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**DEVELOPMENT OF TRAINING MODULES IN  
HUMAN RIGHTS FOR POLICE EXECUTIVES IN  
INDIA**



**BY  
P.S.V. PRASAD**



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**DEPARTMENT OF BUSINESS MANAGEMENT  
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**JULY 2003**

# **DEVELOPMENT OF TRAINING MODULES IN HUMAN RIGHTS FOR POLICE EXECUTIVES IN INDIA**

**A THESIS SUBMITTED TO OSMANIA UNIVERSITY  
FOR THE AWARD OF DEGREE OF  
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IN THE FACULTY OF BUSINESS MANAGEMENT**

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2003**

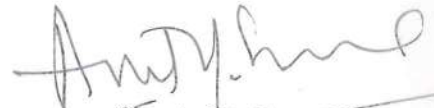


## CERTIFICATE

I do hereby certify that Shri P.S.V. Prasad has satisfactorily completed this thesis titled "Development of Training Modules in Human Rights For Police Executives in India". Furthermore, this is the result of original Research Work done by him. The research work was planned, carried out under my guidance and supervision. This has not been submitted for the award of any degree in the past to any University or Institute.

Place: Hyderabad-500 052

Date: 31<sup>st</sup> July, 2003.



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## DECLARATION

I do hereby declare that the present thesis titled “ Development of Training Modules in Human Rights For Police Executives in India”, is the outcome of the original Research work undertaken and carried out by me under the guidance and supervision of Dr. A.K. Saxena, Reader, SVP National Police Academy, Hyderabad. I further declare that the material contained in the thesis has not been published earlier.

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## **CHAPTER – 1**

# **HUMAN RIGHTS AND ROLE OF** **POLICE LEADERSHIP**



## CHAPTER - 1

### HUMAN RIGHTS AND ROLE OF POLICE LEADERSHIP IN INDIA

#### 1.1 HUMAN RIGHTS

Respect for human rights is an article of faith in India down the ages. The rich Indian heritage of respect for the inherent dignity of a human being includes the philosophy of 'Ram Rajya' and the concept of 'Vasudhaiva Kutumbakam'. The concept of Human Rights has come a long way in the west since it first found expression in the Magna Carta of 1214. The American declaration of Independence in 1776 laid down that all men are born equal. The French declaration of the Rights of Man and the Citizen in 1789 proclaimed certain rights as natural, inalienable and sacred rights of Man. The United Nations proved to be a catalyst in the ongoing struggle of mankind to universalize the promotion and protection of Human Rights. The preamble to the 1948 Universal Declaration of Human Rights (UDHR) says:

"Recognition of the inherent dignity and of the equal and inalienable rights of all the members of the human family is the foundation of freedom, justice and peace in the world"

The UDHR, adopted by the General Assembly of the United Nations on 10<sup>th</sup> December, 1948 was a statement of individual rights to be protected by signatory states within their own countries. Articles 1 to 21 of the declaration are concerned with natural rights and basic freedoms while articles 22 to 28 relate to social and economic rights.

While the so-called natural rights and basic freedoms are enshrined as Fundamental Rights under Part III of the Indian Constitution, the Directive Principles of State Policy contained in Part IV of the Constitution adumbrate the social and economic rights. While Fundamental rights are enforceable under Art. 226 by the High Courts and under Art. 32 by the Supreme Court, the Directive Principles of State



Policy are not legally enforceable. Together, Fundamental Rights and Directive Principles of State Policy constitute Human Rights Jurisprudence, which cast on the State the negative as well as positive obligations of non-interference in individual rights and freedoms and of improving the quality of human life. Speaking of the inter-relationship between Fundamental rights and Directive Principles, the Supreme Court held that they are complimentary and supplementary to each other. It has also been held that Parliament can even amend fundamental rights so as to implement directive principles, provided the amendment does not alter the basic structure of the constitution. Abridgement of a fundamental right for implementing directive principle can be held to be a "reasonable restriction" within the meaning of Art. 19 and the presumption is that such an abridgement is valid. Thus, it can be seen that Directive Principles were not intended to be "Pious Platitudes". It is pertinent to point out here that a few important Constitutional rights like Right to Property (Art. 300A), Freedom of Trade, Commerce and intercourse within the Territory of India (Part XIII: Arts. 301 to 307) and certain safeguards to services under the Union and the States (Part XIV : Arts. 308 to 313) are guaranteed under the Constitution. For all practical purposes, there is no difference between rights conferred by Part III and the rights or freedoms conferred by the rest of the Constitution.

The covenants for economic, social and cultural rights and for civil and political rights were eventually adopted in 1966. In addition to these two covenants, there are several other conventions, codes, declarations, principles and rules which together with UDHR constitute the International Human Rights Law that govern the exercise of state power at all times. To name a few important among them:-

- Code of Conduct for Law Enforcement officials.
- Principles for the effective Prevention and Investigation of extra-legal, arbitrary and summary execution
- Standard minimum rules for the treatment of prisoners
- Basic rules for the treatment of prisoners

- Declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment.
- Convention against torture and other cruel, inhuman or degrading treatment or punishment.
- Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities.
- Declaration on the protection of women and children in emergency and armed conflict.
- Convention on abolition of forced labour.
- Convention on the elimination of all forms of racial discrimination.
- Convention on prevention and punishment of Genocide, and
- Convention on slavery.

The struggle against colonialism led to the First World War. The emergence of fascism resulted in the Second World War. The cold war ended with the fragmentation of USSR. The emergence of a unipolar world now is experiencing the recurrence of the most serious human rights violations, caused by the rise of nationalism, racism, xenophobia, religious fanaticism, extremism and even terrorism which led to the most abhorrent forms of ethnic cleansing, including the systematic rape of women, exploitation, neglect and abuse of children and concerted violence against foreigners, refugees, displaced persons, minorities, indigenous people and other vulnerable groups. No less disturbing for the Protection of Human Rights are the threats stemming from environmental degradation, new bio-medical technologies and the scourge of HIV/AIDS.

There is close affinity between the concept of democracy and that of Human Rights. Dissent is vital to a democracy and should not be viewed as confrontation. More often than not, dissent is on account of failure to tackle a problem on the political plane. It is only then that any failure to contain the dissent is viewed as failure of law and order and law enforcement agency is blamed for such failure. Violence as a form of dissent can never be justified and state can never turn itself into a police state.



