, caring and humane environment inside the prison is the mission of the Directorate of Prisons and Correctional Services, Himachal Pradesh. This environment can be created inside the jail only by providing the necessary infrastructure, adequate services in terms of food, medical aid, sanitation facilities, legal aid etc. CAG report on social, general and economic sectors for March 31, 2016 pointed out that the State Prisons Department had not offered education and rehabilitation facilities for the bulk of the prisoners where only 6% prisoners out of 1116 in the test checked jails had obtained educational qualifications while lodged in the jail during 2013-16<sup>1</sup>. This case study attempts to bring forth the existing situations inside the Modern Central Jail Nahan on the above aspects.

Model Central; Jail Nahan is located in Sirmaur district of Himachal Pradesh. Currently there are 14 jails in Himachal Pradesh with two Model Central Jails, two District Jails, one Open Air Jail, one Borstal Jail and eight Sub Jails<sup>2</sup>. Department of Prisons is headed by Director General of Prisons who exercises general control and superintendence over all the prisons in the state.

Himachal Pradesh accounts for 0.43% of total 419623 prisoners in India with the average occupancy rate of 110.7%<sup>3</sup>. Occupancy rate for each type of Jail in Himachal Pradesh is shown below in comparison with the average rate of all area Indian states.

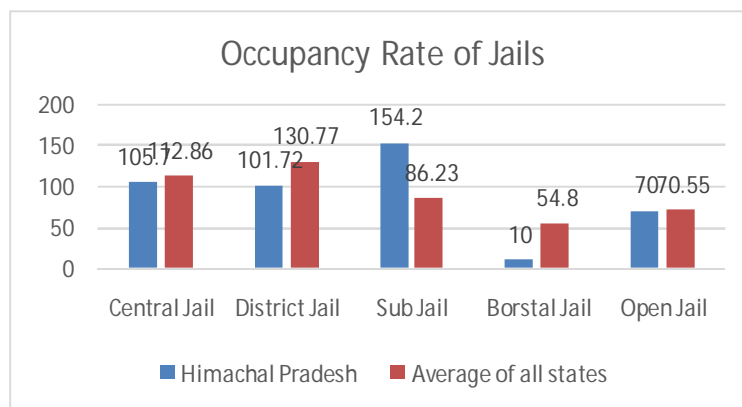


Figure 1: Data Source: *Prison Statistics of India 2015 (NCRB)*

### 3. Methodology

Data of 200 inmates of Model Central Jail Nahan was collected during the survey. Based on initial study; a test survey was conducted with ten prisoners and based on their response, further relevant changes were made to the finalized questions. Inmates were interviewed individually and the responses were collected through Google Forms filled by the surveyor.

Data that was collected during survey is presented below:

1. Basic Information: Name, Type of Inmate, Gender, Marital Status, Type of Locality (Rural/Urban)
2. Crime profile: Crime, Term of Sentence, Date since serving, Application status for bail/parole
3. Additional Information: Educational Qualifications, Earning status, Number of family members
4. Life inside Prison: Rating of barrack, food, sanitation out of 10, Wage earning and educational programs, Preference to learn new skill, Wish to continue learned skill, addiction to smoking and alcohol, access to mobile phones, drugs or alcohol inside jail and use of Jail *Vaarta* facility
5. Medical Aid
  - a. Diseases before and after coming to prison along with the type
  - b. Status of timely medical test and consultation
  - c. Rating of district police guards attitude while escorting (out of 10)
6. Legal Aid: Awareness of Fundamental Rights, Legal literacy classes, amount spent in availing legal aid

The conditions inside Model Central Jail Nahan were accessed in accordance with the Rights of Prisoners as suggested by All India Committee on Jail Reforms 1980-83<sup>4</sup>.

Python and Excel tools were used for data analysis while data was filtered with the help of SQL.

Inputs from Superintendent of Jail, Model Central Jail Nahan and interaction with jail warden, police constables were also included in the research.



#### 4. Living Conditions of Prisoners -

To determine the conditions in which the inmates of Model Central Jail Nahan live, questions relating to barrack infrastructure, food quality, sanitation and communication facilities were included.

##### 4.1 Barrack Infrastructure

At present there are four blocks in Model Central Jail Nahan i.e. Block A, B, C and D. Number of inmates living per barrack vary as per the size. Each barrack has well maintained fans and lights in adequate quantities. Inmates are responsible for the cleaning of the barracks which they do by turns. Disinfectant and phenyl is provided once in a week for the cleaning. The problem of overcrowding is not very serious as compared to other central jails<sup>5</sup>. "Sometimes when a new prisoner comes; there is a problem of accommodation and bedding facilities but is sorted out after few days" comments one of the inmates during the survey. Each inmate has his own set of bedding which is being provided by the Jail authorities. Sufficient quantities of blankets are provided during winter season. Every inmate has been given his own set of utensils and bucket. However, problem which prisoners complained during the study was there is no water in taps near the barrack and they have to fetch it from the common source near blocks. Based on the common parameters; prisoners were asked to rate the conditions of the barrack on a scale of 10 and the results are provided below.

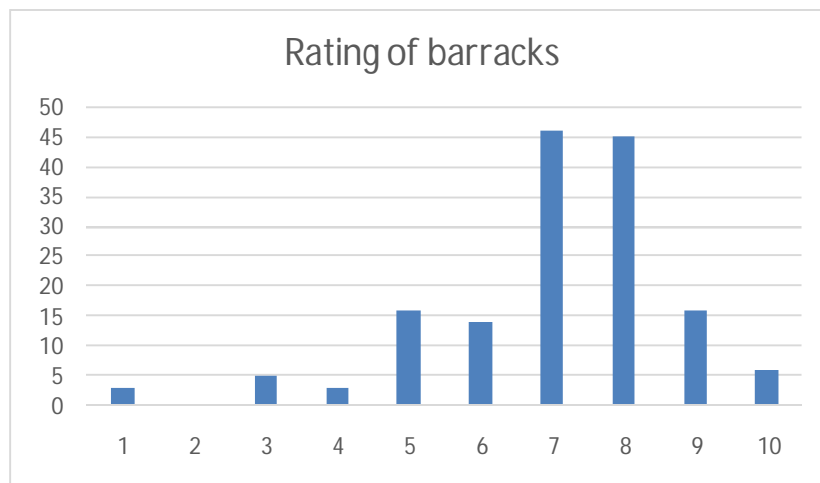


Figure 2

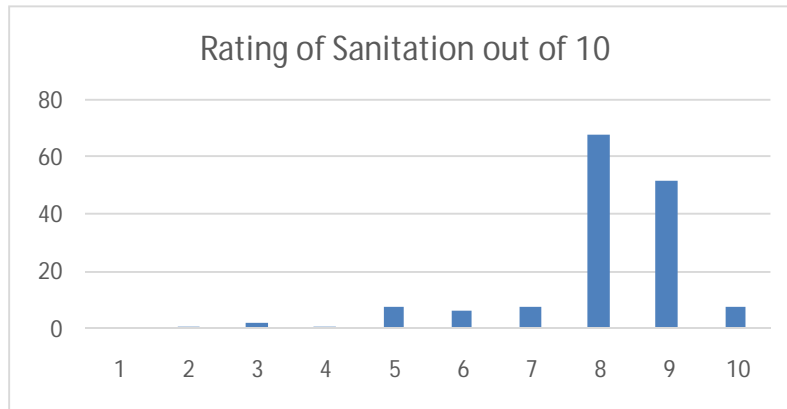


Figure 3

Thus the results obtained point to the fact that prisoners are satisfied with the conditions of barracks and jail sanitation. This result also contradicts the general perception about living environment of prisoners where barracks without fresh air stink due to sweating, algae floats in water tanks and no regular service of sewerage and drainage<sup>4</sup>.

#### 4.2 Food

Prisoners are given meals keeping in mind the minimum amount of calories required per day which is 2320-2730 kcal per day for male while 1900-2830 kcal per day for females as prescribed by Model Prison Manual drafted by the Ministry of Home Affairs, New Delhi<sup>4</sup>.

There is a canteen facility for the prisoners which has various types of basic products including milk, cookies, pizza. etc.

Inmates were asked to rate the quality of food out of 10 and the results obtained are:

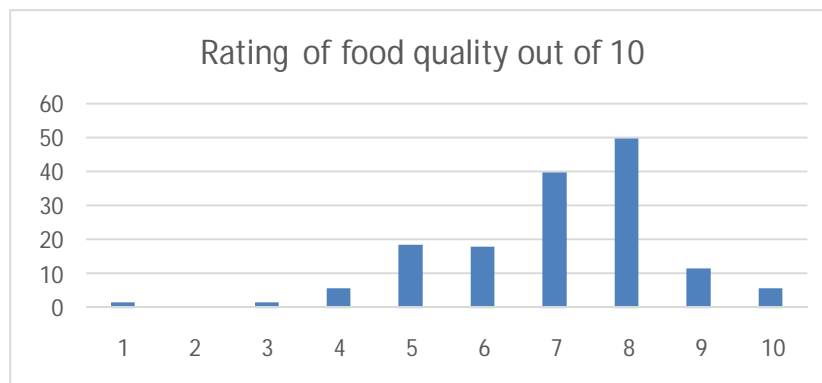


Figure 4

#### 4.3 Communication

Prisoners can communicate to their friends and family through phone call, Video call (Jail *Vaarta* facility) and in person meetings in jail. Phone call is allowed once in a week for 10 minutes. Inmates have to register numbers with the jail authorities to which they wish to make a call.

100% of the prisoners interviewed are regularly using phone call facility. The issue which arises is the number of telephone assigned is one for more than 400 prisoners, so there is shortage of telephone lines.

Jail *Vaarta* is an excellent facility provided by the jail authorities to communicate with family via video call. During the survey, the prisoners were asked about the usage of Jail *Vaarta* facility and the results are:

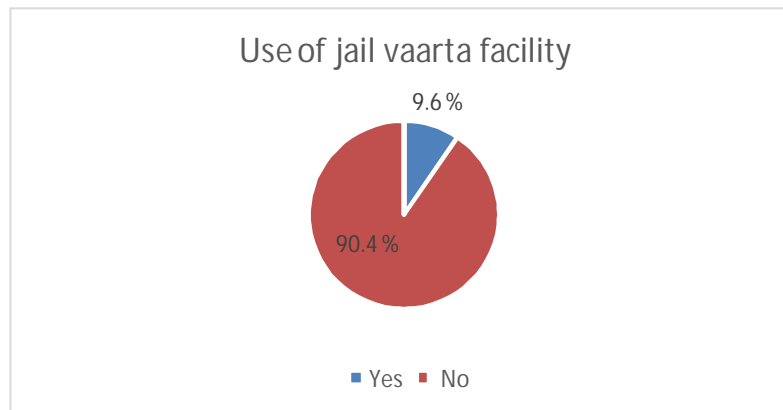


Figure 5: Use of Jail *Vaarta* facility

Despite being such a wonderful initiative only 9.6% of the inmates have used Jail *Vaarta*. It was found that this was due to lack of awareness of the facility and no proper assistance from Jail authorities.

#### 4.3 Wage Earning Programmes for Prisoners

Model Central Jail Nahan provides a number of avenues for wage earning which are Carpentry Workshop, Tailoring, Weaving, Bakery, Horticulture, Cutting and other allied workshops. There is an excellent provision of bakery which makes cookies, pizza, bread and which are being marketed and sold in Nahan from door to door under the brand name '*kaara*' (Adopted from *kaaravas* meaning jail).

Majority of the prisoners enrolled in these programs are convicts. There is a provision for each prisoner to serve in the *langar* (kitchen) once every six

months and she/he is paid INR 5000 for the same. Under the motto '*Har Haath Ko Kaam*' (initiative started by the Director General of Prisons, H.P. and chosen for HP State Innovation Award Scheme for the year 2016-17) through which majority of the convicts have been enrolled in productive wage earning programmes. There is a very high increase in the wages paid over the last 5 years which is an indicator of increasing involvement in the program. In 2015 wages paid to the inmates amounted to Rs4.85 lakhs which rose in FY 2016-17 to Rs 80 lakhs and in FY 2017-2018 to more than Rs1 Crore. The factory output also saw an increase from less than Rs. 25 lakhs in 2015 to Rs. 2.5 Cr in 2016-17 and Rs 3.28 Cr in 2017-18. This exponential growth could be possible due to team building, motivation, facilitation, infra creation and expansion, better marketing tools like flagship Pehal stores, two in Shimla, one each in Nahan and Dharamshala and online marketing portal [www.kaarabazaar.in](http://www.kaarabazaar.in). Prison hospital blankets, hospital bedsheets, pillow coves, etc. are on Government EMarket (GeM) portal. A sum of Rs 70 lakh has been paid as wages to these prisoners in the past one year. The following results were obtained from the survey which shows that 58.12% convicts were enrolled in the wage earning programmes.

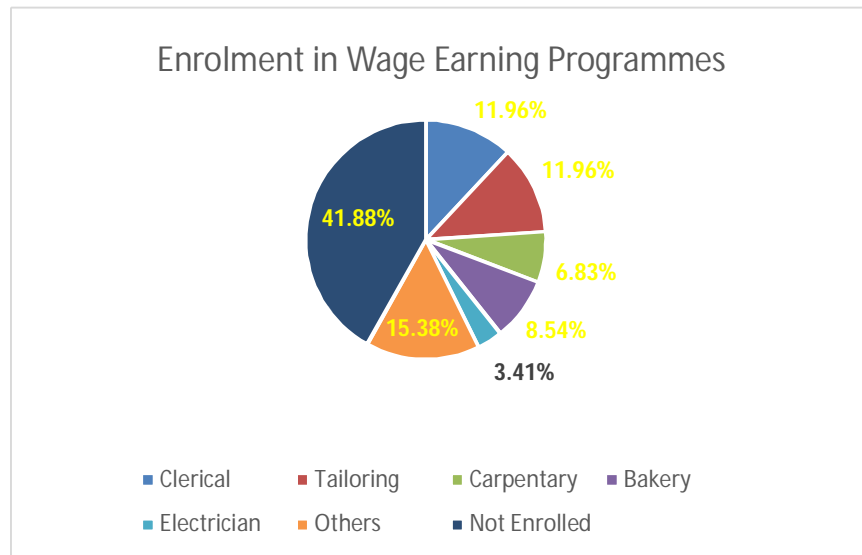


Figure 6

In order to determine how useful this facility would be in rehabilitation of prisoners, they were asked about whether they would like to continue with

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the skills they have learned during their prison tenure or would opt for something else. Responses recorded are as follow:

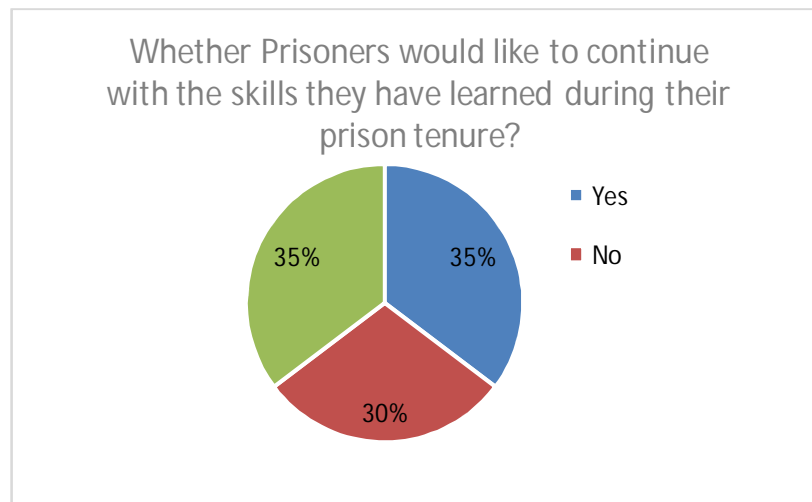


Figure 7

35.3% of the enrolled prisoners wished to continue the skills they had learnt while majority of the inmates gave negative response or either they were confused. This shows that wage earning programmes although beneficial inside the prisons could be more helpful for rehabilitating the prisoners with little modifications and appeal to more number of prisoners. Although most of the prisoners said they would like to continue their previous jobs, many of them proposed to learn skills of electrician, plumber, computer skills, setting up business, painters, etc. Since majority of the inmates are from rural areas, important them the above shirts could be more beneficial under the brand name '*Kaara*'.

#### 4.4 Educational Programmes

Prisoners in Model Central Jail Nahan can continue their studies and appear for board exams as well as complete their graduation from various fields from Indira Gandhi National Open University (IGNOU), New Delhi.

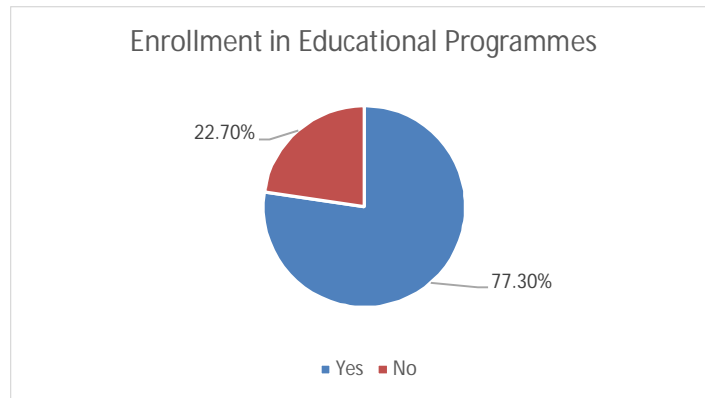


Figure 8

22.7% of the surveyed inmates were continuing their studies from IGNOU. More number of inmates must be motivated to enrol in education program as this increases their chance of landing up with a better job and their stay in prisons could be spent constructively.

#### 4.5 Socio Economic Conditions of Prisoners

Of the total 200 prisoners surveyed; 93% were male inmates. Social life and economic conditions of the prisoners were studied with the help of questions based on monthly income, place of residence, educational qualification and family background.

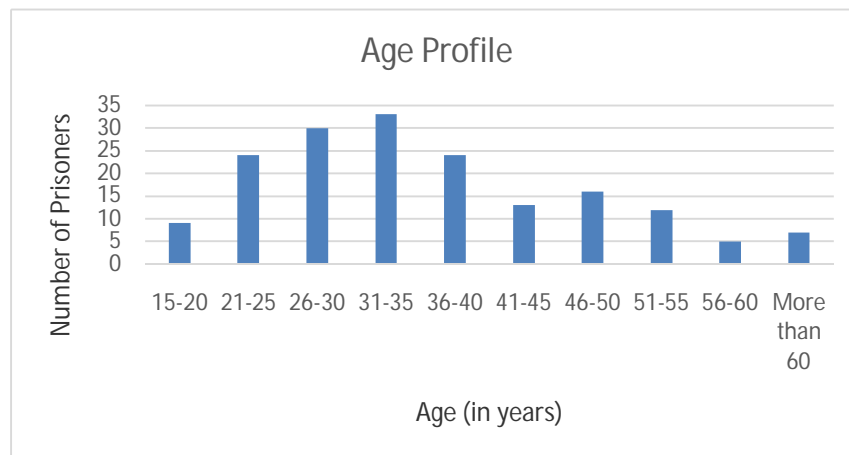


Figure 9: Age Group

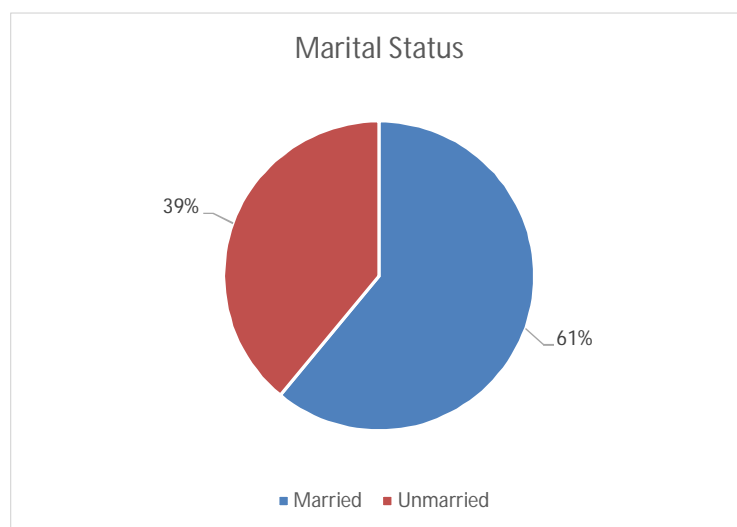


Figure 10

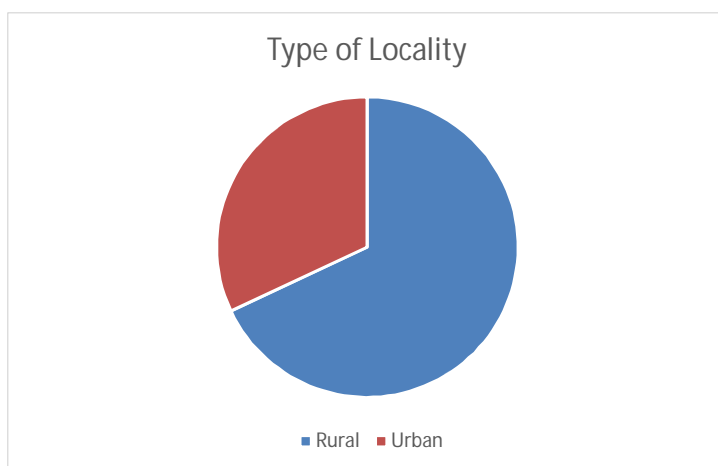


Figure 11  
Educational Background

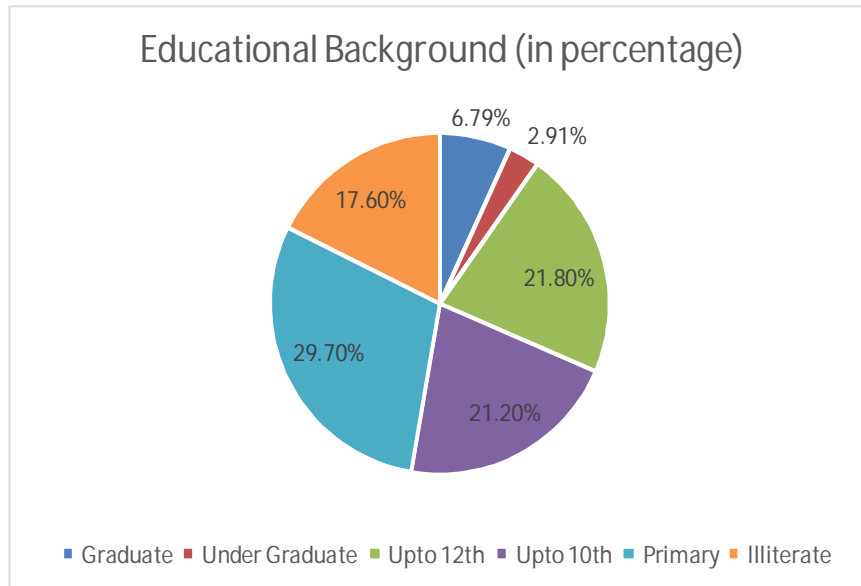


Figure 12: Educational Qualification

More than 50% of the inmates have highest level of qualification only upto 10<sup>th</sup>; whereas 17.6% are illiterates. This proves the fact that the level of education is a major factor beyond indulging in criminal activities.

### Family Background

76% of the total prisoners surveyed lived in nuclear families whereas the number of family members per prisoner is represented graphically as below. 55% of the inmates have family members per household greater than average number of members per household in Himachal Pradesh<sup>6</sup>.

Issue: Lack of family planning which in turn raises the burden on the earning member of the family there by compromising the quality of lifestyle and education which is a strong factor leading to criminal activities.

### Monthly Income

Majority of the prisoners have monthly income below INR 10000 which is less than per capita income of Himachal Pradesh whereas 9% were unemployed<sup>7</sup>.



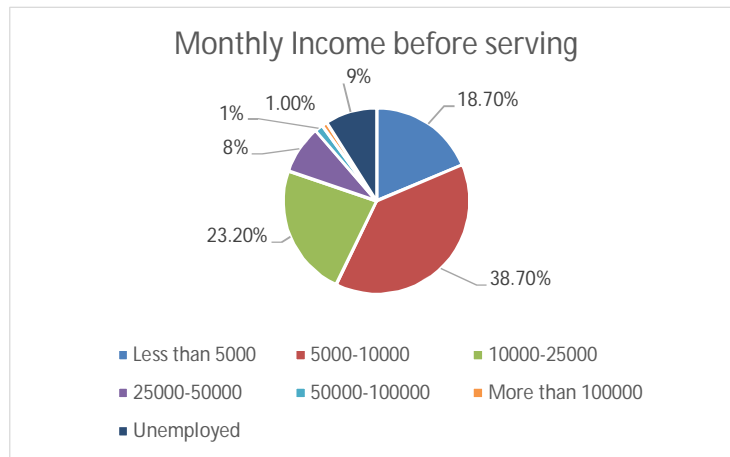


Figure 13: Monthly Income before serving

Of the total inmates surveyed; 46.3% were the only earning member of the family which puts a great burden on the family members at times when the earning member is serving in prison. Hence, cases of such under trial prisoners who are the only earning member of their family must be taken up with priority for trials as well as giving special attention to their rehabilitation.

#### Addiction

Results for addiction of inmates to smoking and alcohol are presented below:-

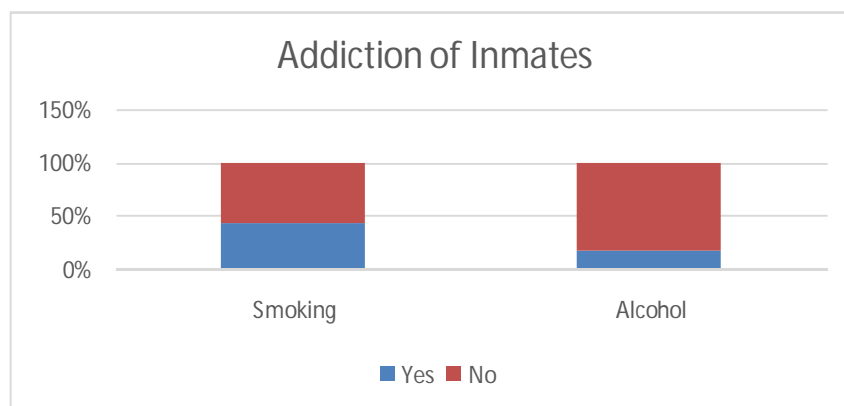


Figure 14

Bidi is available from the Jail canteen to the prisoners but there is no access to drugs and alcohol by any means inside the jail, as confirmed by 99% of the prisoners during the survey.

Frequency of de addiction camps is very less and majority of the inmates claim there have been no such camps since they are serving.

#### 4.6 Medical Aid

Disease profile for the surveyed inmates are shown below:

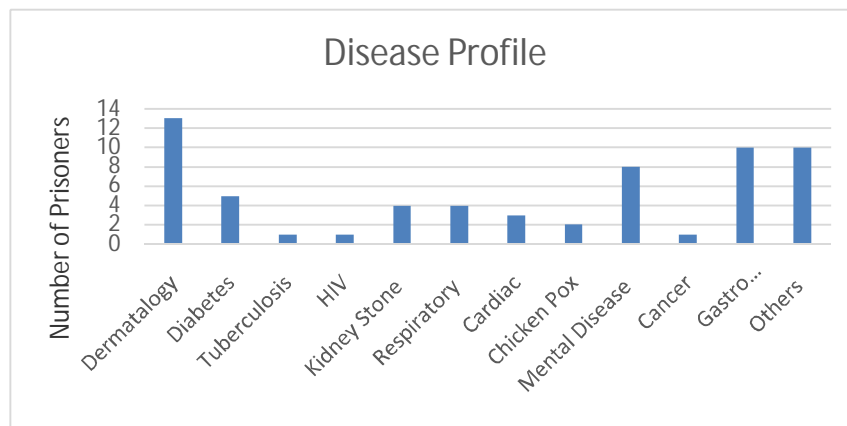


Figure 15

Although it is mandatory to have a Chief Medical Officer for each prison but in Model Central Jail Nahan this post has been lying vacant for a long time. There is no regular doctor in the prison. There are frequent visits of doctors from the nearby hospital whom the inmates can consult. As there are quite a large number of prisoners with diseases and thus it is not possible for the visiting practitioner to check each and every patient. Thus most of the prisoners have to wait for a long time before their turn comes often aggravating the condition.

There is a pharmacy in the prison which is equipped with adequate type and number of medicines. During the survey; it has been observed that prisoners were not satisfied with services of pharmacy. One of the inmates recalled “*For every problem with which you approach the pharmacist he just gives you the painkiller*”. There have been instances where some inmates were even harassed by the pharmacist.

The major problem faced while providing the medical aid to the prisoners is when they are recommended by the doctors visiting the prison for medical tests in the hospital. This request of the prisoner is conveyed to the jail

authorities which in turn forward the application to District police for providing guards to escort the inmates to and from hospital to jail.

Issue:

1. Non availability of guards delays the test
2. Behaviour of police guards with the inmates

Prisoners were asked to rate the behaviour of police guards escorting the on a scale of 10 and the results obtained are as follows:

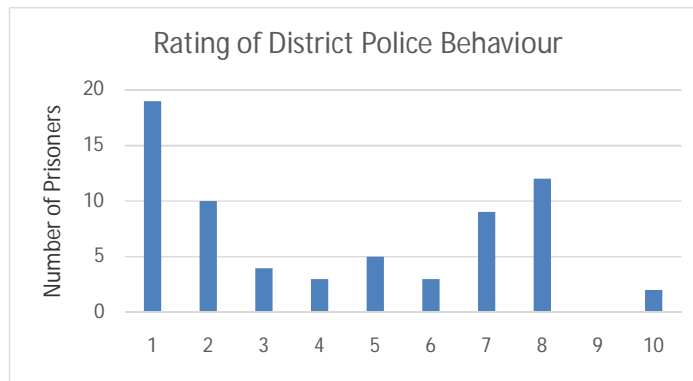


Figure 16

Most of the prisoners were uncomfortable with the attitude of the district police. It depended from personnel to personnel but very few rated nine or above nine.

Inmates added that police guards were always in a hurry and if there is a queue in hospital for the medical test, most of the times, the guards take another date from the hospital staff and return the prisoner to the jail without the test.

#### 4.7 Legal Aid

There are regular legal aid classes conducted inside the prison. Four legal aid lawyers are associated with Model Central Jail Nahan who have weekly visits. Through this facility, the inmates can avail the free facility of a lawyer. These lawyers also file application for *Jamatalashi*. For each case; lawyers were being paid INR 500.

During the survey; the prisoners were asked about the awareness of their fundamental rights and the amount of money they have spent on availing legal aid services. The results were as follows:

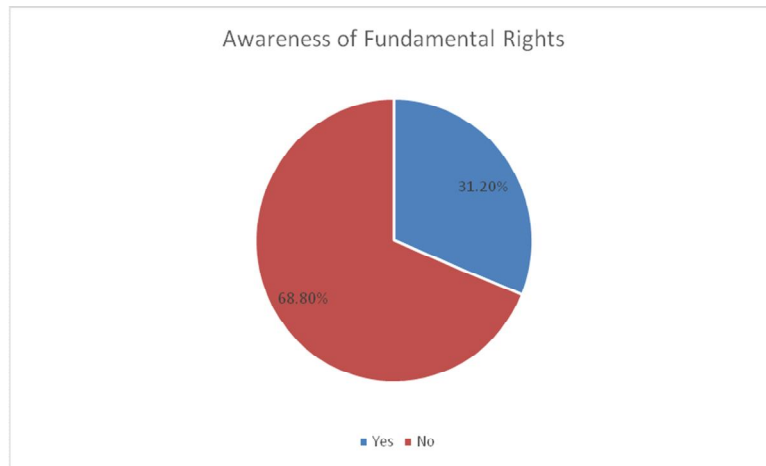


Figure 17: Awareness of Fundamental Rights

Despite the regular visit of legal aid authorities; only 31.2% of the prisoners were aware of their fundamental rights. Most of the inmates complained that representatives of legal aid generally pay no attention to the convicted prisoners and were more interested in the Under Trials.

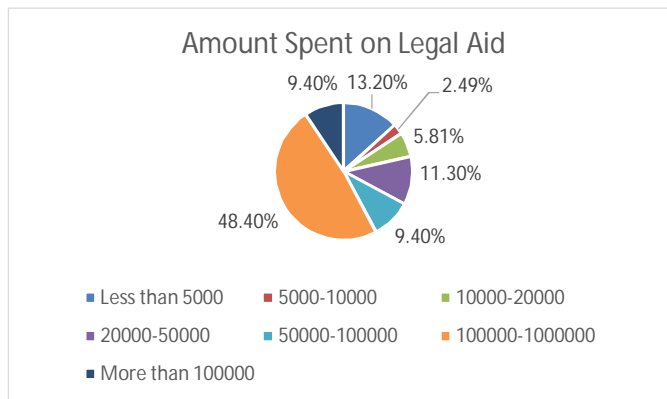


Figure 18: Amount spent on Legal Aid

This result obtained revealed a shocking fact that the average spending of the surveyed inmate on legal aid was nearly INR 3,00,000. With 45% spending more than 1 lakh and around 10% above 10 lakh was an evidence of the fact that legal aid provisions provided to prisoners did not achieve its

purpose. On the other hand; this was trapping the poor inmates in vicious debt cycle thereby aggravating their conditions to even worse.

Thus, special attention must be paid to the competency of lawyers provided through legal aid as most of the prisoners had problem with the capability of the government lawyers. Also those who were using the legal aid facilities complained of communication gap with the lawyers. In some cases the lawyers had not been responding for years. Some inmates brought up the fact that generally the lawyers who use to come for legal aid awareness were interested in under trials and hence convicted prisoners were not paid much attention.

#### 4.8 Crime Profile

Of the survey carried out, two third of the prisoners are convicted whereas under trials forms 31.8% , which is an exception to the report of Prison Statistics India released by National Crime Records Bureau (NCRB) which State “*Two third of the prisoners in Indian Jails are under trials*”.

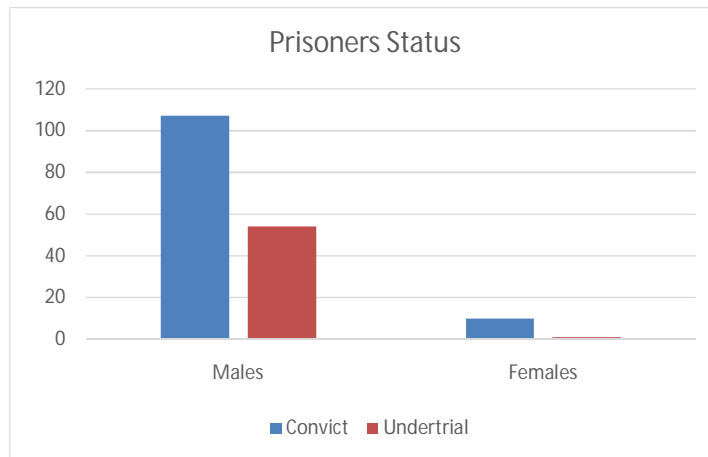


Figure 19

One of the major problem in Indian Prisons are the number of days an under trial has to serve in a prison. There have been cases where an undertrial has served more than the sentence she/he would have served if convicted<sup>8</sup>. 47% of the under trials have been serving more than 1 year

which is a sign of concern as these inmates create the problem of overcrowding and hence their cases must be tried at the earliest.

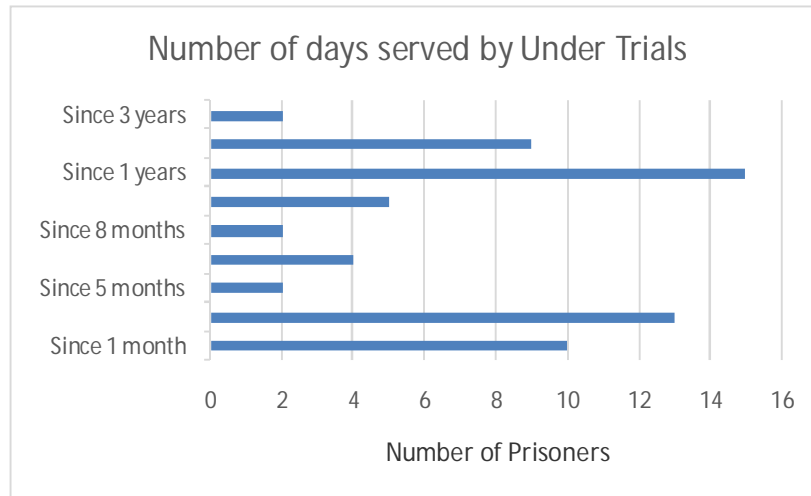


Figure 20

Only 18% of the inmates who are under trials have used Video Conferencing facility for courts trial. Given the conditions; it is necessary to use this facility to its full potential for speedy redressal of justice. Currently, video conferencing facility is being used only for extension of judicial remand of the under trials which should be extended to the court trial of the criminal cases also of the under trial prisoners.