Apologists for the police may say that police never start violence on their own but only react to violence. It is well established law that counter violence is never justified except in private defence.

In a democratic set up, the police have a dual role, one of ensuring human rights of the citizen and the other of exercising their lawful powers to protect the people. Police authority is subjected to abuse even in democracies. It needs to be emphasised that it is a perversion of the law enforcement role of the police to violate law protecting Human Rights in seeking to enforce the law. The entire rationale of International Human Rights Law is to influence the interaction between the law enforcement official and the citizen, with focus on organizational management and command structure on the one hand and accountability and external supervision on the other.

As a society progresses and becomes more informed and educated, people become more aware of the dignity of the individual and of human rights and are therefore likely to criticise and complain more about the police behaviour and conduct, which at any point of time in the past, would not have been regarded as wrong. Such a process may give a false impression that police have deteriorated in their behavioural norms but a closer examination would reveal that it is on account of higher demands being made upon them that the police are being so criticized. In a multi-cultural, multi-lingual and multi-religious society like India, a far greater understanding and empathy is required on the part of the police personnel.

The plurality of Indian society is unparalleled: Every major religion is found here. Over a billion people speak 18 major languages. The cultural diversity in the country produces a colourful mosaic. But there is an equally conspicuous diversity of a different dimension, reflecting a social order characterized by inequalities and denial of opportunities, a social order that has stood in the way of a healthy respect for human rights. The rigid caste structure, no doubt, remains a major impediment. Nearly half of the country's population is illiterate. Nearly 40% of total population lives below poverty line. Primary education is still a distant dream for many children. Child

labour, the death of children due to malnutrition and lack of medical care and famine deaths in the midst of stocks of food grains languishing in warehouses are all matters of human rights violation. Displacement of tribal population and the ecological damage caused by the construction of dams is a matter of serious concern. Enforcement of social legislation like Minimum Wages Act, Protection of Civil Rights Act and the SC, ST (Prevention of Atrocities) Act casts aspersions on the Criminal Justice System.

The criminal justice system consists of the Police, the Prosecution, the Judiciary and the Correctional agency. Violation of Human Rights encompasses all these four pillars of criminal justice system. The areas of violation of Human Rights by Police include illegal arrest, detention and use of handcuffs in legal arrest, torture, inhuman and degrading treatment, custodial rape, death in police custody, fake encounters, kidnappings, disappearances, denial of legal counsel and medical attention, excessive and indiscriminate use of force, biased use of discretion, invasion of the privacy of citizenry, illegal searches, non or delayed compliance of mandatory, constitutional, legal and departmental provisions that impinge on the upholdment of the rule of law, preventive detention and poor redressal mechanism of the complaints of violation of Human Rights. Human Rights issues relating to judiciary include routine and inordinate delays in judicial proceedings, inhuman and degrading treatment of those in judicial custody, long periods of judicial custody pending trial, death penalty and high cost of litigation. In most cases, the court language is English, which is unknown to the common litigant. In the arena of prosecution, there is no consideration for the victims of crime and their rights. As for correctional institutions, the inhuman conditions in prisons are violative of the human rights of prisoners.

There is an "inner" wheel within the "official" wheel of the Criminal Justice System, which operates as a tool of intimidation and repression of the poor and weaker sections of the society. It is of serious concern to all right thinking people who value human rights. The situation gets worse when a government soft pedals the acts of the "inner" wheel of the Criminal Justice System in the name of national security. Development is hollow if it is accompanied by a high coefficient of state violence as



exemplified by "missing" people, murders and mayhem. Economic crimes, environmental crimes and crimes against human rights are increasingly noticed in developing countries, hampering equitable distribution of wealth.

Human rights are fundamental and inter-dependent. As such, equal attention should be given to the full implementation and protection of all these rights. The realization of political and civil rights is dependent on social and economic development in the following three ways:

- a) The availability of human or material resources.
- b) The benefits of human rights to a people would improve with the social and economic progress made, and
- c) Economic and social development promotes political stability and relatively democratic forms of government, which support human rights.

The dilemma of human rights for the criminal justice system begins with the legal definitions of crimes as related to prevailing political, social and economic conditions of a country. Within the parameters of these definitions, the poor and the weak continue to go through the "revolving door" of the criminal justice system again and again. At times, the principle of legality viz., "Nullum crime sine praevia lege, nullum poena sine praevia lege" (there is no crime or punishment without previous law) is violated because the definition of the act prohibited is vague. It affords opportunity to the agencies of the Criminal Justice system to abuse their power.

There is no dearth of laws in any country. The need is not so much for new legislation as meaningful implementation of existing laws, with the scope of action of the Criminal Justice System clearly defined. New laws or amendments to law with a continued, wooden-headed approach of the agencies of the Criminal Justice System would prove counterproductive. It is also seen that the agencies of the Criminal Justice System work in isolation. The police do not see beyond their own nose. The Prosecutor washes off his hands once the Judge takes over. The Judge does not know



what happens to the offender after he is sentenced. The four walls of the prison have no doors and windows to let in fresh air. It is therefore necessary to have inter-departmental coordination within the Criminal Justice System. To be useful, such coordination efforts should be institutionalized and then the response of the Criminal Justice System to the community could be positive.

Police, being the gate-keeper of the Criminal Justice System, is the first agency that needs to respond to the citizenry with regard to observance of human rights. Just as noble intentions are no justification for committing offences, good intentions are not sufficient justification for violating the law in suppressing crime, particularly by law enforcement agency. For the Police, law comes first and order later, and order should not be sought to be maintained except under the law. As Lord Shankey observed "It is not admissible to do a great right by doing a little wrong". Police violating the law is not doing a "little wrong" either and by violating the law the Police would be doing a great wrong for doing a doubtful right. Hence it is necessary for the Police at the cutting edge level to be reminded of the basic principles of criminal jurisprudence that have stood the test of times, which are:-

1. An accused is presumed to be innocent, until his guilt is proved.
2. His guilt has to be proved by the Prosecution and he need not prove his innocence.
3. The Prosecution has to prove the guilt beyond all reasonable doubt and not by mere preponderance of possibilities.
4. If there is any doubt regarding the guilt of the accused, the benefit of doubt shall go to the accused and he shall be acquitted, and
5. Let nine criminals go unpunished but not one innocent person suffer for an offence he has not committed.

The creation in September 1993 of National Human Rights Commission (NHRC) is a landmark in the movement towards humanizing law enforcement agencies in India. Its focus almost wholly has been on the violation of human rights or abetment

thereof or negligence in the prevention of such violation by a public servant. The Commission can also "intervene" in proceedings before a court that involves an allegation of violation of human rights. The commission may "review" factors such as Terrorism, which inhibit the enjoyment of human rights. The Commission may visit jails or other reformatory/protective institutions. It may also "review" constitutional or other legal protection for protection of human rights. The Commission enjoys all the powers of a civil court, especially the power to summon and enforce the attendance of witnesses, to cause the production of any document and to direct its officers to enter any building or place and to seize any document relevant to any enquiry before it. Finally, every proceeding before the commission shall be deemed to be a judicial proceeding. The Protection of Human Rights Act, 1993 provides for a State Human Rights Commission with similar powers as the NHRC, except that it can inquire into violation of Human Rights only in respect of matters in List II and List III in the seventh schedule of the Constitution of India. Also, where a matter is already under inquiry by the NHRC, the State Human Rights Commission shall not inquire into it. Finally, the State Government may, for the purpose of speedy trial of offences arising out of violation of human rights, specify a court of sessions for each district to be a human rights court. The initiatives taken by the NHRC to get rid of draconian laws like TADA, take up the cause of environmental protection, help victims of abuse of power through compensation etc; are commendable. The dialogue it had started with Law Commission and Medical Council extend to the National Commission of Women and National Minorities Commission; and thus convergence of views is effected in the task of bringing about changes in various statutes as well as their proper implementation. The Commission continues to consult civil liberties groups to thwart state violence.

Several Non-Governmental Organisations (NGOs) like Asia Watch, Amnesty International etc. are engaged in upholding Human Rights. Their observations should be taken by all the agencies of the Criminal Justice System with a view to activating the self-correcting mechanism in built in the system and thus distinguish between good and bad in their respect for observance of human rights. Human Rights today are no



longer confined to Universal Declaration or a few Covenants and Protocols. They constitute a culture that is ever evolving and transcends to the very air we breathe and water we drink. Much of the malady with regard to the omissions and commissions of the Police vis-à-vis Human Rights could be mitigated if only the policemen in general and the cutting edge level in particular are sensitive to not only crimes, criminals, public order and traffic management but also to the sensitivities of dalits, minorities, women, children, environment, water conservation etc.

It is against this backdrop that we need to understand the importance of Human Rights education or training. Amnesty International defines Human Rights education or training as "a programme, which aims to provide knowledge and understanding about human rights and seeks to introduce Human Rights values in the teaching or training practices and curricula of both formal and non-formal education programme". Such Human Rights education or training is best administered through participatory/interactive methodology aimed at the development of knowledge, skills and attitudes which people need to work towards a world free of human rights violations.

The requisite knowledge is knowing that human rights instruments exist and which rights they contain and that these rights are universally applicable to all human beings and inalienable. It also involves understanding the consequences of violating human rights. This knowledge helps individuals to protect their own rights, the rights of others and the rights of the community. The requisite skills include listening to others, critical analysis, cooperating, communicating and problem-solving. These skills help us to:-

- analyse the world around us
- understand that human rights are a way to improve our lives and the lives of others, and
- take action to protect the rights of individuals and the community.

The requisite attitudes are that human dignity is important, that we all have equal rights and responsibilities, that cooperation is better than conflict, that we are responsible for our actions, and that we can improve our world if we try. These attitudes help people develop morally and prepare them for positive participation in society.

## **1.2. ROLE OF POLICE LEADERSHIP**

India, it has been said, is a rich country with poor people. The Human Rights situation in the country also seem to suffer from a contradiction of this kind. It is a perversion of Law that police violate the law protecting Human Rights in seeking to enforce the law, while in fact, there is no conflict between law enforcement and Human Rights. Whether it is on account of organizational pressure for 'quick' results or occupational sub-culture that deals with individuals as statistics, the recourse to 'short cuts' is endemic on the part of the subordinate police personnel even as 'looking the other way' is considered 'officer-like' for police leadership. 'Noble cause' corruption is always advanced as an argument to justify the law breaking process in law enforcement. Little is it realized that such corruption can at best secure short term results to the long term detriment of the rule of the law. None of the 'encounters', 'disappearances' or 'escapes' of the accused/suspect in police custody had ever solved any problem for ever. The rising crime, the recrudescence of terrorist violence, the ongoing wave of insurgency and the continuing attraction of the left-extremist outfits for the youth reinforce this view. On the contrary, incalculable harm had been caused by 'noble cause' corruption to the image of the police, their credibility and the very faith of the people in the criminal justice system and even in democracy as a way of life. It is in this context that we have to consider the obligation of police leadership in the protection of Human Rights.



## Leadership in Police

Leadership in Police is totally different than in any other walk of life in as much as the ability to inspire and motivate the rank and file is so demanding that laying down of life in the line of duty is part of occupational hazard. In the specific context of upholding human rights also, the police leadership has to set an example and be a role model for the subordinate ranks, for they cannot otherwise enforce observance of human rights by their subordinates. Police leaders must themselves be humane, ethical and possess high qualities of human excellence. They must live up to the following definition of a man of character:

“An honest man; a man with a sense of duties and obligations of his position, whatever it may be; a man who tells the truth; a man who gives to others their due; a man considerate to the weak; a man who has principles and stands by them; a man not too elated by good fortune and not too depressed by bad; a man who is loyal and a man who can be trusted”.

## Professionalism and Police

Professionalism, it has been said, is a proper balance of knowledge and skills on the one hand and proper response to the needs of the people on the other. By this standard and on both the counts stated, police in our country can hardly be called professional. The ‘third degree’ treatment of suspects or those in custody, the callous way in which most investigations are conducted and the less than civil manner in which the poor or less-privileged sections of the society are dealt with at the police stations are but a few examples of the lack of professionalism amongst our police personnel. Mr. Justice M.N. Venkatachalaiah, former Chief Justice of India identified those areas of the criminal justice administration that require serious and immediate attention thus – ‘the first and the foremost is the professionalisation of the police and insulating it from the unlawful political interferences. There ought to be a system of departmental ombudsmen to check corruption and malfeasance and to investigate



complaints of abuse of power and of harassment and keep a sharp eye and a firm hand on police excesses'. If only the police leadership were professional themselves and insisted on their subordinates being alike, perhaps human rights would well be protected by the Indian Police.