Of the total inmates surveyed; their crime profile is as follows:

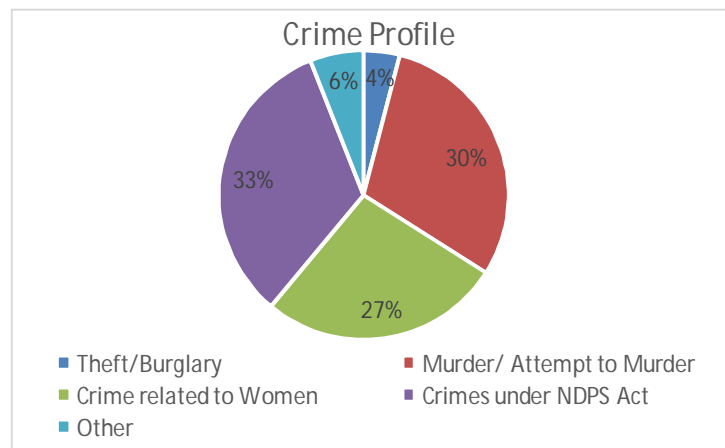


Figure 21

Somesh Goyal, *et al.*

Majority of the prisoners were associated with crimes of murder, related to women and under NDPS Act. Each of these are analysed below separately.

**Crime Type: Murder, Attempt to Murder, Culpable Homicide**

Total Number of Prisoners: 52

- Murder cases are concentrated in district areas which share border with other states



Figure 22:Heat Map of Murder Cases

- Age group 26-50 are responsible for the most number of cases
- 67% of the prisoners have studied only upto tenth class

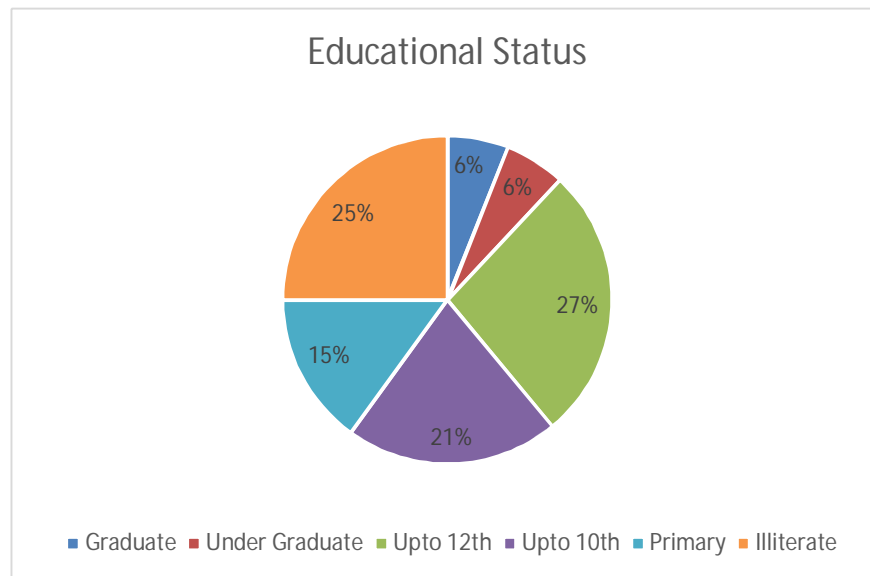


Figure 23

- 58% of the prisoners have monthly income below INR 10000 whereas 11% are unemployed. Cases are concentrated in the area with monthly income below INR 10000 (58%) which proves the fact

that people in the lower income group are more probable to commit the crimes. Very few cases have been encountered with monthly income well above INR 20000.

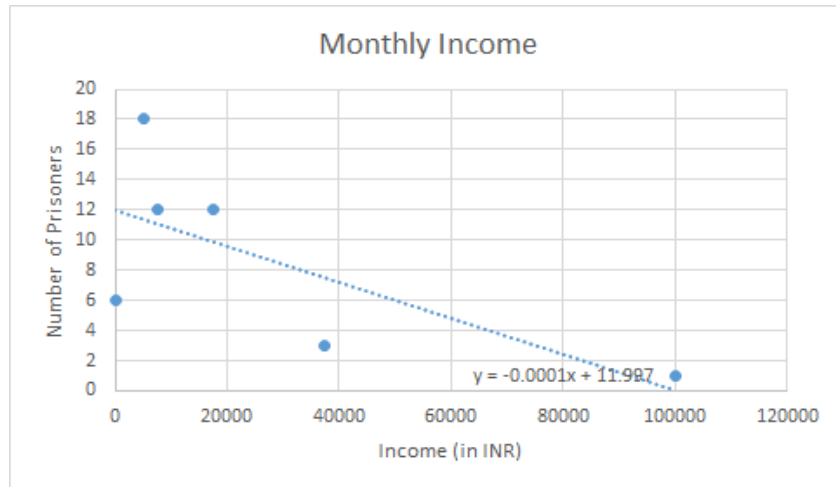


Figure 24

**Crime Type: Rape, Molestation, Stalking and other crimes related to women**

- Solan accounts for most number of cases followed by Kullu and Sirmaur



Figure 25:Heat map for Crime related to women



Somesh Goyal, *et al.*

- 67% of the prisoners are educated upto primary school of which 23% are illiterates which shows a strong relation between education and crime
- Majority of the prisoners belong to the Age Group of 17-40 years
- 64% of the crimes are concentrated in rural areas

### Crime Type: Under NDPS Act

#### Observations

- Of the survey carried out the distribution of cases state wise are shown below where particularly Kullu, Mandi and Una are major contributors to cases in Himachal Pradesh whereas in Punjab, Moga and Ludhiana are the hotspot of NDPS related crimes

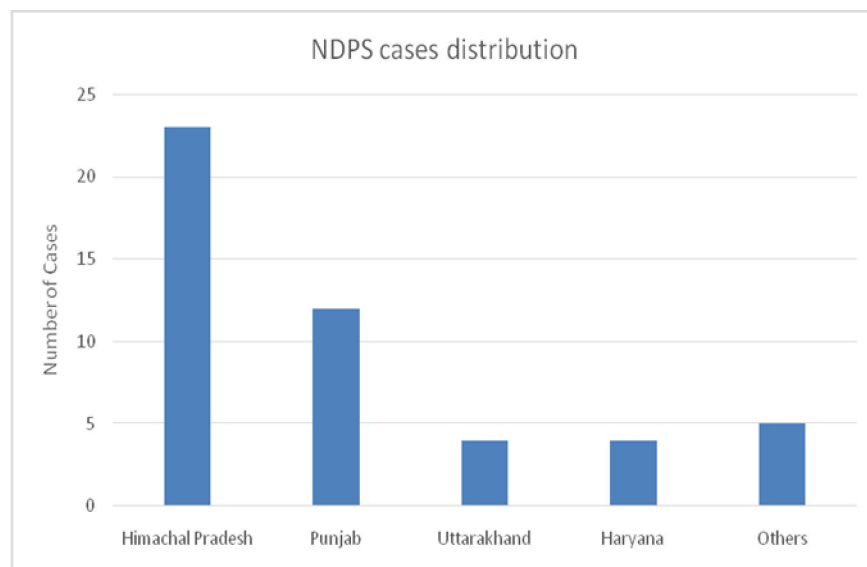


Figure 26

- 60% of the prisoners have monthly income below INR 10000 while 10% of inmates were found to be unemployed which shows this type of crime is prevalent among low income generating group.

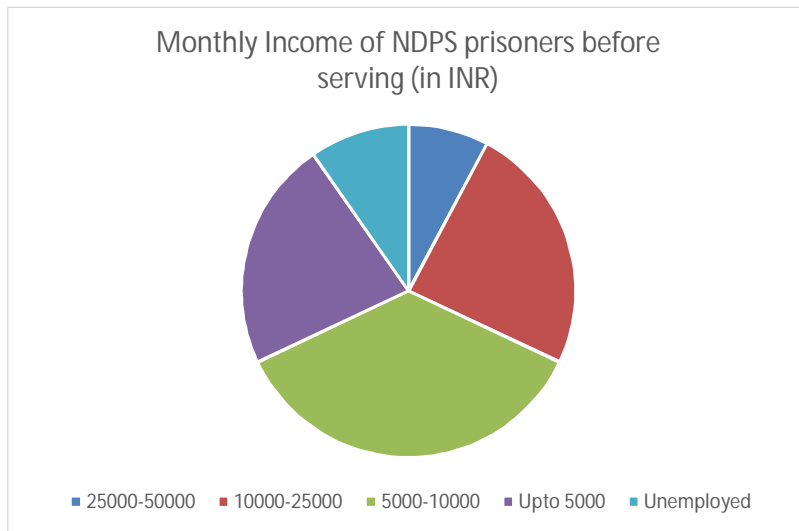


Figure 27

- Relation between income and number of family members shows that majority of the prisoners have family members in range 5-10 whereas monthly income is below INR 10000 which relates to the fact that there is a lack of family planning. From the data obtained; it was found that 13 prisoners live in joint family and 60% of inmates are the only earning member of the family which puts a great burden on an individual.

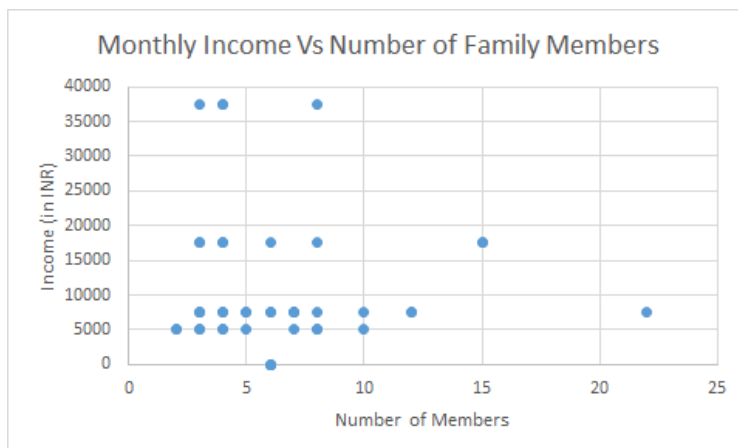


Figure 28

## 5. Trend between Crime and Prisoners attributes

- A plot between the level of education and number of prisoners was made, during which it was observed that the crime committed by Under Graduates and above accounts only for 9.75% of the total crimes surveyed. Hence, higher is the level of education, lower is the probability of committing a crime. Trend for Gross Enrolment Ratio of students in Himachal Pradesh shows that number of students opting for Higher Education is decreasing and this can be a matter of concern because as per the predictive model there may be a rise in criminal activities due to this factor.

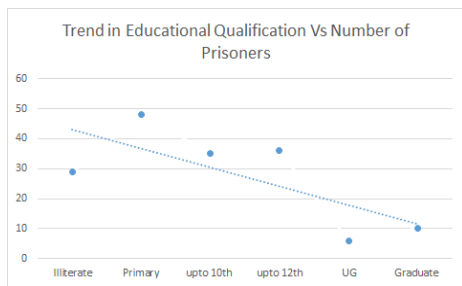


Figure 29

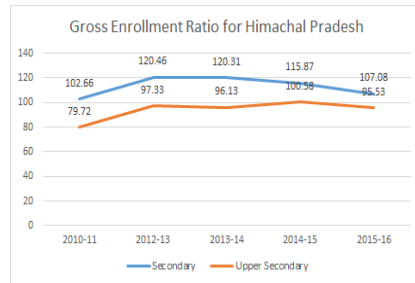


Figure 30

*Data Source: NITI Aayog*

- There is a strong correlation between monthly income and number of crimes committed by prisoners of that range. Thus people with low income are most probable to commit crimes as compared to that with higher income.

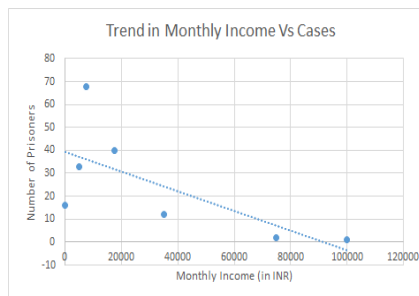


Figure 32

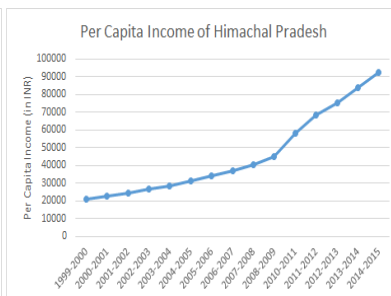


Figure 33

*Data Source: Directorate of Economics and Statistics, Himachal Pradesh*

As the per Capita Income of Himachal Pradesh is increasing, hence as per the trend line we can expect a fall in number of cases in coming years if the

increase in growth rate percolates to lower strata of the society, provided the increase in income is constructively utilized in the growth of the society as a whole.

**Solutions Proposed:**

**Better utilisation of Jail Vaarta facility:**

1. An awareness about Jail Vaarta should be spread collectively amongst prisoners
2. SMS or email can be sent to the family members about the facility
3. Proper guidance must be given to the prisoners seeking assistance

**Improving Medical Test Procedure**

1. All the results of the medical test must be e-mailed to the jail administration along with the details of the prisoner. This will do away with the man force required and time delay caused in the treatment
2. As the number of prisoners to be taken out for the medical check-up are frequent, Model Central Jail Nahan can have its own team of guards for escorting the prisoners to the hospitals.
3. Nurse/ health worker can be posted at the hospital who can do the regular basic tests, collect the blood sample of the prisoner and send the samples to nearby hospital for the results which can be emailed to the prison authorities. This will eliminate the provision of availing police guards for the initial stage.

**Awareness of Fundamental Rights**

1. A printed copy of fundamental rights can be provided to each individual based on the type i.e. Convict or Under Trial
2. Special session only on Fundamental Rights can be conducted with the help of NGOs

**Curbing Heinous Crimes e.g. bodily offences, e.g. Murder, Culpable homicide, etc.**

1. Special attention should be given to Sirmaur, Una, Solan and Kangra districts which are hotspots for the crime and deployment of extra police personnel should be done to maintain regular patrolling in these areas. There is also an issue with number of police personnel deployed in the

district. It has been observed that districts with lower number of policemen per lakh population have higher number of cases.

District	Population (2011 Census )	Sanctioned strength of HP Police (Inspector Rank to Constable)	Number of Policemen per lakh population (Rounded off to nearest Integer)	Policemen per FIR (year 2017) (Rounded off to two decimal digits)
Shimla	813384	1786	220	1.53
Solan	576670	617	107	1.65
Sirmaur	530164	664	125	1.79
Una	521057	496	95	4.36
Kinnaur	84298	406	481	0.71
Bilaspur	382056	609	159	2.02
Mandi	999518	967	97	2.56
Kangra	1507223	1387	92	2.44
Hamirpur	454293	402	88	2.13
Chamba	518844	687	1324	1.43
Lahul Spiti	31528	239	785	0.67
Kullu	437474	477	109	2.54

Table 1: *Data Source: Himachal Pradesh Police Department RTI Disclosure*

1. Education is the most important area which should be stressed upon particularly in these districts. Quality of education should be

improved and children should be motivated to take up higher education.

2. Skill training centres and new ITIs must be set up nearby these areas which will increase the chances of youth getting employed and thereby reducing the probability of number of cases
3. For particularly these type of cases more experienced and competent lawyers must be provided through legal aid so as to reduce the financial burden on the prisoners where average spending is more than 4 lakhs per inmate

#### **Curbing Women related crimes e.g. Rape, molestation, etc.**

1. Provision should be made for surveillance of crime hotspots either technically by using CCTV cameras or increasing the number of police personnel
2. A regular self-defence training camp can be conducted specifically in rural areas for all the female students
3. Emergency signalling devices can be made available to the females at subsidized costs whose network will be decentralized within a calibrated area and police station jurisdiction

#### **Curbing NDPS Act, Excise Act, Forest Act, etc. Related crimes**

1. Awareness about the NDPS Act must be spread at grass root level with the help of NGOs so as to make people aware of the consequences and make them familiar with lethality of the crime
2. As spending on legal aid by prisoners under NDPS Act is very high, special benches dedicated to this crime can be set up to provide speedy redressal to the prisoners
3. Measures should be taken to spread awareness of family planning
4. Quality of education should be improved in rural areas and students must be motivated to pursue higher education which can increase their chances of landing up in a better job
5. Very strict checking mechanism should be developed to counter this crime at borders specifically with more number of personnel in crack team

#### **Curbing Diseases faced by Majority of Prisoners**

##### Dermatological:

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1. Existing patients must be treated first
2. There must be session on importance of personal hygiene by dermatologists in the prison
3. Blankets used by the inmates must be dry cleaned on quarterly basis

#### Gastro Intestinal Tract

1. Prisoners must be engaged in more physical activities so as to transform their sedentary lifestyle
2. There must be a provision for deworming for the inmates once every six months
3. More roughage food can be included in the daily menu

#### Mental Disease

1. Most importantly there must be a dedicated psychiatrist
2. Inmates with mental disorders should be provided with facility of meeting their family and friends more frequently via Open Jail concept, Parole and Jail Vaarta
3. It must be ensured that inmates take their medication timely

In general, one annual check-up for the prisoners should be carried out so as to ensure healthy environment inside the prison and also rule out the obsolete complaints made by them.

Also the number of pharmacists should be increased to reduce the pressure which is currently on a single worker.

#### **Improving Wage Earning Programs**

1. Prisoners must be assigned to a wage earning program considering the fact whether he/she will continue with that professional skill after being released from prison which can be determined by the nature of work available where an inmate resides.
2. A Memorandum of Understanding can be signed between Model Central Jail Nahan and Government Industrial Training Institute (ITI) to train selected prisoners based on their behaviour in various vocational skills like masonry, carpentry, painting, driving, electric fitting plumbing, etc.

#### **Conclusion:**

This case study on life inside Modern Central Jail Nahan has covered various aspects of living conditions inside the jail. Inmates here live in better

conditions as compared to most of the central jails in India in terms of sanitation, food quality and well-designed spacious barracks. Wage earning program inside the prison is very crucial for after prison life and hence an attempt has been made to fill the lacunae in the process of skill training by a list of solutions proposed in the paper. The two major issues which are availing the medical aid for the prisoners and amount spent by an inmate on legal aid can be countered with planned strategies and solutions which has been proposed. A low educational level and monthly income of the prisoners before serving were found to be the major cause for indulging in criminal activities. A trend has been predicted which explains that lower rate of enrolment of students in higher education is an area of concern and necessary steps must be taken to increase the Gross Enrolment Ratio. Thus the vision of the state government of Himachal Pradesh to provide Safe Custody, Care and Rehabilitation to the inmates can duly be achieved by taking necessary steps as suggested in this paper.

#### **Acknowledgement**

Authors express sincere gratitude to **Shri. Somesh Goel IPS, Director General of Prisons, Himachal Pradesh** for his valuable suggestions and giving the permission to proceed with the research. This study could not have been possible without his guidance. A special mention for Rakshak Foundation to provide the platform for thinking about issues related to public policy and human rights.

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## The Cost of Mob Violence

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### Introduction

Crowds are *sine qua non* for democratic protests. With the advent of the virtual, we have now virtual crowds as well. Both types of crowds, i.e. physical and virtual now have a potential for disrupting the normal tempo of life and engineering violence. Classic psychological theories of the crowd accounted for the passionate nature of collective behaviour by juxtaposing emotionality with a loss of identity and reason. A loss of personal identity was claimed to lead to a loss of behavioural constraint, and a consequent dominance of emotion over reason. By divorcing emotion and reason in this way, crowd came to symbolize irrationality.<sup>2</sup> As opposed to classical theories, Reicher and others offer an alternative explanation of crowd behaviour. Starting from a social identity perspective, they argue that individuals do not lose identity in the crowd but rather shift from personal identity to social identity, which makes the group distinctive from other individuals. Correspondingly, they do not lose values and standards but rather shift to acting in terms of values and standards associated with the

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<sup>1</sup>Shri Kulwant K Sarangal, IPS, is Additional Director General of Police (Establishment) Office of the Director General of Police, Mumbai and Dr. Priya A.Sondhi is Assistant Professor at Symbiosis Law School Pune, Symbiosis International (Deemed) University.

<sup>2</sup>Fergus Neville and Stephen Reicher (2013): *The experience of collective participation: shared identity, relatedness and emotionality*, *Contemporary Social Science: Journal of the Academy of Social Sciences*, 6: 3, 377-396, November 2011.

relevant group.<sup>3</sup> They have further averred that crowd violence is far from random in terms of what provokes it or in terms of the forms it takes and the targets it selects once underway. Be that as it may, both the theories of crowd are aware to the possibility of violence by the crowds and they seek to enhance the understanding of the police to deal with them by contextualizing the crowd behaviour in perspective.

Therefore, crowd frequently getting better of the police agencies and going berserk venting its ire over people and property is a social reality and theories help us in identifying the group and understanding its collective behaviour properly and formulating response accordingly of which imposing cost upon the group for vandalism although is an after the fact remedy.

In case of India, there is hardly any call for a bandh or hartal that does not end in without some kind of mob violence or vandalism. In the recent past two agitations in Haryana-Jat Andolan for Reservations and Protests against the conviction of Dera Sacha Sauda Chief, farmers agitations in Maharashtra and Madhya Pradesh-turned violent and many people were killed in police firing and the crowds also damaged public and private properties. Thus, mob violence is a reality in India and many other countries as well.

Once an unlawful assembly indulges into vandalism and causes damage to life and public/private property, it poses a challenge for the public authorities to compensate the aggrieved citizens. Many a times, the government compensates the public by way of exgratia grants but such measures do not compensate the people adequately or in proportion to the damages suffered by them. Civil law remedies such as filing cases under the tortious liability is long-winding process and not all citizens can afford such litigations. However, the Apex Court has over the years devised a public law remedy to compensate the victims for violations of human rights, especially when the rights enshrined in Article 21 of the Constitution are violated. Whenever the government and its instrumentalities such as police have duty to protect the life and liberty of the citizens, the government has been compelled by the Courts to compensate the victims under public law remedy if they fail in their duty. Under public law remedy devised by the Apex Court, the victims can also directly approach the superior courts under Articles 32 and 226 of

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<sup>3</sup>Stephen Reicher, Clifford Stott, Patrick Cronin & Otto Adang (2004): *An integrated approach to crowd psychology and public order policing in Policing: An International Journal of Police Strategies and Management*, 27: 558-572 (December 2004).

the Constitution for compensation in case of loss of life and property to mob violence.

As access to the superior courts is a costly remedy, the fundamental question is: how to hold the mob to account and compensate its victims as a general rule through codified law? In order to address this issue, the authors have divided this Article into three parts. Part I- Procedure followed by the police in case of demonstrations, Part II- Law at normative level, and Part III – Judicial Precedents, followed by conclusions.

### **Part I – Police powers vis-à-vis assemblies**

Right to assemble and protest is a fundamental right protected by Art 19 (1)(b) of the Indian Constitution. According to the recent judgement of the Supreme Court of India in *Bimal Gurung Vs Union of India*,<sup>4</sup> Article 19(1) (a) and (b) give constitutional right to all citizens of freedom of speech and expression which includes carrying out public demonstration also, but public demonstration when becomes violent and damages the public and private properties and harms lives of people, it goes beyond fundamental rights guaranteed under Article 19(1) and therefore constitutes an offence punishable under law.

Moreover, the right is not absolute and is subject to reasonable restrictions as provided for by Article 19 (3) of the Constitution. Such restrictions envisage that unlawful assembly cannot be allowed to continue and it may be dispersed forcibly, if so required. According to Section 141 of IPC, an assembly of five or more persons is designated as an “unlawful assembly,” if the common object of the persons composing that assembly meets the criterion laid down in that section. For an assembly to be declared unlawful, the essential ingredients of an unlawful assembly have to be fulfilled. These ingredients are:

1. Assembly of five or more persons.
2. There must be a common objective.
3. The common objective must be one of the five specifically mentioned in Section 141 of the IPC.

Unlawful assemblies may also turn riotous.

Police have ample powers to command and disperse unlawful assemblies. In case, they have to disperse the assemblies once a lawful assembly turns

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<sup>4</sup>*Writ Petition (Criminal) No. 182 of 2017 decided on 16<sup>th</sup> March 2018.*

into unlawful, Section 129 of the Code of Criminal Procedure, 1973 and the provisions of local police Acts may be invoked. Alternatively, apprehending violence or unlawful nature of the prospective assembly, the magistrate or police may also ban the assembly altogether as preemptory measure to protect the life and property. The magistrates and police have plentiful powers under the Code of Criminal Procedure, 1973, to take such preventive steps under Section 144 of the Code and local and special laws such as Section 37 of the Bombay Police Act, 1951. Section 149 of the Code authorizes and directs every police officer to interpose for the purpose of preventing any cognizable offence to the best of his ability whereas Section 151 of the Code gives police officer the power of arresting any person, without orders of warrant from a magistrate, if the police officer knows of a design by such a person to commit a cognizable offence and commission of the offence cannot otherwise be prevented. Again, Section 152 of the Code enjoins upon the police officer to interpose to prevent any injury attempted to be committed to any public property, immovable or otherwise, by members of an unlawful assembly.

Many special and local laws also address the preventive aspects of the unlawful assemblies. Sections 55 and 56 of the Bombay Police Act, 1951, seek to remove the gangs and persons respectively from an area where they are likely to perpetrate violence. Again Section 144 of the Cr. P. C. can be put to use to restrict the entry of outsiders to an area where violence is likely to be committed or has already happened.

It is evident that the police have a range of powers under the Code of Criminal Procedure, 1973, the Indian Penal Code, 1860, and local and special laws to prevent and disperse unlawful assembly as well as to prevent the loss of life and property. Beyond this, the members of the public can also exercise the right to private defence as granted to them under Section 97 of the Indian Penal Code, 1860, and subject to the exceptions contained in Section 99 of the Act, to prevent loss of life and property, irrespective of the fact whether the life and property are their own or belong to some third person.

To achieve the purpose of these powers granted to the police by various Acts of law and also with a view to train the police officers, the Bureau of Police Research and Development (BPR&D), Ministry of Home Affairs, Government of India, has issued detailed guidelines for the policemen

published as “Precis on Crowd Control,” in 2016, which incorporates the legal provisions as well as tactics to command and control the crowds.

Moreover, there are guidelines for monitoring demonstrations in the Kosy Jacobs case.

In Dera Sacha Sauda’s case<sup>5</sup> the Hon’ble Punjab and Haryana High Court was pleased to issue directions to the Police and the Paramilitary Forces which virtually gave them free hand to deal with the situation wherever and whenever required against any individual or any section of the society or individual. But, this should be considered as case specific instructions only and may not be applicable to other cases.

In the same case, some directions about fixing of liability for mob violence are awaited. The Hon’ble High Court was pleased to order that Dera Sacha Sauda should submit a list of its assets and properties that can be attached and in case of it is found that they or their followers are responsible for the said acts.

## **Part II- Law at normative level**

In this part, the authors have discussed the provisions of the Bombay Police Act, the Union of India’s letter dated 6th May, 2013 and the efforts towards framing a new legislation.

### **A. The Bombay Police Act**

The provisions of the Bombay Police Act, 1951, relate to fixation of responsibilities of the inhabitants of a disturbed area. This is one situation faced by the administrative machinery. Another situation is of a mob gathering in a place where its members do not ordinarily reside and then causing disturbance and destruction of property in that area. In today’s world, the second situation is the most common. The Union Government’s letter dated 6th May, 2013 and the law in the process of drafting seek to handle this mischief.

Section 50 of The Bombay Police Act, 1951, provides for a remedy when the residents of a particular area cause damage. According to this section, if in the opinion of the State Government, any area is in disturbed or dangerous condition or in which the conduct of the inhabitants renders it expedient temporarily to employ additional police, it may recover the cost of additional

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<sup>5</sup>*Ravinder Singh Dhull vs State of Haryana*, CWP no. 19086 of 2017 ( O and M), order dated 25<sup>th</sup> August 2017.

police deployment as a tax imposed and shall be recovered in the manner prescribed in the section itself. The concept of imposing cost upon the local residents of a community for causing damages or creating disturbance necessitating additional deployment of forces is not new at all. **The Report of the Deccan Riot Commission of 1878** has recorded that: "Punitive police posts, mustering a total of 98 men, were established at the expense of the inhabitants among the disturbed villages. As was to be expected the greatest difficulty was experienced by the Magistrates in obtaining trustworthy evidence against the rioters."<sup>6</sup> In the second situation, when any loss or damage is caused to any property or when death results or grievous hurt is caused to any person or persons, by anything in the prosecution of the common object of an unlawful assembly, section 51 of The Bombay Police Act, 1951, provides for the remedy of compensating the victims. The said provision links up the mischief to an unlawful assembly and not to a specific area.

A combined reading of sections 50 through 54 of the Bombay Police Act, 1951, reveals that the Act has provided for a complete code which addresses the various issues of compensation to the victims of violence and disturbances caused by unlawful assemblies. This code also addresses the issues of determination of compensation to the victims of violence, its recovery by authorities empowered to do so and also the recovery of cost of deployment of additional cost incurred by the government to maintain peace in the disturbed areas.

B. Union of India's letter dated 6th May, 2013

Union of India has also sent a letter dated 6th May, 2013 to all the States and Union Territories advising the action to be taken as soon as there is a demonstration. It provides for guidelines to be followed in case of demonstrations, which includes videography of the demonstration. This letter also finds a mention in the recent *Koshy Jacob's Case*.<sup>7</sup>

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<sup>6</sup> *East India (Deccan Riots Commission) Copy of the Report of the Commission Appointed in India to Inquire into the Causes of the Riots which took place in the Year 1875, in the Poona and Ahmednagar Districts of Bombay Presidency; as reproduced in Journal of Indian School of Political Economy Vol. 22 Nos. 1-4 Jan-Dec 2010.*

<sup>7</sup> *Please See - Koshy Jacob vs Union Of India, Writ Petition (Civil) No.55 of 2017 decided on 28 November, 2017*

C. Efforts for framing a law

In May 2015, the Union Ministry of Home Affairs had invited suggestions for proposed amendments to the Prevention of Damage to Public Property (PDPP) Act, 1984. The proposed amendments seek to deter the prospective violators from vandalizing and destroying public/private property during agitations and other forms of protests. The proposed amendments also seek to deter the office-bearers of these organizations.<sup>8</sup> As submitted by Shri. K.K. Venugopal, learned Attorney General for India, in Koshy Jacobs case, the Union of India is currently working on the framing of the Law.<sup>9</sup>

Thus, the authors seek to establish the law relating to fixation of liability for mob violence though the work in this regard is in progress and will reach its zenith with the current law being drafted.

**Part III- Judicial Precedents**

In this part the authors have discussed the landmark cases of Destruction of Public and Private Properties, In Re vs. State of Andhra Pradesh & Ors, Hardik Bharatbhai Patel vs State of Gujarat, Dera Sacha Sauda Case and the recent Koshy Jacob's Case. The Courts have been raising concerns about the increasing incidents of mob violence and destruction of properties, whether in the name of a movie Padmavat, or in the name of cow, or in the name of reservation or in the name of religion. The sentiments echoing in the court indicate that the existing laws are inadequate in addressing the issue of vandalism by mobs and that we need a new law to fix liability for mob violence and destruction of properties.

In Koshy Jacob vs Union of India,<sup>10</sup> the Hon'ble Apex court expressed its displeasure that no law has been framed even though eight years have passed after the matter was dealt with by it in, In Re Destruction of Public and Private Properties. Mr. K.K. Venugopal, learned Attorney General of India submitted that the Union Government is framing a law which would provide for speedy mechanism for criminal liability, action for administrative failures as well as remedies to the victims.

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<sup>8</sup><http://www.livelaw.in/centre-invites-suggestions-on-proposed-amendments-to-prevention-of-damage-to-public-property-pdpp-act-1984/> 3/1/18

<sup>9</sup> Please See - Koshy Jacob vs Union Of India, Writ Petition (Civil) No.55 of 2017 decided on 28 November, 2017

<sup>10</sup> Writ Petition (Civil) No.55 of 2017 decided on 28 November, 2017



In *Hardik Bharatbhai Patel vs State of Gujarat*<sup>11</sup>, the Patel agitation case, the Hon'ble Apex Court observed that 'if the government did not frame a policy for making protesters pay for the damage to public property they cause, the court will "do within its parameters."' The Bench further said that 'it is now happening everywhere and if the government cannot frame a policy; we shall do it within our framework. People cannot be allowed to destroy public properties in agitation and they must pay the damage for loss of nation's assets. We must take a call on the issue and we would frame guidelines for taking action against people for damaging properties in agitation'.<sup>12</sup>

Same sentiments were expressed by the Punjab and Haryana High Court in the case of *Ravinder Singh Dhull vs State of Haryana*<sup>13</sup>, the Dera Sacha Sauda Case. The Dera Sacha Sauda was directed to submit the list of its assets and properties which can be attached in case it is found that they and their followers are responsible for mob violence. The High Court was pleased to expand the scope of the case to frame guidelines in case of mob violence. This case deserves special mention for one more reason. In *Sital vs State of Punjab*<sup>14</sup> while declining bail to the supporters of Dera Sacha Sauda chief Gurmeet Ram Rahim, who had, after his conviction in a rape case, rioted and created chaos, the Punjab and Haryana High Court observed that 'the petitioners have no respect for Court of law and thus, when they have threatened the very existence and majesty of the law, then there is no occasion for this Court to take an undue lenient view in their favour; rather they deserve no concession for releasing on bail.'

In, *In Destruction of Public and Private Properties, In Re vs. State of Andhra Pradesh & Ors.*<sup>15</sup>, the Apex Court had established two committees; headed by Justice K.T. Thomas and Mr. F.S. Nariman, to recommend measures and mechanism to hold mobs to account and impose penalty upon the organizers etc. to compensate the victims of the violence. Justice K.T. Thomas committee concluded that the present law is inadequate and

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<sup>11</sup> *Petition(s) for Special Leave to Appeal (Crl.) No(s). 9429/2015 dated 25/02/2016*

<sup>12</sup> <http://www.livelaw.in/people-destroying-public-property-during-agitations-must-be-made-to-pay-sc/3/1/18>

<sup>13</sup> *CWP No. 19086 of 2017 (O&M) dated 25/08/17.*

<sup>14</sup> *CRM-M No.43609 of 2017 (O&M) order dated 9<sup>th</sup> March 2018.*

<sup>15</sup> *2009 (5) SCC 212*

ineffective to deal with the increasing number of instances of damage to public property. It also made some recommendations for amendment in the Prevention of Damage to Public Properties Act, (PDPP Act, 1984) to make it more effective and also to suggest suitable changes, which could make the statute more meaningful. The Court had issued guidelines for prosecution.<sup>16</sup>

Before these two judgments by the Apex Court, the Bombay High Court had penalized the two prominent political parties of Maharashtra in 2004 for causing damage to public and private properties during a bandh call given by them in 2003. However, the governments have failed to carry out the order of the Supreme Court in this regard.<sup>17</sup>

The Madras High Court had awarded a compensation of Rs. 10 lakhs to the parents whose only son was killed while travelling in a state transport bus when the mob hurled a petrol bomb in protest of killing of LTTE Chief by Sri Lankan army. The High Court findings clearly blamed the police for its failure to collect intelligence to prevent the violence.<sup>18</sup> Again, in *State of Gujarat and Another versus The I.R.C.G. and Others*, the Apex Court approved a scheme devised by the Gujarat government to reconstruct the religious places of the victim community though it refused to confirm the remedial measures proposed by the Gujarat High Court under Article 226 of the Constitution arguing that the right to property was no more a fundamental right and Article 27 imposed prohibition on levying taxes for promoting religious activities.<sup>19</sup> So, there are remedies available in the public as well as private law to the victims of mob violence.

Thus, the courts are increasingly in favor of a law for mob violence and fixation of liabilities in case of destruction of property, whether public or private.

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<sup>16</sup> See also-<http://www.livelaw.in/centre-invites-suggestions-on-proposed-amendments-to-prevention-of-damage-to-public-property-pdpp-act-1984/> 3/1/18

<sup>17</sup> *G. Deshmukh & Others Versus The State of Maharashtra & Others*, CDJ 2006 BHC 267; Writ Petition [PIL] No. 2827 of 2003.

<sup>18</sup> *The State of Tamil Nadu vs. Ganesan*, Writ Appeal (MD) No. 587 of 2013 and M. P. (MD) No. 1 of 2013, Madurai Bench of Madras High Court. Delivered on 4 July 2013.