### Credibility

Hypocrisy or a mismatch between percept and practice is what a police professional should be indulging in the least or better still, not at all! But in the arena of human rights observance by the police, this is exactly what is done, and most of the time. This, to a large extent, is also responsible for the low credibility of the police in our country. We have a large number of laws on the statute book, multiplying the regulatory and enforcement role of the police. A sizeable section of the society either disapprove a certain law or approve of it only when applied to someone else. Police are caught in a no man's land, especially in case of social legislation. The unscrupulous use of discretion in the exercise of power at the cutting-edge level, often in favour of the rich and the powerful, adds to the credibility gap, which is also complicated by the 'pressure' to solve the cases 'somehow' by supervisory officers and even the public, when they happen to be complainants and which amounts to tacit approval. Added to this ambivalent attitude of the public towards observance of human rights by police is the trial by the press, which also affects the way police deal with a given situation. The police leaders, therefore, owe it to themselves, service they belong and the people at large to improve the credibility of the organization.

### Policing by Consent

It is traditionally believed that it is a policeman's duty to obey all orders issued by the government and seniors whereas, in fact and in law, this duty begins and ends with compliance of only legal orders. The emerging culture of a 'committed' police is an added insult to the injury of police being widely considered as a visible and strong arm of the government. Policing by force must eventually and surely yield to policing

by consent in a democracy and it is high time that police leadership became agent of this change process. Instead of 'militarising' the police, they should seriously and without delay 'civilise' or 'civilianise' the organizational rank and file. Such policing by consent would presuppose ethical and legal policing and in the event, all policing cannot but be just, legal and invariably in true public interest, and minimizes extra-departmental and political interference to a no inconsiderable extent. The primary function of police today is anything but control of crime. Much of their time and energy is spent on maintaining public order and VIP security. When the very *raison d'être* of the police is thus in question, the emergence of community policing as an organizational initiative seem to offer a less-demanding rationale, providing reduced fear of crime in the citizenry. Though it is no easy path from policing the community to community policing, the latter option commends itself to police executives for the protection of human rights and promotion of proactive policing.

#### Improving Internal Service

It is an axiom of modern management theory that the external service delivery of any organization would not improve until it effectively used and served its own employees. In the Indian police environment, the subordinate is invariably considered to be lacking in drive and irresponsible and needs to be coerced or punished to achieve organizational goals by the superior to whom power and authority are sacrosanct and unquestioning obedience from a subordinate is taken for granted and the only motivational techniques known are the use of stick, with an occasional carrot! The National Police Commission's observations in this regard are pertinent – "the manner in which the police officers at the lower level behave is conditioned by the manner in which the police officers themselves are treated by their own higher-ups in the force. Therefore, there is simultaneous need to reform the intra-departmental behaviour and conduct of police officers towards lower ranks". The one way communication within the organization and from above most of the time makes the leaders authoritarian, and those down the line transfer the style in their dealing with the public. Who talks of rights of the policemen, leave alone of their basic rights like reasonable single/married



accommodation, time-bound duty shifts, adequate medical care, insurance/risk cover etc.? The senior echelons of the organization have to take the blame for the state of neglect, at least partly, for several of them no longer lead the men they command, but manage to stay at the helm, and when it is time, fade into oblivion.

### Day-to-day Policing

Policing in a democracy is decidedly a tight rope walk. While police are statusquoist, it needs to be said that dissent is vital to democracy. With the breakdown of traditional and informal controls and the near breakdown of the criminal justice system due to sheer overload, it is only the fine tuning of day to day policing function by police executives in the specific areas like the use of force, arrest, treatment of detainees, privacy of a citizen, policing during civil disorder, social responsibility/accountability of police and protection of minorities, women, children and weaker sections of the society which can restore a semblance of balance. It is true to a large extent that abuse of authority by police is little checked by the police executives. What the active press and judicial activism have been able to do in this regard touches only the tip of the iceberg. In a uniformed organization, it is only the police officer who must be able to exercise his or her influence rather than power and specifically, have the ability to get things done, not at any cost but in accordance with the law.

### Transparency and Accountability

The growing awareness among the public of their rights necessitate a certain transparency in police conduct along with accountability for the work they do or don't. An evaluation of the nature of complaints against the police will also be helpful in throwing light on the track record in this regard. The international standards on redressal of grievances pertaining to human rights violations require that free, fair and impartial investigations are conducted into all such violations. Although many legal sanctions do exist, in practice the agents of the state are able to act with little fear of

being held accountable. While the bold and path-breaking initiatives of the National Human Rights Commission and certain judicial courts in initiating criminal action against the defaulting agencies of the state and even awarding compensation are welcome, it would be in the fitness of things if the police leadership were able to inspire the confidence of the public by holding the police accountable for all their omissions and commissions.

### Sensitivity to Multi-dimensional Role of Human Rights

Much of the malady with regard to the police wrong doings vis-à-vis Human Rights could be mitigated if the staff at cutting edge level are sensitive to not merely the matters pertaining to what are strictly the police subjects but to other areas like upliftment and empowerment of women and dalits, rehabilitation of juvenile delinquents, sex workers, drug addicts, etc. so that there is a certain sensitivity in whatever they do, besides appreciating the multi-dimensional role of human rights, which no longer are confined to a few covenants, declarations, protocols or such other instruments but transcend today to areas like development, environment etc. Police must get used to respecting dissent and criticism as part of civilized democratic existence and this would also mean that they cooperate with NGOs including those connected with human rights like the Amnesty International, PUCL etc.

### Importance of Training Function

Senior police officers have an obligation to develop the human resources at their disposal through training. The importance of training function in the scheme of things in any police set up is at best marginal and it is common knowledge that most police chiefs consider it essential for the trainees to "unlearn" what has been taught at the police training institutions for them to be "effective" in the field. Against this backdrop, and in the context of human rights training, it would be pertinent to point out that the knowledge, skills and attitudinal inputs that are presently given can hardly be said to be comprehensive at most police training institutions. It is high time that such



human rights training is undertaken aimed at building a culture of human rights in the organization.