<sup>19</sup> Civil Appeal No. 3249 of 2016 in the Supreme Court of India. Delivered on August 29, 2017.

## Conclusion

Supreme Court of India has held in Anita Thakur's case<sup>20</sup> that the right to peaceful protest is a fundamental right guaranteed in the Constitution and the aforesaid right is subject to reasonable restrictions in the interest of the sovereignty and integrity of India, as well as public order. However, the Court also shown its concern about violent demonstration when it recorded that "unruly groups and violent demonstrations are so common that people have become to see them as appendage of Indian democracy." To address such judicial and societal concerns, some states in India have a well-developed body of law, as discussed above, to address the vandalism by the violent mobs in some of the situations but the identification of the rioters is a real issue as, in case of unlawful assemblies, it may become difficult to identify the participants to hold them to account. However, to address this procedural gap, the guidelines issued by the Apex Court are adequate to hold the organizers of protests to account to compensate the victims of violence who lose their life, limb and properties to such acts. But, so far, the concerned authorities have failed to put the available legal and judicial pronouncement to good use to have any impact upon the protestors who cause damage to properties. Despite the availability of such laws in some states and judicial pronouncements made from time to time, sometime case to case basis, the violence by mobs in the recent past in various states indicates that the judicial pronouncements have their own limitations and the state instrumentalities sometimes overlook such directions. The failures to overlook such directions is punishable only by way of contempt proceedings which is not always possible or even practical way to address such a vital issue having bearing upon the quality of democracy. Moreover, no democracy can rely entirely upon judicially pronounced remedies to address the issues of rights and liabilities of the citizens as such measures are not only looked at as palliative measures but are also difficult to implement. A robust legal response from the Parliament is warranted to take forward the initiative taken by the judiciary to provide succor to the victims of the mob violence.

The Union Government is currently in the process of drafting a much-awaited law. The Courts have done their part in *Re: Destruction of Public & Pvt... vs State Of A.P. & Ors on 16 April, 2009* and have been expressing

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<sup>20</sup> Anita Thakur & Ors. V. Govt. of J & K & Ors., Writ Petition (Criminal) No. 118 of 2007.

their displeasure for the governments not framing a law. So, the authors are of the opinion that there is no lack of Constitutional, normative and judicial precedents to address the issue; what we require is the consolidation and codification of these references and precedents so that the uncertainty prevailing in this vital legal field is brought to an end.



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## Dos and Don'ts to Ensure Cyber Security for Public Officials

ABHISHEK KUMAR\*

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As the governments world over are promoting and relying upon digital technologies in almost all spheres of public life and infrastructure, there are certain glaring and uncomfortable facts related to cyber attacks globally and India in particular.

According to a recently published report of Akamai, the cloud delivery firm, India ranks eighth among countries across the world that are targeted by Distributed Denial of Service (DDoS) attacks with US and Brazil leading the chart. It is also a fact that India is the fifth largest source for carrying out these DDoS attacks where close to 12 million attacks sourced from here between 2016 to 2017.<sup>1</sup>

In an another significant recent cyber attack, The WannaCry ransomware which almost infected 150 countries by encrypting data and demanding ransom payments in bitcoins, forced LG electronics to shutdown large parts of its network after its systems were affected by it. The malware had its spread globally including major players like Honda (the car manufacturing company), Telenor, Renault and many Government departments and ministries including India.<sup>2</sup>

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<sup>1</sup>[https://en.wikipedia.org/wiki/Wanna\\_Cryransomware\\_attack#Affected\\_organizations\\_world-with-return-of-an-old-deadly-malware-in-2017\\_-328407.html](https://en.wikipedia.org/wiki/Wanna_Cryransomware_attack#Affected_organizations_world-with-return-of-an-old-deadly-malware-in-2017_-328407.html)

<sup>2</sup><http://www.Indiatimes.com/technology/news/india-is-8th-most-cyber-attacked-nation-in>

The Petya malware similarly wreaked havoc on organizations like banks, ministries, newspapers and electricity firms in many countries including Ukraine, France, Germany, Italy, UK and USA etc. The attack was so severe in Ukraine that the radiation monitoring system at Chernobyl nuclear power plant went offline, and it is reported that in many infected systems worldwide, important files were overwritten and thus permanently damaged when the ransoms were not paid.<sup>3</sup> In India, the ransomware hit the Jawaharlal Nehru Port operations in Mumbai where one of the three terminals came to a standstill after the attack.<sup>4</sup>

Back home in India, the National Crimes Records Bureau (NCRB) has given figures for cybercrimes cases which points to its exponential rise in last few years. Around 11500 cases were registered in 2015 (as against 9,622 cases registered in 2014) alone with majority of them related to financial gains and frauds. The rise in such cases are especially visible after the country went through the phase of demonetization and online transactions increased manifold in that period.<sup>5</sup>

Computer and Internet has become an integral part of our professional as well as personal lives. The government and its departments are no longer exceptions in this wave of digitization. In fact, with the huge thrust on e-governance which includes (but not limited to) e-literacy, e-commerce and financial inclusion among others, government offices are gradually becoming active participants in using the digital means of communication. This is being reflected in better service delivery and user satisfaction.

However, Govt. of the day may get issues if the basic security awareness is missing among the government officials who are the end users of all the digital infrastructure which has been created across various government establishments. The cost involved in protection of sensitive personal data along with critical digital infrastructure in the country are justified as long as the public officials are aware of the basic dos and don'ts of cyber security and how to operate securely safely.

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<sup>3</sup> [https://en.wikipedia.org/wiki/2017\\_cyberattacks\\_on\\_Ukraine](https://en.wikipedia.org/wiki/2017_cyberattacks_on_Ukraine)

<sup>4</sup> <http://www.hindustantimes.com/India-news/cyber-attack-malware-hits-Jawaharlal-nehruport-operations-in-mumbai/story-xGtbHwvZl4bX5RgJCU BN 3 L.html>

<sup>5</sup> <http://www.livemint.com/Politics/ayV90MPCiNs60cRDOJv751/11592-cases-of-cyber-crime-registered-in-India-in-2015-NCR.html>

This article, hence, is an attempt to compile the best practices which should be followed by an individual (especially the public officials) while dealing with computers/smart phones in order to access Internet and its services for varied purposes. The article also seeks to spread awareness about basic security practices to be followed in a networked environment which is internal to the organization (i.e. not connected to the Internet).

### **Portable/USB Drive**

One of the most important yet least recognized risks and threat for a government official is the use of USB or portable devices (such as Pen Drives and portable Hard Disks) on systems which contain sensitive information. There have been several instances in the past where highly sensitive data from systems were stolen with the use of USB pen drives. Also, a USB device has been used in several instances to spread malware inside the computer as well the network. Such as -

1. The Struxnet computer worm, which targeted industrial computer systems across the globe (including India) and held responsible for "causing substantial damage to Iran's nuclear program"<sup>6</sup>, was introduced to the system via an infected USB flash drive a.k.a, Pen Drive.
2. A simple Google query "password stealing using USB" will come up with several workable tricks to convert an innocuous looking USB flash drive into a malicious password stealer.

### **Suggestions**

1. Never use a USB drive on an office computer - If transfer of data is required, the govt. officials should use the "Meghraj Cloud initiative" of NIC <sup>7</sup> where any official data can be hosted and shared with another official. The registration for Meghraj can be done here
2. <https://cloud.gov.in/registration.php> (Fig: I)

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<sup>6</sup> <https://en.wikipedia.org/wiki/Stuxnet>

<sup>7</sup> <https://cloud.gov.in/>

## Do's and Don'ts to Ensure Cyber Security for Public Officials

in Cloud.gov.in

भारत सरकार  
GOVERNMENT OF INDIA

इलेक्ट्रॉनिक्स और सूचना प्रौद्योगिकी विभाग  
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

Meghraj CLOUD INITIATIVE  
NATIONAL CLOUD BY NIC

Get Cloud Service My Cloud Dashboard 1800 111 555

About Services What's New Gallery FAQ Contact Cost Calculator NIC Cloud Coordinators

Get NIC Cloud Services

Tell us a little about your Organization and Our Support Team will be in touch soon.

Choose  
Central State  
Name  
Contact Name

Fig: 1 Meghraj Cloud initiative

### Passwords

The importance of strong passwords for all official accounts can't be overemphasized as finding a password to get inside the system and network is the most coveted task of cyber criminals. There are several ways in which the passwords can be stolen -

1. **Keyloggers** - This is the most simple way to steal the password. They come in software as well as hardware form.
2. **Saved passwords in Internet browsers** - All Internet browsers (such as IE explorer, Chrome, Firefox, Safari etc.) provide options to save the passwords so that they can be used later without manually entering them.
3. **Web spoofing** - The users can be tricked to click on an URL (such as bank or email account) for a fake website and provide their username and password.
4. **Hacked databases** - Sometimes, the companies suffer cyber breaches and their user data is compromised. Such as - Yahoo suffered some breaches<sup>8</sup> in the past and resultantly millions of account details were compromised and posted on various forums. Yahoo sent request to change the passwords, but not all users changed their passwords. Those passwords are easily available.

<sup>8</sup> [https://en.wikipedia.org/wiki/Yahoo!\\_data\\_breaches](https://en.wikipedia.org/wiki/Yahoo!_data_breaches)



5. **Brute force** - If the password is not strong enough, it can be brute forced by automated software.

### Suggestions

1. Always use separate passwords for official accounts and personal accounts.
2. Use different passwords for different official accounts - such as - Email, official social media handles, official laptops etc. This way, even if one account/laptop is compromised, the same password will not be applicable for other accounts.
3. Use strong password having minimum 6-9 characters including alphanumeric (both in capital and small letters) and special characters. It would prevent the brute force software by presenting a large number of possible password guesses.
4. Don't save the passwords in the browser on an official system. If it is to be done (for convenience), then use "password managers": A list of some good password managers could be find here –

<http://in.pcmag.com/password-managers/36444/guide/the-best-password-managers-of-2017>

5. Always check for HTTPS and a lock for any website which require the user credentials (i.e. username and password). (Fig 2)

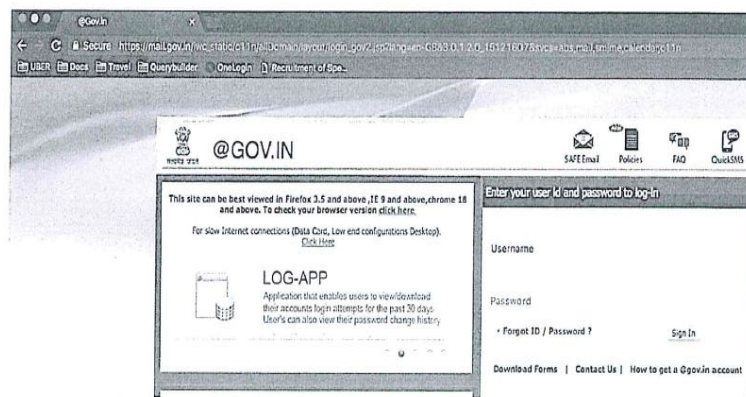


Fig 2: Notice the Lock sign and https in the URL.

### Handling Sensitive Personal data

The cyber security dos and don'ts are especially applicable for public service officials when they are handling sensitive personal data of the

citizens. There are multiple databases in which tremendous amount of citizen's data is stored. For example - Aadhar database, land records databases, marriage registration databases, and many other similar information repositories. If due diligence is not done, then there is a high probability that the data could get compromised.

For example - Cyber Criminals hacked into the website for Regional Transport Office (RTO) and downloaded the Vehicle Fitness Certificate issued by it<sup>9</sup>. It essentially compromised the sensitive personal data of the vehicle owners and could result into many other crimes once the data is sold in black market.

### **Suggestion**

1. Always follow the Information Security Policy designed by the organization/department for handling such sensitive data.

### **Financial Transactions**

With demonetization and the subsequent spurt in financial transactions in digital mode, the public at large is now aware about basic digital transaction methods (such as use of Debit/ATM cards, digital wallets such as Paytm and online banking etc.). However, financial institutions (such as Banks) and online payment gateways are not immune to cyberattacks. More than 50% of the cases reported by NCRB in 2015 pertained to financial frauds using digital channels.

Indian banks in particular have been targeted in recent months. In October 2016, in one of the largest data breach in the country, around 3.2 million debit cards of different banks were compromised and reportedly used in China<sup>10</sup>. In February 2016, there was an attempted heist of around \$951 million from the Bangladesh Bank. In one of the major breaches, Union Bank of India almost lost around \$171 million when an unauthorized SWIFT

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<sup>9</sup> <http://timesofindia.indiatimes.com/city/nashik/rto-website-hacked-certificates-downloaded/article-show/60152786.cms?from>

<sup>10</sup> <http://economictimes.indiatimes.com/industry/banking/finance/banking/3-2-million-debit-cards-compromised-sbi-hdfc-bank-icici-yes-bank-and-axis-worst-hit/article-show/54945561.cms>

(Society for Worldwide Interbank Financial Telecommunication) transaction, used for Interbank transactions across the globe, was made.<sup>11</sup>

### **Suggestions**

1. Don't open the attachments from unknown source of emails - They might contain the malware trying to enter into the system with the privilege of the current user.
2. The corporate credit card issued to the public official may be eligible for transactions abroad. However, this feature may not be desirable if the public official is mostly living in India. Hence, a call to the issuing bank can be made to change its usability in the country only.
3. RBI has issued a recent notification on customer liability in cases of fraudulent on-line transactions. Every officer must be aware about it and can be used in cases of fraudulent transactions. The notification can be found here –  
<https://www.rbi.orn:.in/scripts/NotificationUser.aspx?Id=11040&Mode=O>

### **Safe Online banking**

One of the major thrust of the governments in recent times is on 'financial inclusion' in which the focus is upon opening new bank accounts and facilities like online banking for monetary transactions and e-shopping are encouraged. The phase of demonetization added millions of new users in this fold of online banking. However, online banking users at large are still unaware about the safe practices for online banking, and hence they get duped and their hard earned money gets siphoned off without their knowledge or consent.

### **Modus Operandi (MO)**

Modus operandi in online banking fraud is mostly focussed upon getting the credentials (such as username-password, ATM card number, CVV and PIN, and OTP) of online banking customer and use it to fraudulently transfer the money. Various techniques can be used to accomplish this task including -

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<sup>11</sup> <http://www.livemint.com/Industry/xuBJNapRGBrtlOSiEAvsYO/How-Union-Bank-was-hacked-and-got-its-money-back.html>

## Do's and Don'ts to Ensure Cyber Security for Public Officials

- **Vishing** which involves calling the customers and pretending to be from the bank. The customers, not aware of such practices, provide their credentials.
- **SIM Swapping** where the SIM card of the registered number is fraudulently changed.
- **Smishing** where fraudsters send SMS intimating customers of prize money, lottery, job offers etc. and requesting them to share their card or account details. Unaware, the customers follow instructions to visit a website, call a phone number or download malicious content. Details thus shared with the person who initiated the SMS are then used to conduct fraudulent transactions on customer's account, causing them financial loss.
- **Phishing** in which fraudsters pose as bank officials and send fake emails to customers, asking them to urgently verify or update their account information by clicking on a link in the email. Clicking on the link diverts the customer to a fake website that looks like the official bank website - with a web form to fill in his/her personal information. Information so acquired is then used to conduct fraudulent transactions on the customer's account.

### Suggestions

1. HDFC has published a list of such fraudulent ways of duping the customers of online banking. The list can be found here. It is highly advisable to go through the link and have a look.  
<https://www.hdfcbank.com/security/beawareof/frauds>
2. SBI, similarly has provided some Do's and Don'ts for safe online banking. The document can be found here.  
<https://www.onlinesbi.com/personal/securitytips.html>
3. Never disclose the password, CVV, PIN and OTP to anyone. Banks or any legitimate institutions never ask for such information.
4. Changing the passwords regularly is the key. It would help thwarting frauds done after stealing the password somehow.
5. Immediate reporting of the fraud helps the customer with zero liability as per the recent RBI's notification (released on July 6, 2017) about Customer Liability in fraudulent Electronic Banking Transactions.  
<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11040&Mode=O>

### **Safe Commerce Transactions**

India is one of the biggest markets for e-commerce companies, owing to its large middle class population and increasing Internet penetration. More than 400 million people are using Internet, majority of them through smartphones. The e-commerce websites and applications (such as Amazon, Flipkart, Snapdeal etc.) enable its customers to select an item of choice and make a payment through a variety of channels.

### **Modus Operandi**

Apart from the methods discussed above, the modus operandi for majority of the e-commerce frauds pertain to e-commerce website/platforms luring the customers with cheap products which are never delivered or delivered product is not the same shown on the website. Also, some websites do not adhere to the PCI DSS compliant payment methods - such as not storing sensitive personal information, using I-ITTPS method of transactions, etc.

#### **Advise**

1. Choose a trusted and secure e-commerce platform/website which has a good reputation delivering goods with right payment.
2. Always check for secure mode of online payment - such as HTTPS, which asks for CVV and OTP/password for verifications etc.
3. Take caution in sharing the e-commerce website credentials with anyone.
4. Many e-commerce platforms (such as Amazon, Flipkart, Paytm etc.) provides the facility to store the card details for faster and convenient processing of payment. Don't store the card details on any international website having no presence in India.

### **Email Security**

Secure usage of emails is one of the most important aspects of do's and don'ts for public officials. It is repeatedly being observed that private email service providers (such as Gmail, Yahoo, Rediff etc.) are used for official purposes instead of using government assigned email IDs (on nic.in or gov.in).

Another major issue is the inadequate awareness about security related issues associated with emails. For example - Opening any attachment received from unknown email (or source) may result into malicious code

## Do's and Don'ts to Ensure Cyber Security for Public Officials

running inside the system resulting into multifarious illicit and unauthorized access.

### **Suggestions**

- Never open an email attachment if the source is not verified.
- Always check the email ID on which you are responding. It has been seen many times that after clicking the 'reply' button, the reply does not go to the email from which the email was received. Instead, it goes to another email ID.
- Always check the email ID from which you have received the email. It's a common practice to create a similar looking email ID to fool people.
- Never click on a URL to reach a website and enter your credentials. Always type the URL. Clicking on a URL may be vulnerable to spoofing attack.

### **Social Media**

Social media platforms have provided the government a great way to make an enhanced outreach and real time engagement with the citizens at large. With the internet penetration of the country soaring with more than 400 million active netizens and project 700-900 million increase in another 2 years, social media websites such as Facebook, Twitter, YouTube, Wikipedia etc. provide great opportunity for govt. to individually interact with citizens and even use it to manage the public perception (by countering the fake news and presenting the facts for example).

However, it is equally important for a government official to understand 'why' to use social media for his work and more importantly 'how' to use it securely. If a social media account of a government department gets compromised, it will not only result in loss of sensitive information but also causes damage to the reputation of the department.

### **Suggestions**

Indian Government has issued 'guidelines' for using social media for official purposes. The guidelines can be found here - <http://meity.gov.in/writereaddata/files/Social%20Media%20Framework%20and%20Guidelines.pdf>

It clearly states the security policies to be employed. such as -

- a. Compliance with relevant provisions of IT Act 2000 such as due diligence, protection of sensitive personal information and reporting of any security breach to Computer Emergency Response Team (CERT-In).
- b. Proper records of Login and password to be managed as single account may be getting accessed by multiple officers.
- c. Complying with ISO 27001 when a govt. department is providing social media facilities.

### **Secure use of Computers**

Another major area of concern for government officials is to use the computer in a secure fashion to minimize the risk being occurred to the govt.

### **Suggestions**

1. Always use a non-admin user account on the official computer/laptop. It would prevent to an extent the malicious programs to run in the background with unlimited system admin privilege. Detailed guidelines on changing the account privilege and permission can be found here - <https://www.howtogeek.com/school/windows-network-sharing/lesson1/>
2. An effective anti-virus and anti-spyware is equally important to install and update on regular basis.
3. Always backup the data. It would be useful for all those untoward activities in which the system might crash or encrypted due to some malicious attack and ransom ware. A very useful data backup tool is Synchronicity. It can be found here - <https://sourceforge.net/projects/synchronicity/>
4. Always update the software and the operating system of the computer. Many times we resort to using a pirated software/OS for our official laptop/computer. Apart from being illegal, it is a great security hazard to the department and the nation at large.

### **Handling Cyber Incidents**

Despite best efforts, there might be some cyber incidents in a public office. It is hence very important to understand the basics to how best we can handle such incidents.

### Suggestions

1. Once a security issue is identified, it must be reported to the higher authorities for further directions
2. Meanwhile, it is also important to preserve the evidences which might lead to tracing back to the perpetrators of the crime.
3. National Institute of Standards and Technology (NIST) has released a guide on handling cyber incidents. The guidelines should be a great learning point in understanding the basic things to be done in cases of cyber incidents. It may be downloaded here - <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-61r2.pdf>
4. Incident reporting is mandatory in India. The agencies for reporting these incidents are CERT-In (Computer Emergency Response Team, India) for all cyber incidents and RBI (Reserve Bank of India) for all financial sector cyber incidents.<sup>12</sup>

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<sup>12</sup> <https://cis-india.org/internet-governance/blog/incident-response-requirements-in-Indian-law>





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## Traffic Management Interventions at Siddhivinayak & Dadar East Railway Station Intersections in Mumbai

Dr. SAURAB TRIPATHI, IPS\* & Dr. SHANKER VISHWANATH\*

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### Introduction:

Greater Mumbai has a human population exceeding 130 Lakhs and a vehicle population of 30 Lakhs in addition to 3 Lakh vehicles entering into Mumbai and operating on Mumbai roads on daily basis. The area of Greater Mumbai is 438 Sq. Km.s while the Metropolitan region is 4400 Sq. Km.s.

The Siddhivinayak Temple at Prabhadevi where there is huge volume of traffic conflicting with equally heavy volume of pedestrians (devotees) especially on specific weekdays and holidays including festival days was one such challenging location in south Mumbai.

Dadar Railway Station is a main interchange for commuters of the Central and Western Railways and dispersing to various locations in south and north Mumbai as well as the business districts in central and south Mumbai. It is also a terminus and alighting point for several mail and express trains from outstations in to Mumbai. The heavy volume of commuter and pedestrian traffic from the station, Taxi services for pick-up and drop from railway station, the bus stops for public transport add to the complication of Traffic Management at the location.

An attempt to resolve the conflicting issues at the above two locations in south Mumbai was recently made with minimum resources and interventions carried out successfully. The methodology is enumerated in following pages

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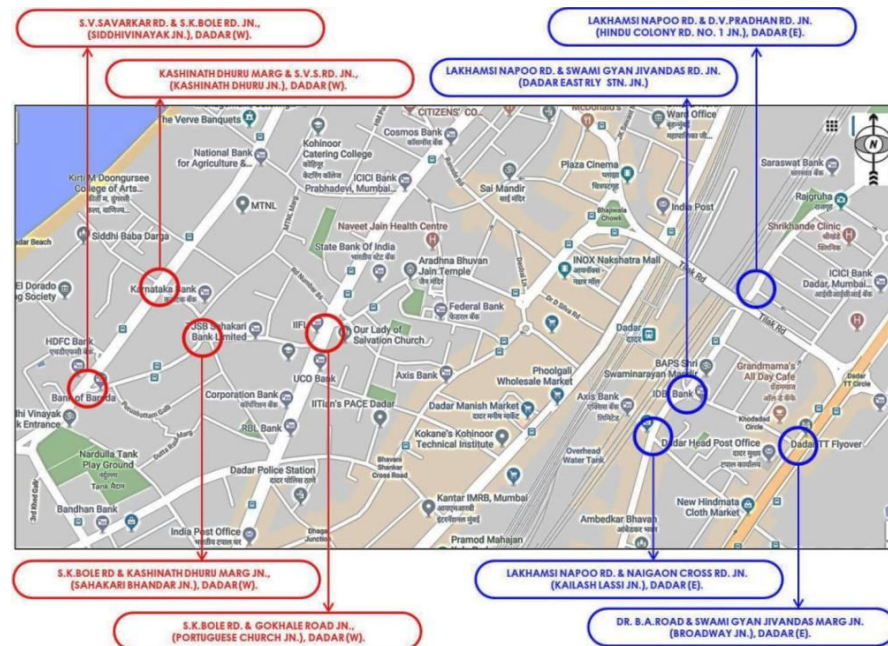
\*DCP, Traffic Mumbai

\*Advisor, Traffic Control Branch, Mumbai Police

and this approach will be repeated for other locations in Mumbai.

### Siddhivinayak Temple, Prabhadevi

The Siddhivinayak Temple in Mumbai is very popular and attracts heavy volume of devotees both from Mumbai, suburbs and tourists from other states of India. It is also patronised by bollywood and other celebrities and hence there is very intense pedestrian and vehicular activity at this location. The demand for parking and alighting spaces also is very high. It is also exposed to risks and hence provided with special security arrangements. The temple is situated at the intersection of Veer Savarkar Marg and S.K. Bole Marg. The Veer Savarkar Marg is a VIP corridor carrying heavy volumes of traffic (3000 vehicles/ hr.) and S.K. Bole Road is an sub arterial connecting the Gokhale Road which is an arterial to the Veer Savarkar Marg. The road passes through local market area and is subjected to volumes (1500 vehicles/ hr.) including heavy demand of parking several housing societies, residential buildings are also located on this road as well as connecting to this road.



### INFLUENCED INTERSECTIONS



### SIDDHIVINAYAK INTERSECTION & DADAR RLY. STN. EAST INTERSECTION

In order to regulate the traffic flow at this temple location and improve capacity and safety a quick study was undertaken and options available were considered and the most feasible one responsive to the local needs was implemented within a short period of a fortnight.

#### **Problem Statement/Objectives**

- Total number of taxi and private vehicles coming to temple through all directions, alighting of passengers and their smooth exit
- Safety of passengers and commuters coming towards temple from both carriageways.
- Accommodating essential services like School Bus, Fire Brigade, BEST buses etc. to residents
- Check Engineering solutions to junction management and its problems
- Management of Taxi stand at Petrol Pump
- Encroachment
- Handling problems of Locals due to new traffic changes and accommodating till maximum to avoid law and order problem
- To reduce vehicular movement near S.K. Bole Road for secure movement and ensure security of temple which is on threat from many terrorist organization and because of high footfall and fame.
- In keeping with future development of Metro Station upcoming in the Park.

#### **Probable Options Available**

- ❖ One way of Veer Savarkar Road & S.K. Bole Road till Agar Bazar north bound & South Bound way from Jakhadevi to Appasaheb Marathe Road was examined and found not feasible.
- ❖ One way on S.K. Bole Road north bound was also not feasible as Taxi Stand and pedestrian crossing will be creating safety issues.



Dr. Saurab Tripathi, IPS and Dr. Shanker Vishwanath

- ❖ One way on smaller stretch south bound from Agar Bazar to Siddhivinayak Junction was the only feasible alternative and acceptable to the local citizens.

#### **Solution and changes implemented**

- ✓ Establishment of One way for 200m patch from Siddhivinayak Temple towards Agar Bazar on S.K.Bole Road: This mandatory one way was the best out of options available.
- ✓ Separating Drop Point before temple and pickup point after Temple on Veer Savarkar Road, shifting Taxi Stand, separation of Entry-Exit of temple by plastic barricades, encroachment removal, additional signages, sensitizing the local citizens and leaders, public awareness programs through newspapers and social media, closing petrol pump outlet on S.K.Bole Road, providing right turn at Keerti College intersection, introducing parking restrictions on Kashinath Dhuru Marg, creating right turn pocket lane at Kashinath Dhuru intersection and deploying BEST marshalls and Traffic Wardens etc. were implemented.

#### **Requirements**

- Manpower: Earlier 4 men in each shift were deployed which while enforcing new regulation was increased to 12 men(8 at Siddhivinayak Junction & 4 at Keerti College Jn.) during experiment period. Barricades, ropes, paint, signages, markings and intensified enforcement were the main requirements.

#### **Objective achieved were as follows:**

- S. K.Bole Road after declared oneway separated the north bound and south bound movements on Veer Savarkar Road which prevented cross movements, delays and gave unidirectional movements of vehicle.

### Traffic Management Interventions...

- It also provided safe pedestrian movement by more use of zebra crossing, specifically marking drop points and pickup points which were on footpath to avoid there movement at carriageway and increasing pedestrian time at signals.
- The closing of petrol pump on one side prevented clandestine vehicle movement from south bound Veer SavarkarRoad on S.K.Bole Road.
- Transfer of taxi stand helped in junction decongestion and prevention of corner parkings on S.K.Bole Road.
- The oneway direction was important as it allowed left side i.e. on side of temple entry and exit stopping at drop and pickup point.
- An alternate route not congesting main arterial routes for coming to Siddhivinayak in form of Kashinath Dhuru Marg served its purpose,
- The junction got decongested from security point of view too and freed the mouth of S. K. Bole Road.
- Separate entrance and exit for Temple was in keeping with principles of Law and order and Crowd Management.

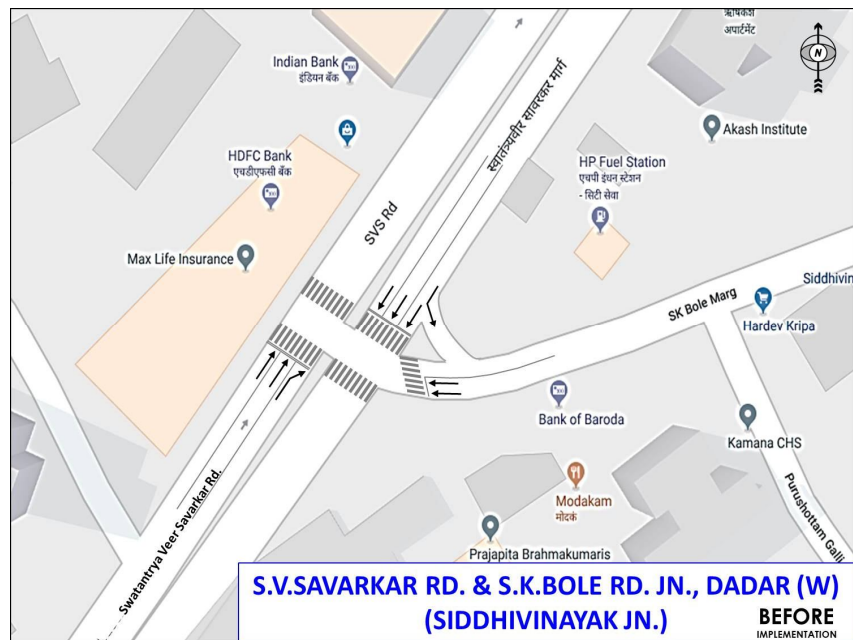
### **Further Action/Permanent Measures:**

- Consolidating the temporary changes with help of Municipal Corporation and building permanent structures replacing barricades etc.
- Planning a full-fledged pedestrian movement system not obstructing roads like skywalks provided with staircases as well as escalators.
- Pay and park facility in the vicinity.
- Rehabilitation of hawkers and action against encroachment on sustained basis.
- Planning of end to end connectivity and passenger alighting point near upcoming Metro Station.

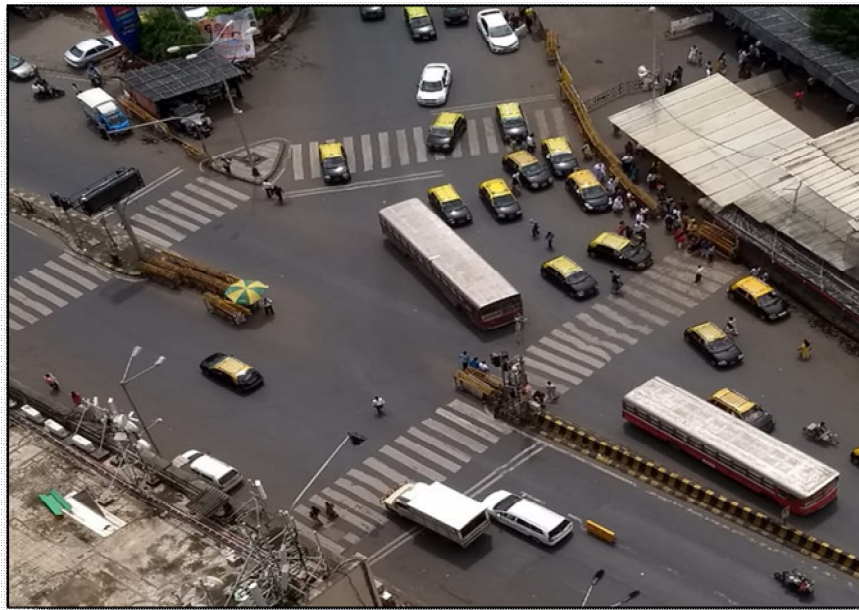
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**SIDDHIVINAYAK TEMPLE INTERSECTION – BEFORE**



**SIDDHIVINAYAK TEMPLE INTERSECTION – BEFORE**



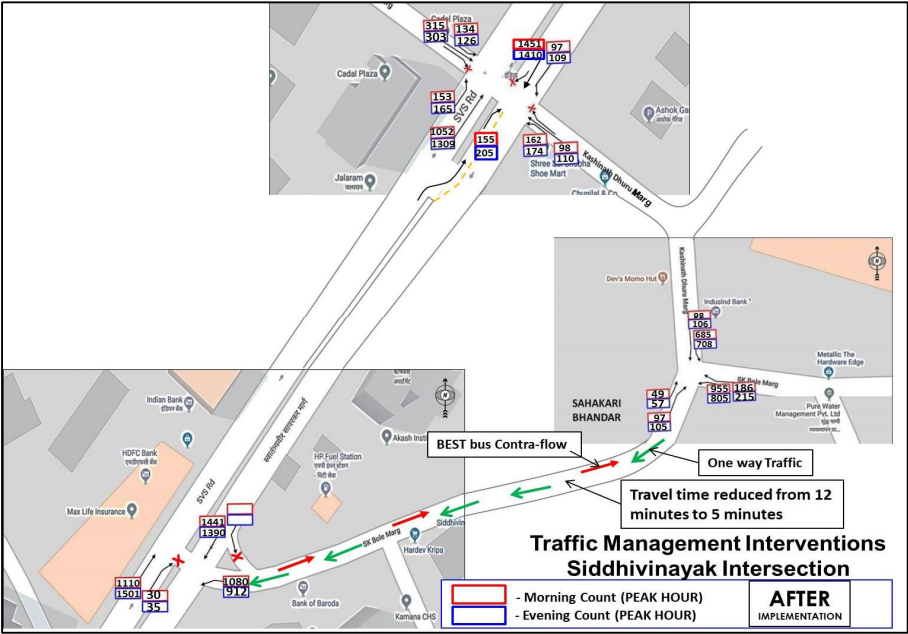
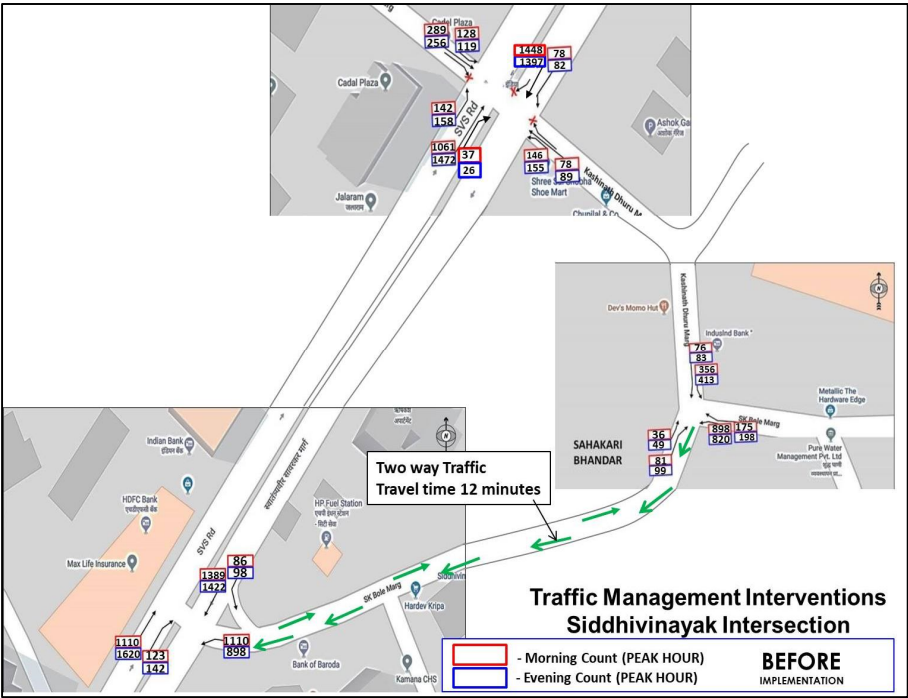
**SIDDHIVINAYAK TEMPLE INTERSECTION –AFTER**



**SIDDHIVINAYAK TEMPLE INTERSECTION –AFTER**



Dr. Saurab Tripathi, IPS and Dr. Shanker Vishwanath



TRAFFIC FLOW IN THE ROAD NETWORK

### **Dadar East Railway Station**

Dadar Railway Station is a junction of the Central Railway main line and the Western Railway main line. The Central Railway (CSMT-Kalyan/Kasara) carrying about 30 Lakhs passengers per day caters to commuter traffic from Eastern suburbs to the Central Business District, whereas the Western Railway (Churchgate-Dahanu Road) carrying about 36 Lakhs passengers per day caters to the commuter traffic to and from CBD to Western suburbs of Mumbai. It is therefore, obvious that a large number of commuters interchange at this railway station between Western and Central Railway. Also upcountry trains especially from Southern India terminate at Dadar East. This creates a demand for Taxis and intermediate public transport (Ola, Uber etc.), public transport buses, staff buses etc. for pick-up and drop, parking and turn around. As per reports the station handles more than 3 lakhs passengers on a daily basis and the same exceeding 50,000 in the peak hours.