### Eternal Vigilance to Uphold the Majesty of Law

The problem today is not lack of provisions in law or direction from the apex and other courts but a lack of will to implement the law in its true letter and spirit. It is in this regard that police leadership has to assert itself and ensure that Law, as in the statute book and as laid down by the various courts, is implemented and no extraneous considerations are allowed to step in the way. In other words, there is need to restore the majesty of the law. Any appeal to the police to be sensitive to the human rights dictates would tantamount to asking the wolf to be kind to the lamb. We all know the moral pressure exercised by the National Human Rights Commission in the repeal of draconian law TADA and but for such pressure, it would have remained on the statute book. The redressal to custodial deaths and torture lies not so much in the compensational packages that seem to be engaging the attention of all and sundry these days but in ensuring accountability and respect for law. The police need to be more humane and compassionate while dealing with the public. They need not only to be educated and trained but the fear of law needs to be reinforced by a strong vigilance machinery.

### Terrorism and Insurgency

In a democracy, violence as a form of dissent can never be justified. In the words of Justice O. Chinnapa Reddy – “Whether it is the extremist and terrorist on the one hand or the law and order enforcement agency which has sworn to shoot and kill them at sight, both are fanatics, one swearing allegiance to instant change and the other to the status quo. Both are intolerant to dissent; neither believes in human rights and either will lead to authoritarianism of one kind or the other. Every attempt to silence dissent (calling it subversion) by the forces of law and order will only hasten the deterioration of dissent into violence and generate and foster violence. Some



apologists claim that police do not make violence: they react to violence and sometimes excessively with counter violence. Except in the matter of private defence has counter-violence ever been recognized as a justification?" Winning the battle for the human rights must not mean that war against insurgency and terrorists is lost. Human rights must not be allowed to be used as a political weapon. Also, human rights cannot exist in a vacuum. Human rights if placed ahead of victims' concerns also produce social disorder. Effective supervision and taintless performance in the field by the law enforcement machinery as a matter of routine are effective safeguards against any excesses. Ways and means have to be found to check the wayward enforcement of laws, whether special or ordinary.

### Victim Perspective

All along, there has been a general awareness on the need to protect the rights of offenders and the accused but since 1985, with the adoption of the UN declaration on the basic principles of justice for victims of crime and abuse of power, the focus has shifted to victims as well. Higher echelons of police are yet to catch up with this changed scenario. It is time that police executives paid serious thought to the plight of the victims of crime and abuse of power. By victims we mean those who collectively or individually have suffered harm including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights through acts or omissions that are in violation of operative national criminal laws (Victims of Crime), or of internationally recognized norms relating to human rights (Victims of Abuse of Power). The U.N. declaration emphasizes four aspects of rights to victims of crime and abuse of power :

- a) Access to justice and fair treatment
- b) Restitution
- c) Compensation, and
- d) Assistance.

## Police Reforms

It is often seen that police officers feel the need to change everyone else except themselves. They also bemoan the need for reforms but do little to bring about changes wherever they could in the limited sphere of their activity. At the individual, team and organizational levels, there is a felt need to be in tune with the changing environment. In its annual report for 1995-96, the National Human Rights Commission has underlined the need for urgent action on police reforms for the protection of civil liberties and for curbing violation of human rights. In particular, it favoured insulating investigative tasks of police from political, executive or other interference, fixed tenure of office for chiefs of police in the states and constitution of state security commissions in each state on the lines suggested by the National Police Commission. Stating that an efficient and honest police force is the 'principal bulwark' of the nation against violation of human rights, the commission strongly favoured improving the quality of the police and restoring its prestige and luster in the eyes of the nation. The recommendations include measures aimed at reducing and eliminating violence in custody and measures for the protection of human rights in prisons as well as in areas affected by insurgency and terrorism. The recommendations include those meant for creating a culture of human rights throughout the country. The Bangalore declaration of the 24<sup>th</sup> Criminological Congress in February, 1996 has sought immediate implementation of the report of the National Police Commission, particularly with regard to police autonomy and efficiency. It emphasized the training function in reinforcing the egalitarian and secular values of the constitution among police personnel and advocated a place of prominence for human rights training. The declaration also pleaded for modernization through better management and information technology, called for the code of ethics to be disseminated and enforced through peer groups and exhorted that third degree methods be ruthlessly put down by quick punishment.



## Privacy

A special form of police activity which is designed to counter present day problems like terrorism, insurgency, organized crime etc., besides day-to-day policing is that of intelligence and security services or the plainclothes police, which impinge upon the rights of privacy and civil liberties of a citizen. It is necessary that police executives so contain the activities of these agencies that they are amenable to the rule of the law and for upholding human rights.

## Organisational Culture

A police stereotype as perceived by the man on the street – one who is pot-bellied, more of brawn and little of brain, brutal, foul-mouthed, corrupt, having nexus with the under-world, more amenable to the moneyed and the politically powerful – is, in short what a policeman should not be. These sub-cultural and deviant traits are a product of personal weaknesses, personality defects, failure to cope with work-related stress and low morale. An organizational culture conducive to the promotion of human rights needs to be brought about by the police executives. For this purpose, they need to set objectives for the organization as a whole and for each rank and file individually with a view to gaining the trust of the people. Unfortunately, most police forces in the country today have no declared mission and similarly, there is considerable lack of clarity about the objectives for the rank and file.

The Mission Statements and the Code of Conduct for Police and its training establishments guide their actions as per the dictates of law and the aspirations of the people. At the DsGP/IsGP Conference held in New Delhi on September 7, 2001, the Union Home Secretary requested the Police Chiefs to frame the mission statement for the Police force containing an action plan for making the police force more responsive and effective and the people more conscious of their duties and responsibilities.