The conflict between the commuter pedestrian traffic and vehicle operations on the adjoining Lakhamsi Napoo Road and GyanJivandasMarg creates operational and safety issues not only outside the Railway station but also at the adjacent intersections of Lakhamsi Napoo Rd. with Naigaon Cross Rd. on the South, Hindu Colony Rd. No. 1 on the North and Dr. Babasaheb Amedkar Rd with Swami GyanJivandasMarg on the East.

#### **Problem Statement**

- Total number of taxi and private vehicles coming to terminus through all directions, alighting of passengers and their smooth exit.
- Safety of passengers and commuters coming towards station from main road and vice versa including passengers alighting at station.
- Regulating movement of vehicles coming from all directions and harmonizing them.
- Check Engineering solutions to junction management and its problems.
- Management of Taxi stand /Bus Stands near the junction.
- Encroachment.
- Handling problems of Locals due to new traffic changes.

### **Solution and changes implemented**

- Establishment of Rotary through barricades: To facilitate round movement of taxis and passenger vehicles and avoid random conflicting movements in opposite directions.
- Breaking of concrete lanes, smoothening them and redesigning lanes at porch of station to provide sufficient turning radius for vehicles and making them Drop Points only.
- Discipline the taxis and provide a new taxi stand on footpath in front of SwaminarayanMandir where all vehicles after dropping passenger may queue and take passengers along with providing manpower to monitor this.
- Making a lane i.e. the road towards Hindmata as one way for providing smooth exit from station and avoid opposite conflicting movement.
- Providing a gap for local vehicles and passengers to come out if not in queue to taxi stand.
- Providing zebra crossing for pedestrian crossing to main road.
- Shifting the bus stand 100 m prior to junction to avoid heavy vehicles in narrow junction.
- Encroachment removal with help of local Police and Municipal Corporation.
- Signages and instructions.
- Discussion with local leaders and stake holders and accommodating them till an extent reasonably possible.
- Public Awareness Program through newspapers ,social media and
- Meetings with various stake holders like Municipal Co-operation, Taxi Associations, local Police.

### **Requirements**

- ❖ Manpower: Earlier 4 men in each shift were deployed which while enforcing new regulation was increased to 8 men only during experiment duration.
- ❖ Barricades, plastic chains for creating rotary, Drop points, passage to direct vehicles out and creating taxi queue. Plastic chains for controlling pedestrian movement initially along with paint for road markings, signnges and intensified enforcement.

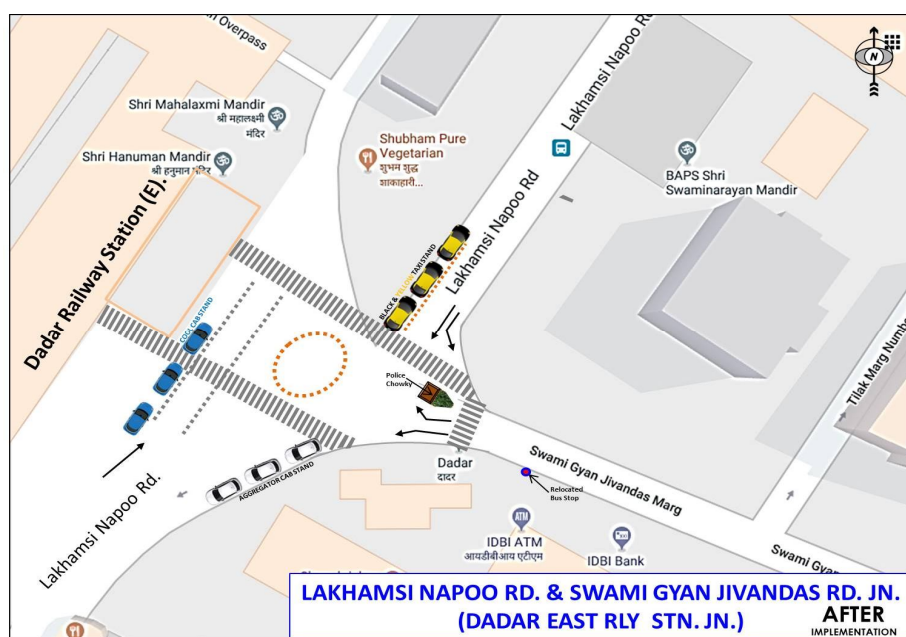
**Further Action/Permanent Measures:**

- ✓ Consolidating the temporary changes with help of Municipal Corporation and building permanent structures replacing barricades etc.
- ✓ Planning a full-fledged pedestrian movement system not obstructing roads like skywalks half with escalators and half non-automated.
- ✓ Pay and park facility in the vicinity.
- ✓ Rehabilitation of hawkers and action against encroachment on sustained basis.



**DADAR EAST RAILWAY STATION - BEFORE**

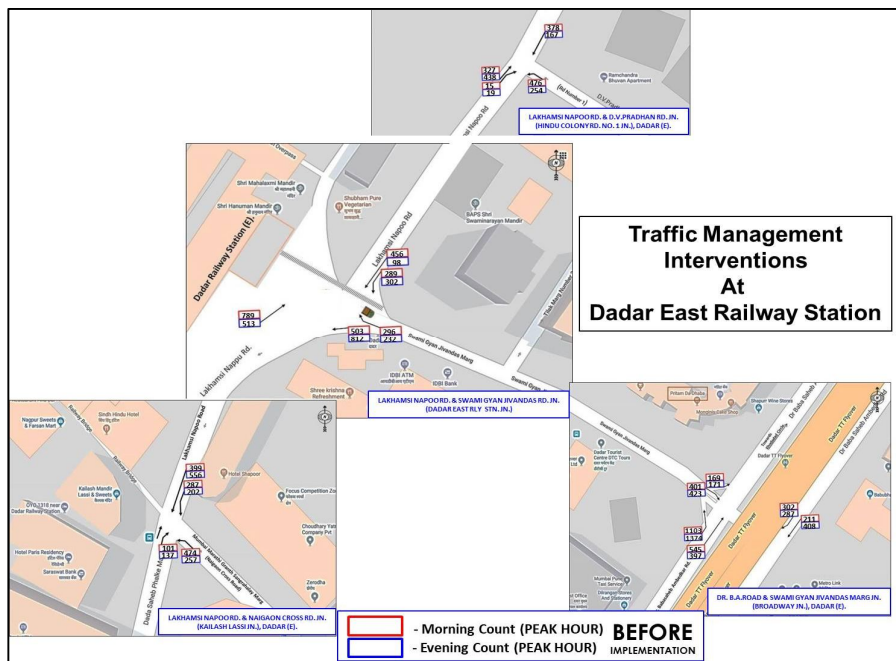
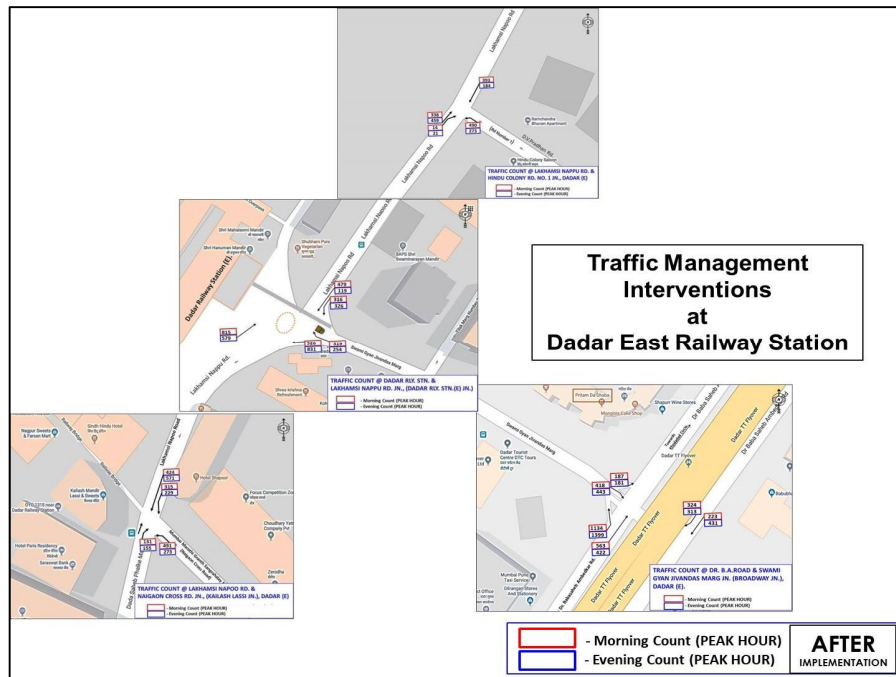
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**DADAR EAST RAILWAY STATION – AFTER**



## Traffic Management Interventions...



## TRAFFIC FLOW IN THE ROAD NETWORK

Dr. Saurab Tripathi, IPS and Dr. Shanker Vishwanath

- ✓ Redesigning existing police chowky in middle and removing the wedge at end for providing more turning radius to vehicles
- ✓ Providing pedestrian crossing near taxi stand in front of KailashLassi shop.

**Conclusion:**

- ✓ Every junction is unique with its own problems and their frequent visit at proper timing helps understand it.
- ✓ The traffic flow in totality to be studied affecting all nearby junctions, types of vehicles coming to it, average speeds and road safety to be considered.
- ✓ A raw plan should be prepared and discussed with all agencies involved in execution like local Leaders, Municipal Corporation, local Police Station, Railway Authorities, Taxi Associations etc. to bring everyone on same platform. Taking their suggestions and try to incorporate as far as rational and practical. This reduces friction and opposition on implementation. Also brief them that changes are temporary and shall be confirmed on success or compulsion of doing so.
- ✓ Before starting, men should be briefed and realistic expectations to be told.
- ✓ The infrastructure required including manpower should be put in place before the ad-hoc arrangements may be started.
- ✓ Once implemented, the plan should be executed on all or none basis. Then only plan should be judged for success or failure.
- ✓ Feedback throughout execution should be taken and positive criticism and modifications should be implemented to improve system.
- ✓ As per general feedback and improvement in objectives decided prior to implementation a call shall be taken to continue, modify or drop the scheme.

**References:**

1. Available Geometry and volume data from records
2. Geometry and physical plans from available sources.
3. Manual Traffic counts by Policemen of the concerned divisions.
4. Parking details collected from the site.
5. Discussions with local public, Taxi operators, BEST and citizens in general.



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## Touching the Grey Ghost of Ladakh

SUDHAKAR NATARAJAN\*

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As a Police Veteran, the highest decoration received by me was during the very first year of service, from a grey ghost.

I was detailed as a party commander in a Swaraj Mazda with 14 men to reach Transport Battalion (Tpt Bn), Chandigarh from my unit in Ladakh. This was in the summer of 10th July 1993, and I was to report to Tpt Bn for my 10 weeks Riding Course. My Unit CO, Comdt Hanuman Singh Yadav, had also given me Rs35,000/- (a big money those days) to hand over to the Incharge of Transit Camp (TC) for improvement in facilities of troops at the TC. The other men with me were proceeding on leave and transfer.

After two days of travel, just as we were ascending the treacherous Baralacha Pass at a height of 16,000 feet above sea level, the engine wheezed and coughed. The poor Swaraj Mazda was working in conditions in which the automobile engineers, who designed the vehicle, would never have imagined she would serve. Rarified atmosphere. The engine tried her best to suck oxygen, but she grunted, chocked and died at exactly 16,100 feet with a blizzard blowing and the bone numbing cold, with wind chill factor many degrees below zero, that was felt by our very core. One didn't require any meteorological equipments, we could feel it in our bones. The time was 1400 hrs, but looked as if the sun of hope had set on us.

When 'dhakka start' and 'sucking air filter' failed, we faced a unique situation. This was in the middle of nowhere. The nearest human inhabitation on either side of the pass, on foot, would have taken us 2 days.

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*\*Deputy Inspector General of Police, ITBP*



If I had ordered troops to walk in the blizzard, I was sending them into the deadly embrace of frost bite. I had no radio and there were no mobiles in those days.

I took stock of the situation. We were carrying adequate rice, dal, and a stove with enough kerosene oil, sugar, tea, milk-maid tins. The Swaraj Mazada, bless the designers, had large glass windows and thick insulation on all sides. Even the dying sun's rays had succeeded in slightly warming the vehicle.

I took an executive decision at 1800 hrs, much against opinion the troops to stay in the vehicle for the night, instead of risking it outside. Two more factors helped me to decide to stay in the vehicle, one was that this an avalanche free area and the second was that all of us had just returned from border out-posts having faced the mighty Marsimik La at nearly 19000 feet. So this location was 3000 feet less than what we are accustomed to. I was sure that the Border Roads Organisation, Project Himank, would clear the road in the morning.

We tucked ourselves into our sleeping bags and slept peacefully after a hot tea followed by a delicious dal-chawal with desi ghee, cooked on the stove inside the vehicle. For water, we just scooped up snow and melted it.

Next day morning, when I opened my eyes, fully refreshed, I was thrilled to see brilliant blue skies and the sun at his full glory. The warm rays of the sun, heated up the cabin so much that many of us removed our balaclavas. Then I looked down. There was 3 feet snow embracing the vehicle in her loving hug from all sides. The Mazada was stuck for good until the road opening party came.

Havildar(Vet) Satinder Singh wanted to make tea. We jumped out of the vehicle into hip deep snow to scoop it to make our tea.

As we got out our vehicle, we heard loud squealing sounds from the direction of an outcrop. When I turned my head towards the sound, I saw a furry cat looking at me and making loud painful noises. Satinder Singh and I, went towards the animal, and we were taken aback to see that it was not a normal cat, but a Snow Leopard cub, a few weeks old.

I stood stunned. A snow leopard cub seen meant that the mother was close by. But the question in our minds was as to why a young cub was looking at us and crying?

## Touching the Grey Ghost of Ladakh

I told Satinder that we must see what this beautiful little cub wanted and why it was away from the mother. Was the mother dead? Had the cub lost its way?

We managed to wade through snow and reach the cub. The cub turned and ran. We followed the cub, and were stunned to see a full grown adult Snow Leopard. We stopped.

I could hear my heart thudding in my throat, and my mouth went dry. We stood transfixed. As our logical reasoning returned, I realized that the snow leopard was lying down and was not moving. Except for tip of her tail, which was beating against the snow, there was no movement. The leopard was alive. Why didn't she run away or attack us, in the 'flight or fight' animal instinct that I had read about.

On closer inspection, after my breathing and excitement normalised, I saw that her nipples were engorged and this magnificent beauty was lactating. The cub now went to his mother and started suckling.

The mother leopard was definitely sick. She seemed paralysed. But I still could not get over her beauty. I am probably the only person in the whole world to see this shy big cat, that is even difficult to photograph with a telephoto lense, within just 2 feed distance. Her grey fur had black spots on the head and neck and there were larger rosette like black patches on her tail and flanks. On visual estimation she appeared around 50 kgs weight.

As I gained courage, I went closer. Her eyes were open. By God, what beautiful eyes !! I could see her deep liquidy eyes, that were pale green with specks of gold. Again, I am the only blessed person on this earth to gaze deep into the eyes of a wild Snow Leopard. I fell in love with her.

But veterinary training kicked in. 'Love-shove' is ok, but what was wrong with her? If we leave her, she would die. I was sure of this. I tried to remember our 3rd year Veterinary Medicine bible written by Dr D C Blood and Dr J C Handerson.

Female patient. Lactating. Cannot get up, Milk engorged teats, paralysed and in a recumbent position.

Common Sudhakar, think, I told myself. I stood on the spot enthralled with the beautiful lady before me.

Bingo!! it hit me suddenly!! Yes, man, this is bloody Hypocalcemia. Milk Fever. This paralysed beautiful Leopard was in this condition since most of her circulating blood calcium had been diverted to her milk, and all that she required was to pump calcium into her veins.

When I told Satinder, he told me with a smile that he had brought a MVFA (Mobile Veterinary First Aid) Kit. I asked him with trepidation, 'Do you have Intravenous bottle of Calcium borogluconate and a IV set'. He replied, "Bilkul sir".

This was half the battle won. I had the diagnosis. I had the medicine. I had the IV set. Now the moot question, which Veterinarian in his right mind will go to a wild big cat and stick a needle in her vein and set up Intravenous infusion?

Anyway I was not in my right mind. I was madly in love with her. I had to do it. I told Satinder to get the Calcium borogluconate bottle with the IV set. Now I had the option of approaching the Cephalic vein on the forelegs. But was I so mad to poke a needle into her fore leg just near her wide jaws? Even though she was unable to move, one never knew, she could easily have snapped off my right hand with her bite.

Better sense prevailed. My head won the battle with my heart and I decided to go for the Sphenous vein on her rear legs, relatively away from her jaws.

As both of us approached this royal cat, she snarled. I could see her pearly white canines and her sharp incisors. If she suddenly found the strength to attack us, that would have been our end. But as they say, a veterinarian has to be slightly mad to be in this profession, when a safe desk-job could get us greater safety and money.

I had the honour of touching her majesty on her legs. As I slid my thumb over her vein on her legs, my palms rested on her soft thighs, and I could feel the pulsating warmth. As I introduced the IV needle into the Sphenous vein, I saw blood flowing out, indicating a successful puncture on the very first attempt. Quickly Satinder set up the IV drip and we saw with satisfaction the life giving calcium flowing into the queen's blood.