Given below are a few of the Codes of Conduct framed in the United Kingdom that could serve as a model for us. Lancashire Constabulary laid down the following maxims as early as in 1856 for observance and to be borne in mind by the constabulary of the force:

1. Constables are placed in authority to protect, not to oppress, the public.
2. To do which effectually, they must earnestly and systematically exert themselves to prevent crime.
3. When a crime has been committed, no time should be lost, nor exertions spared, to discover and bring to justice the offenders.
4. Obtain a knowledge of all reputed thieves, and idle and disorderly persons.
5. Watch narrowly all persons having no visible means of subsistence.
6. Prevent vagrancy.
7. Be impartial in the discharge of duties.
8. Discard from the mind all political and sectarian prejudices.
9. Be cool and intrepid in the discharge of duties in emergencies and unavoidable conflicts.
10. Avoid altercations, and display perfect command of temper under insult and gross provocation, to which all Constables must occasionally be liable.
11. Never strike but in self-defence, nor treat a prisoner with more rigour than may be absolutely necessary to prevent escape.
12. Practice the most complete sobriety, one instance drunkenness will render a Constable liable to dismissal.
13. Treat with the utmost civility all classes of Her Majesty's subjects, and cheerfully render assistance to all in need of it.
14. Exhibit deference and respect to the Magistracy.
15. Promptly and cheerfully obey all superior officers.
16. Render an honest, faithful, and speedy account of all monies and property, whether entrusted with them for others, or taken possession of in the execution of duty.



17. With reference to the foregoing, bear especially in mind that "Honesty is the Best Policy".
18. Be perfectly neat and clean in person and attire.
19. Never sit down in a public house or beer shop.
20. Avoid Tippling.
21. It is the interest of every man to devote some portion of his spare time to the practice of reading and writing and the general improvement of his mind, and
22. Ignorance is an insuperable bar to promotion.

On the formation of the London Metropolitan Police in 1829, its two Commissioners, Colonel Charles Rowan and lawyer Richard Mayne, described the duties and responsibilities of police as:

- a) the protection of life and property;
- b) the prevention of crime and detection of offenders; and
- c) the preservation of public tranquility.

These two Commissioners also propounded the following nine basic principles to govern all police actions in the London Metropolitan Police jurisdiction:

1. To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.
2. To recognize always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.
3. To recognize always that to secure and maintain the respect and approval of the public means also the securing of the willing cooperation of the public in the task of observance of law.
4. To recognize always that the extent to which the cooperation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objective.

5. To seek and preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to Law, without regard to the justice or injustice of individual laws; by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing, by ready exercise of courtesy and good humour; and by ready offering of individual sacrifice in protecting and preserving life.
6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police; the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen, in the interest of community welfare and existence.
8. To recognize always the need for strict adherence to police executive functions, and to refrain from even seeming to usurp the powers of the judiciary, of avenging individuals or the State, and or authoritatively judging guilt and punishing the guilty, and
9. To recognize always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

In 1990, the Association of Chief Police Officers, supported by the Superintendents' Association and the Police Federation (the three representative bodies of the police services in the United Kingdom) set out the following as a statement of purpose and values for the police service of today:

- a) The purpose of the police service is to uphold the law fairly and firmly; to prevent crime; to pursue and bring to justice those who

break the law; to keep the Queen's Peace; to protect, help and reassure the community; and to be seen to do all this with integrity, commonsense and sound judgement.

- b) We must be compassionate, courteous and patient, acting without fear or favour or prejudice to the rights of others. We need to be professional, calm and restrained in the face of violence and apply only that force which is necessary to accomplish our lawful duty, and
- c) We must strive to reduce the fears of the public and, so far as we can, to reflect their priorities in the action we take. We must respond to well-founded criticism with a willingness to change.

#### Code of Conduct for Police (India)

1. The Police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizen as guaranteed by it.
2. The Police should not question the propriety or necessity of any law duly enacted. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.
3. The Police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgement on cases to avenge individuals and punish the guilty.
4. In securing the observance of law or in maintaining order, the police should as far as possible, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.
5. The prime duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency is the absence of both and not the visible evidence of police action in dealing with them.



6. The police must recognize that they are members of the public, with the only difference that in the interest of society and on its behalf, they are employed to give full time attention to duties which are normally incumbent on every citizen to perform.
7. The police should realize that the efficient performance of their duties will be dependent on the extent of ready cooperation they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to learn and retain public respect and confidence.
8. The police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.
9. The Police should always place duty before self, should remain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.
10. The police should always be courteous and well-mannered; they should be dependable and impartial, they should possess dignity and courage; and should cultivate character and the trust of the people.
11. Integrity of the highest order is the fundamental basis of the prestige of the police. Recognising this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizens.
12. The police should recognize that their full utility to the state is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a state of constant training and preparedness, and

12(A). As members of a secular, democratic state, the police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantaged segments of the society.

### Complexities of Modern Crime

Development of modern technology in various fields has undoubtedly brought many benefits to mankind but it brought with it evils of its own. Technology is a double-edged weapon – it helps the police in crime detection and crime prevention but it also helps the criminals in committing “sophisticated crimes”. It is true that the real proof of effective enforcement of law and eradication of crime from the society is not the presence of huge organized police but absence of it. But it is too Utopian an ideal, particularly in the context of the organized crime often with a national or even global links. Terrorists, drug mafias and the “under-world” are better financed and, hence, better equipped and better organized than the police.

It can even be stated that the degree of motivation in the criminals in the commission of crimes is higher than in the prevention and detection of crimes by the police. Commission of crimes in an atmosphere of psychological aberration, the camaraderie generated by guilt feeling and guilt-sharing, disproportionate monetary benefits, perceived sense of real or imaginary ‘injustice’ at the hands of the ‘society’ and many other genetic and environmental factors create greater intensity of morbid levels of motivation in criminals. These factors are stronger than the factors like devotion to duty, feeling of righteousness, uprightness, etc. among the police. Hence greater effort is needed in training and motivating the police in tackling the vastly different range and variety of crimes committed in the present times.



Against the background of the growing organized crime, it is desirable to amend the relevant provisions of the Indian Evidence Act, the Criminal Procedure Code and other laws which provide for the inadmissibility of confessions and other statements recorded by the police. The reasons given by James Fitzjames Stephen for incorporating those provisions in Sections 25 and 26 of the Evidence Act apply all over the world and such provisions are not there in any of the democratic countries including United Kingdom and USA.

Adequate steps must be taken by the police leadership to ensure proper training and sensitizing the police at the cutting edge levels to Human Rights concerns as below:-

1. The sensitizing of the police in human rights at national, regional and local levels must be undertaken.
2. The training should not only be pedagogic but also situation-oriented. Actual simulation exercises in real life problems must be conducted.
3. Human Rights training should not be presented as a moral exercise but as a part of their training in legal awareness. Human rights are not moral principles but legal norms.
4. Human rights observance requires greater motivation, commitment and self-restraint on the part of the police. Psychological counseling should be a necessary part of the exercise.
5. The training sessions should include adequate instruction not only in textual provisions of laws but also in the judicial pronouncements by the Supreme Court and the High Courts in our country so that the trainees would understand implications of the case law.
6. Internal monitoring should be introduced so as to periodically check human rights violations at the cutting edge level. This will amount to policing the police by the police, and



7. Different standards of the provisions of the law in ordinary Acts like the Indian Evidence Act and special laws like the Prevention of Terrorism Act (POTA) and the Organized Crimes Acts enacted in some States like Maharashtra must be adequately explained.

Today, human rights are truly internationalized but not fully internalized. The internalization of human rights culture is now an irreversible need of the times and the police leadership have a crucial role to play in this regard. To quote Vaclav Havel that "the exercise of power is determined by thousands of interactions between the world of the powerful and that of the powerless, all the more because these worlds are never divided by a sharp line; everyone has a small part of himself in both". Ralph Crawshaw said that "the exercise of power by a police official is one significant manifestation of an interaction between the world of the powerful and the powerless...a police official....exemplifies, probably more than any other person, the blurring of the division between the worlds of the powerful and the powerless". Power as an abstract concept is neither good nor bad. Authority, the offspring of power, when based on arbitrariness, becomes authoritarianism and is most offensive to the very concept of human rights. The obligation of the police leadership to protect human rights will be fulfilled when it is realized that power for the police is not an end in itself but is a means to serve the people.

## **CHAPTER – 2**

# **INDIAN CONSTITUTION AND** **HUMAN RIGHTS ISSUES**

## CHAPTER – 2

### INDIAN CONSTITUTION AND HUMAN RIGHTS ISSUES

The Preamble to the Constitution and parts of Part III on Fundamental Rights and Part IV on Directive Principles have been described as forming the core of the Constitution, and which together reflect the basic principles of the Universal Declaration of Human Rights and the Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights. In this regard Part IVA of the Constitution on Fundamental Duties and Articles 226, 300A, 325 and 326 are also pertinent.

#### Preamble of the Constitution

We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens :

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

And to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty sixth day of November 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.



## Part III – FUNDAMENTAL RIGHTS

### General

#### Art. 12. Definition

In this Part, unless the context otherwise requires, “the State” include the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

#### Art. 13. Laws inconsistent with or in derogation of the fundamental rights

1. All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
2. The State shall not make any law, which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
3. In this article, unless the context otherwise requires,-
  - a. “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
  - b. “laws in force” includes laws passed made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repeated...

### Right to Equality

Art. 14. Equality before law – The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Art. 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth –

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to –
  - a. access to shops, public, restaurants, hotels and places of public entertainment; or
  - b. the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
3. Nothing in this article shall prevent the State from making any special provision for women and children.
4. Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Art. 16. Equality of opportunity in matters of public employment –

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority

within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

4. Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, which, in the opinion of the State, is not adequately represented in the services under the State.
5. Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

#### Art. 17. Abolition of Untouchability

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

#### Art. 18. Abolition of titles

1. No title, not being a military or academic distinction, shall be conferred by the State.
2. No citizen of India shall accept any title from any foreign State.
3. No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
4. No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.



## Right to Freedom

### Art. 19. Protection of certain rights regarding freedom of speech, etc.

1. All citizens shall have the right –
  - a. to freedom of speech and expression;
  - b. to assemble peaceably and without arms;
  - c. to form associations or unions;
  - d. to move freely throughout the territory of India;
  - e. to reside and settle in any part of the territory of India; and
  - g. to practice any profession, or to carry on any occupation, trade or business.
2. Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
3. Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
4. Nothing in sub-clause © of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

5. Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

b. Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to.-

- (i) the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

#### Art. 20. Protection in respect of conviction for offences

1. No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.

3. No person accused of any offence shall be compelled to be a witness against himself.

Art. 21. Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except, according to procedure established by law.

Art. 22. Protection against arrest and detention in certain cases

1. No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.
2. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
3. Nothing in clauses (1) and (2) shall apply
  - a. to any person who for the time being is an enemy alien; or
  - b. to any person who is arrested or detained under any law providing for preventive detention.
4. No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless –
  - a. an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention :



Provided that nothing in this sub-clause shall authorize the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7):

- b. such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).
5. When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.
6. Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts, which such authority considers to be against the public interest to disclose.
7. Parliament may by law prescribe
- a. the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for prevention detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);
  - b. the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
  - c. the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

## Rights against Exploitation

### Art. 23. Prohibition of traffic in human beings and forced labour –

1. Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
2. Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

### Art. 24. Prohibition of employment of children in factories, etc.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

## Right to Freedom of Religion

### Art. 25. Freedom of conscience and free profession, practice and propagation of religion

1. Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
2. Nothing in this article shall affect the operation of any existing law or prevent the State from making any law –
  - a. regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
  - b. providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I – The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II – In sub-clause (2), the reference of Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Art. 26. Freedom to manage religious affairs

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –

- a. to establish and maintain institutions for religious and charitable purpose;
- b. to manage its own affairs in matters of religion;
- c. to own and acquire movable and immovable property; and
- d. to administer such property in accordance with law.

Art. 27. Freedom as to payment of taxes for promotion of any particular religion

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Art. 28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions -

1. No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
2. Nothing in clause (1) shall apply to an educational institution, which is administered by the State but has been established under any endowment or



trust, which requires that religious instruction shall be imparted in such institution.

3. No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

### Cultural and Educational Rights

#### Art. 29. Protection of interests of minorities

1. Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
2. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

#### Art. 30. Right of minorities to establish and administer educational institutions -

1. All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.
- 1A. In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

2. The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

#### Art. 31C. Saving of laws giving effect to certain directive principles

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy....