After around 5 minutes, we saw that she could lift her head slightly. We kept the slow intravenous drip on for around 15 minutes, silently admiring the beauty of this rare royalty. I knew that as per the census at that time there were only around 4000 adult snow leopards in the world. We had the rare honour of treating an endangered large cat, in absolute pristine wild conditions.

Slowly we removed the drip. I also gave her an intramuscular injection of Dexamethasone, to combat any hypovolemic shock.

## Touching the Grey Ghost of Ladakh

Just like courtiers, withdraw from the Queen's Court, both of us slowly retraced our steps behind a large rock, all the time keeping our eyes on her. As per Veterinary Books, the recovery from Milk Fever Paralysis, takes around 15-30 minutes, in optimistic cases. Was my diagnosis correct? I still had doubts.

After some time we saw a miracle. The majestic Snow Leopard, lifted her head first. Swished her tail from side to side, and with a sudden jerk, she was on her feet. Fully alert. She knew we were behind the rock. I peeped over. She looked directly into my eyes. Even at the distance of around 20 feet, I could see her eyes, shining with gold dust and green hue.

She picked up her cub in her mouth gently, and climbed over a rock. For the last time she looked back at us, as if to say goodbye, and slowly walked away with her precious cub in her mouth.

I knew we will never meet again, but the final glance she gave me was the highest decoration I have received in my entire career in ITBP.

After celebrating my birthday on 15th July in Keylong, we finally reached Tpt Bn Chandigarh on the 6th day and I handed over the money to the IC TC and reported for my Riding Course, still thinking about her royal highness, the grey ghost.



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Journal Vol. LXVI, No. 2, 114 - 124

# Spiritual Interventions for Managing Stress in Police

SUBHASHINI R\*

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## Abstract

This review paper aims to identify the areas of stress in police officers and their spirituality. It explores the role that spirituality plays significantly in life, workplace, stress and illnesses. Spirituality and police forces have a close relationship due to the belief of 'Satyam, Seva, Suraksha', which means truth, service and protection, all attached to the human core values. Similarly, the motto of the Jammu-Kashmir force is 'A Saga of Sacrifice and Courage', which in simple terms describes the lives of the officers. Public service professions have stressors when their values are at stake; the role of spirituality begins here in re-instilling them. The articles were collected based on the variables and reviewed. The sources of stress in police force were identified and most research suggests that it is due to workplace dynamics, lack of communication, and value conflicts. Spirituality was then looked at from three areas – knowledge, meditation, and lifestyle. This included aspects such as introspection, meaningful work and life, acceptance and resilience. It was found that spirituality played a major role in buffering stress and also a protection from stressors and stress related illnesses.

## 1. Introduction

Spirituality has its origin in the Latin word spiritus which means soul or breath. It is the essence of human life. The meaning of spirituality varies

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from individual to individual due to the subjective experience. But, it is mostly mistaken and confused with religion. Religion is a form of identification of the self with a particular organized religion and its practices. The person embraces the religious view and incorporates it into his/her worldview. Spirituality as defined by Rothberg involves doctrines and practices that help facilitate lived transformation of the self and community towards fuller alignment with or expressions of what is called 'sacred'.

The dimension of Spiritual health gives a sense of direction to a person's life through their purpose and values. Spiritually healthy individuals believe in the meaning of their existence and it also acts as a foundation to health in the other dimensions – physically, mentally, socially and emotionally.

Spirituality and stress are found to be very closely related. Stress emerges when the sense of purpose decreases and there is no aim found in the demand at hand or life in general. Also, stress in today's world is due to being out of touch from one's own values and beliefs.

Police force is considered to be an all time human service. This job includes attending to all the social needs, irrespective of one's own. There is a continuous flux of emotions which are given little importance. The duties may range from traffic control, attending to superiors and subordinates, reaching crime scenes, interacting with criminals, night shifts, patrolling and a schedule which leaves little time for themselves and family. Thus, this paper aims to explore whether spirituality can play an effective role in reducing stress and also coping better when any difficulty or adverse situation arises.

## **2. Manifestation of Stress among Police Personnel**

A study by Collins and Gibbs (2003) found that the source of stress for police officers was more due to the organizational demands than their work itself. These demands included work overload, little communication, insufficient support and lack of control over the job. 79.4% of the Kolkata police constables were found to have moderate to high stress (Deb et al., 2008). A supportive study found that 28.8% of Central Industrial Security Force (CISF) personnels had scored positively high on stress, with them also having higher psychological morbidity (Rao, et al., 2008). Both the studies in India indicate an alarming need to look into the nature of stress in police officers. Kumar (1995) found that insufficient time for family, heavy

workload in little time, residential/accommodation problems and inappropriate working hours/conditions caused high stress in the police.

This resulted in lack of confidence in the superiors and little recreational time for self and family. There was a constant need to cope with the self, family, work and superiors and balance them all. Inability to do so, caused distress and anxiety. There were also several administrative stressors as found by Pillai (1987) which included excessive paper work, lack of support from the public, inadequate rewards and poor pay, distorted press reports, etc.

Stress leads to bodily pains, aches, gastrointestinal problems and exhaustion. There are symptoms of inability to eat, rapid heart rate, low concentration and forgetfulness, disinterest and low self-esteem, which may result in social isolation. Over a period of time, this manifests in the form of chronic illnesses such as diabetes, hypertension and cancer. If this stress isn't managed and controlled, it results in burnout, which is a state of complete exhaustion, involving depersonalization and reduced achievement.

Now that the levels, sources and impact of stress are found to be considerably large and damaging, it becomes necessary to combat it. Psychology has made several attempts to restore the balance through various interventions, such as relaxation, cognitive behavior therapy, psychotherapy and counseling. The dimensions of focus here are to lower the stress by modifying thoughts and managing emotions. Another major dimension that has little focus is that of spirituality. Spirituality as suggested has various dimensions, which will be discussed through the following reviews.

### **3. Spiritual knowledge/ quest**

Spiritual wellbeing consists of four dimensions - personal, communal, environmental, and transcendental. These dimensions were significantly different from physical, emotional and mental wellbeing. Also, spiritual wellness promoted happiness and psychological wellbeing lowered stress (Rowold, 2011). This emphasizes the uniqueness of the construct as well as its importance in stress management. Spiritual knowledge or quest is the process and also outcome of the soul search that one does in their life. The process of trying to search for knowledge in books, experiences and organizations, has a deep impact over the individual.

Houston & Cartwright (2007) have found that higher levels of spirituality, act as a calling for individuals to work in public service. Also, there is a higher feeling of need to serve, interconnectedness and a greater purpose in life. The daily spiritual experiences increases transcendence and compassion for fellow beings.

It has been found that greater the sense of meaning in life, lower was the distress experienced. People who are spiritual try to find a meaning or learning of the situation even in times of difficulties and adversities, which helped them, lower their stress perception (Simon and Schuster, 2000). Daily spiritual experience was negatively correlated with perceived stress and trait anxiety, and was positively correlated with perceived social support, optimism and quality of life (Underwood & Teresi, 2002). This enables police personnel to help in lowering stress caused in workplace through regular exposure to crime.

Kim & Seidlitz (2002) found that spirituality helped in better emotional and physical adjustment to daily stress. It acted as a buffering agent in reducing stress. They suggest that stress prevention programs should lay more emphasis on spirituality as it is effective. A significant negative correlation was found between perceived stress and spirituality. There was a significant increase in spirituality and decrease in stress after a 6 week intervention for healthy adults (Tuck, Alleyne & Thinganjana, 2006).

Ashomon and Duchon (2000) defined workplace spirituality as “the recognition that employees have an inner life that nourishes and is nourished by meaningful work that takes place in the context of community.” Workplace spirituality can have a major impact on the employees’ work attitude, absenteeism and productivity and therefore, organizational progress. There could be controversies as there a popular mistake of correlating it with religion. In workplace, religion focuses on established beliefs and norms those are communal, while spirituality focuses on the connectedness which is personal (Mitroff and Denton 1999; Marques, 2007). Research was conducted in the workplace settings of US and Mexico, to understand spirituality and stress (Daniel, 2015). Spirituality was assessed in three dimensions – inner life, sense of community and meaningful work. Only meaningful work was found to be significantly correlated negatively with stress. Thus, implying that when an employee has work that is meaningful to them and their values, the stress levels are low.



This could be majorly applied to police settings where a sense of satisfaction can be developed by working meaningfully.

#### **4. Meditation:**

Meditation begins as a part of basic spirituality. It is the process of turning inwards to experience calm or sometime may connect to a higher power. The type of meditation varies from individual to individual and the knowledge that they have about it. Mindfulness meditation arised from the eastern practice prevalently Buddhism which emphasized on awareness and being in the present. Mindfulness based stress reduction (MBSR) is a psychological technique combining both mindfulness meditation and yoga in an 8 week intervention program.

Bishop et al. (2004) found in their research that mindfulness is not just attention but brings awareness to the maladaptive patterns of perception. This research was further emphasized that by observing the self's habitual patterns of responding, a person can modify his/her attentional habits which is a strong emotion regulatory strategy in itself (Todd, Cunningham, Anderson, & Thompson, 2012). Buddhist meditation research in this regard (Desbordes et al., 2015) found equanimity as the outcome of the practice. This means being aware and accepting of any emotion in any situation and not controlling or suppressing it. This in itself resulted in maintaining balanced and situation appropriate emotions.

A study of mindfulness meditation was conducted on individuals with chronic pain (Astin, 1997). It facilitated them in achieving detachment and awareness, which helped them in accepting and viewing themselves from a different state of consciousness. Also, it prevented relapse in the case of individuals with anxiety and affective disorders.

A meta-analytic review found that mindfulness based stress reduction technique showed a decrease in stress levels and also an increase in spiritual values. The main feature of this research was that it was conducted on healthy individuals, and was found effective. It reduced trait anxiety and ruminative thinking, increased self-compassion and empathy (Chiesa & Serretti, 2009). This was supported by another Indian review article by Sharma and Rush (2014) where positive physiological and psychological outcomes were found through MBSR in reducing stress.

A research study investigated the relationship between perceived spiritual support (from God) and wellbeing in times of low and high stressors in life. It was found that in high life-stress conditions, spiritual support was

positively correlated with self-esteem and negatively correlated to depression. Also, spiritual support enhanced emotional adjustment after stressful events (Maton, 1989).

Yoga has been used since long as a mind-body therapy and shown to have several beneficial effects psychologically too. A systematic review of research found that practicing yoga had a positive impact in lowering the stress levels of even healthy adults (Chong, Tsunaka, & Chan, 2011). Centering prayers is a contemporary Christian meditation. These prayers practiced by 15 Roman Catholics were tested in a program of 10 weekly 2-hour group sessions and individual practice of Centering Prayer 2-times daily. This was found to reduce stress levels and increase their relationship with God significantly in both quantitative and qualitative findings (Ferguson, Willemsen & Castañeto, 2010).

## **5. Lifestyle**

Lifestyle of an individual changes when spirituality is incorporated. There are modification in diet, sleep, alcohol consumption and other activities. Practices such as journaling, gratitude and forgiveness became a regular part of their routine. Spirituality, healthy diet and physical activity contributed to a higher subjective physical wellbeing in adults (Boswell, Kahana, & Dilworth-Anderson, 2006). Spirituality and healthy life behaviours were found as distress deterrents, which acted as coping mechanisms and had a significant role in lowering and/or avoiding stress. Physical activities included exercises, dancing, swimming, gardening, etc.

After any negative event, meditation increases emotional recovery and helps individuals be little avoidant of negative feelings and thoughts, and also identify less with them (Davidson 2010). This aids in the process of forgiveness. Several researchers found that positive forgiveness which is the ability to forgive is associated with emotional balance, equanimity, lower anger and resentment. Also, negative forgiveness, which is the inability to forgive, is correlated with emotional dysregulation and turmoil (Worthington 2005; Gordon et al. 2009). Forgiveness promotes the presence of gratitude and other positive emotions such as hope and satisfaction (Lundahl et al., 2008; Rye et al., 2012).

Research done by Donaldson (2007) listed several predictions between physical and psychological lifestyle, stress and performance of 345 employees in an organization. A hierarchical multiple regression analysis

was conducted. It was found that the employee's stress predicted decrease in vitality and positive well-being, and increase in anxiety, depression, physician visits, somatic complaints, illness absences, and supervisory ratings of job performance, absenteeism and tardiness. Physical and psychosocial lifestyle predicted vitality and positive well-being, while psychosocial lifestyle also predicted change in anxiety, depression, lack of self-control, and somatic complaints. Physical lifestyle which included exercise, eating habits, and general health practices was found to buffer the adverse consequences of stress for anxiety, depression, physician visits, and company health care costs. Psychosocial lifestyle involved social relations, intellectual activity, occupational conditions, and spiritual involvement. This study gives us insight into the causes as well as the buffers of stress in an employee.

A 90 day residential Kundalini program was conducted for persons with substance abuse in Amritsar, India. This program included meditation, yoga, spirituality and lifestyle changes and other mind-body practices. There were significant effects in psychological self-report measures, which implied higher recovery (Khalsa, Khalsa, Khalsa, & Khalsa, 2008). A similar study examined the influence of spiritual-religious lifestyle on tobacco smoking, alcohol use, and gambling behaviours. Among the categories, (1) neither spiritual nor religious, (2) spiritual and religious, and (3) spiritual but not religious, category 2 was the strongest protective factor from substance use and gambling (Hodge, Andereck & Montoya, 2007).

## **6. Conclusion and Recommendations**

Spiritual retreats have shown significant improvements in the spiritual experience of persons in different professions where stress is experienced in the workplace. Similar outcome was seen in the care giving nurses, post a 6-week spiritual retreat intervention. Underwood (2005) conducted an interview with the monks which revealed that spirituality gives an opportunity to expand transcendental love and care for self which further stimulates love and care for others. Mohamed et al. (2004) found that individuals with spirituality were protected from the negative psychological consequences of failure and stress. Underwood (2011) also suggests that frequent experience of spirituality can in turn increase the positive perceptions of experiences in an individual, thereby enhancing their lives overall. It enhances their resilience and brings positive psychological outcomes, which shows an impact on their relationships and workplace.

We had earlier observed that one of the major causes of stress in the police is due to lack of support and feeling unheard by the superiors. This dimension can be dealt with a sense of community that comes along with spirituality. Naylor et al. (1996) indicate that a community is one where there is communication and trust, cooperation and sharing, justice and empowerment. Manion and Bartholomew (2004) add that there are also inclusivity, commitment, the ability to form a consensus, realism, contemplation, safety and specific roles.

From all the above reviews, we can understand that spirituality does have a major impact on one's mental and emotional health, especially stress. It lowers the perception, experience and impact of stress. Considering the sources of stress which comes to the police forces majorly from their workplace, enhancing workplace spirituality is highly recommended. Intervention programs mentioned above can be utilized that it is blended as a part of work than another task.

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## Book Review:

# Rights Based Investigation (RBI): A Change Mantra in Law Enforcement Justice Delivery Systems

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Title	: Rights Based Investigation (RBI) : A Change Mantra in Law Enforcement Justice : Delivery Systems
Author	: P.M. Nair
Publishers	: Tata Institute of Social Sciences Mumbai
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Language	: English
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**A Criminal Justice System cannot itself be a punishment:** The Book is written with the motive of preventing victimization of innocents by the Law Enforcement and Justice Delivery Agencies. This book aims to make the investigators to remain fair and just to the victims and also the accused. It can be observed that the author never uses the word accused, the word instead used is 'investigated' and that sets the tone for further reading. This book is written by an experienced IPS officer who has spent 35 years in Police Service. The concern for lapses that occur during investigation shows and there is a deep in desire to set the system right. The author strives to

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frame Standard Operating Procedures for an ideal investigation. Investigation is the most fundamental process in the Criminal Justice System. Investigation is a prerogative of Police in matters of crime. It is a sanctified legal & social obligation. Police is the first refuge of anyone in distress and violated in his legal rights.

Investigation involves intruding into personal & private domain of others. The Police have to maintain a delicate balance of competing rights of the investigated & the victims. The Author advocates for the principle of 'Thus far & no further' as the golden rule for investigation.

The Investigating Agency has a legal and social obligation to bring the culprits to book. The Investigating Agencies face political, media pressure to bring the culprit to book. The overburdened investigating officer may trespass into forbidden area and infringe on the rights of the Investigated. There is unequal power equation between the Investigator & Investigated. The Investigator enjoys authority and power which may be statutory, legal and administrative. The author strongly dissuades use of third degree methods by investigators. It violates the constitutional guarantee of fair trial. He says it tarnishes the reputation of the investigating Agencies and all the good work done by it will nose-dive due to unprofessional work of some individuals. Considering the potential of the investigation to infringe on the rights of the investigated, the State protects the investigated from Police atrocities under Constitution, Law, Judicial pronouncements and many administrative orders.

Throughout the book author introduces us to many landmark cases that are relevant to the philosophy of Right Based Investigation (RBI), landmark judgements, suffering of innocent people, poor investigations, colluding of investigators with criminals, guidelines to investigators.

The Standard Operating Procedures (SOPs) for proper investigation from the point of registering FIRs to the point of delivering justice to the victims is clearly laid out in the book. The 21 boxes appropriately placed in different parts of the book guides the investigators, drawing information from landmark cases, court orders, canons of the Constitution, Law and Rulings of the Courts. It introduces us to the suffering of innocents due to poor investigation. Although the anomalies were rectified later many cases, the sufferings undergone by them is beyond compensation. The social ostracism the families face and emotional turmoil that they undergo is indescribable.

The author prescribes proper integration of science and technology into investigation but cautions that human factor is the core of any investigation.

The author identifies the reasons for the poor investigations and also suggests proper guidelines for arrest under Right Based Investigation (RBI). A few reasons for poor investigation to name here are, lack of professional training, improper integration of available scientific tools & methods, poor communication between various wings of Criminal Justice System, pressure to arrest guilty immediately, time constraints, work load, lack of Investigation skills, poor documentation, poor supervision, no legal support, lack of legal expertise, poor evidence collection etc

The author suggests that arrest should be justified by a proper preliminary investigation to avoid legal or disciplinary actions later. The principle of arrest under Right Based Investigation (RBI) are given at page 53 followed by Box XVII at page 54 regarding the guidelines for procedure of arrest given by the Supreme Court, Guidelines of the National Human Rights Commission on Arrest is given in Appendix I.

Right Based Investigation (RBI) is a philosophy. It is rights-led, rights-oriented, rights-ensured. The Author presents the book to all Investigators, Judicial Officers, Police and Prosecutors.