#### Right to Constitutional Remedies

#### Art. 32. Remedies for enforcement of rights conferred by this Part -

1. The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
2. The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, *quo warranto* and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
3. Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
4. The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Art. 33. Power of Parliament to modify the rights conferred by the Part in their application to Forces, etc. -

Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to.-

- a. the members of the Armed Forces; or
- b. the members of the Forces charged with maintenance of public order; or
- c. persons employed in any bureau or other organization established by the State for purposes of intelligence or, counter intelligence; or
- d. persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organization referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Art. 34. Restriction on rights conferred by this Part while martial law is in force in any area -

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.



#### Part IV – Directive Principles of State Policy

##### Art. 36. Definition -

In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

##### Art. 37. Application of the principles contained in this Part -

The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

##### Art. 38. State to secure a social order for the promotion of welfare of the people -

1. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
2. The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

##### Art. 39. Certain principles of policy to be followed by the State -

The State shall, in particular, direct its policy towards securing –

- a. that the citizen, men and women equally, have the right to an adequate means of livelihood;
- b. that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

- c. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d. that there is equal pay for equal work for both men and women;
- e. that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- f. that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Art. 39A. Equal justice and free legal aid -

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Art. 40. Organisation of village panchayats -

The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

Art. 41. Right to work, to education and to public assistance in certain cases -

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Art. 42. Provision for just and humane conditions of work and maternity relief -

The State shall make provision for securing just and humane conditions of work and for maternity relief.

Art. 43. Living wage, etc., for workers -

The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas.

Art. 43 A. Participation of workers in management of industries -

The State shall take steps, by suitable legislation or in any other way; to secure the participation of workers in the management of undertakings, establishments or other organization engaged in any industry.

Art. 44. Uniform civil code for the citizens -

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Art. 45. Provision for free and compulsory education for children -

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.



Art. 46. Promotion of educational and economic interests of Scheduled Castes,  
Scheduled Tribes and other weaker sections -

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.

Art. 47. Duty of the State to raise the level of nutrition and the standard of living and  
to improve public health -

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs, which are injurious to health.

Art. 48. Organisation of agriculture and animal husbandry -

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Art. 48 A. Protection and improvement of environment and safeguarding of forests  
and wild life -

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Art. 49. Protection of monuments and places and objects of national importance.

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoilation, disfigurement, destruction, removal, disposal or export, as the case may be.

Art. 50. Separation of judiciary from executive -

The State shall take steps to separate the judiciary from the executive in the public services of the State.

Art. 51. Promotion of international peace and security

The State shall endeavour to -

- a. promote international peace and security;
- b. maintain just and honourable relations between nations;
- c. foster respect for international law and treaty obligations in the dealings of organised people with one another; and
- d. encourage settlement of international disputes by arbitration.

#### Part IV A – Fundamental Duties

Art. 51 A. Fundamental duties

It shall be the duty of every citizen of India -

- a. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

- b. to cherish and follow the noble ideals which inspired our national struggle for freedom;
- c. to uphold and protect the sovereignty, unity and integrity of India;
- d. to defend the country and render national service when called upon to do so;
- e. to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- f. to value and preserve the rich heritage of our composite culture;
- g. to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h. to develop the scientific temper, humanism and the spirit of inquiry and reform;
- i. to safeguard public property and to abjure violence;
- j. to strive towards excellence in all spheres of individual and collective activity so that the national constantly rises to higher levels of endeavour and achievement.

#### Some other Provisions

#### Art. 226. Power of High Courts to issue certain writs -

1. Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.
2. The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of



action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

3. Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without
  - a. furnishing to such party copies of such petition and all documents in support of the pleas for such interim order; and
  - b. giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.
4. The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

Art. 300A. Persons not to be deprived of property save by authority of law -

No person shall be deprived of his property save by authority of law.

Art. 325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Art. 326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

#### Public Interest Litigation

Republic of India is vast and diverse and overwhelming majority of people is illiterate and poor. Many of them are not even aware of their legal and constitutional rights. The lofty ideals and principles of the Constitution would become meaningless and futile if the rights and freedoms were not accessible to the poorest of the poor and the commonest of the common. So the Supreme Court thought wisely and in a statesman-like manner adopted strategies that would make human rights adumbrated in the Constitution socially relevant.



In law, it is a long established principle that a person can initiate legal action against another only if his rights are materially affected. This is known as *locus standi in judicio*. The juridical basis of this salutary principle was that unconcerned persons and interlopers should not meddle in others' legal relations and abuse the judicial process with frivolous or vexatious litigation.

The Supreme Court of India in a series of historic and trail-blazing developments ushered in the era of Public Interest Litigation (PIL) and social action litigation (SAL) in India. The Supreme Court enabled a socially aware and active individual or organization to go to the rescue and enforce the rights of the underprivileged or disadvantaged or socially handicapped individuals or sections of the society. In most of these cases, there is a gross and callous failure or neglect on the part of the public functionaries or administrative authorities in the discharge of their public duties.

Addressing the valedictory session of the Retreat of Selected Collectors and Superintendents of Police at the S.V.P. National Police Academy, Hyderabad, sponsored by the Department of Personnel and Training, Government of India, and United Nations Development Programme in collaboration with Lal Bahadur Shastri National Academy of Administration, Mussoorie, Shri Vinay Shankar, Secretary, Rural Development, Government of India, had said (January 8, 1997): "A reference has been made of the judicial activism during the presentations. I would disagree with the criticism of the judiciary. The judicial activism is not creating problems. Many opportunities or occasions arise when we, as managers or administrators, fail to enforce the laws, which our legislature has made. You take environmental laws. Any body else, with impunity, break the laws. Nobody will take any action. In many cases action is not initiated. We as administrators lack in enforcement of laws and we do not perform our duty. Obviously some persons with greater awareness and easy accessibility to Courts, High Courts and Supreme Court will file suits and this kind of judicial activism will start. Hence, the remedy lies in improving our efficiency and effectiveness."



Between the three pillars of a democracy, viz. legislature, executive and the judiciary, judicial activism establishes the supremacy of the judiciary, especially in the context of legislative arbitrariness or executive abuse. It emphasizes the need for accountability and transparency of both the legislature and the executive in consonance with the principles of checks and balances envisaged under the Constitution. It also upholds the principle that "be you ever so high, the law is above you". While the legislature must respond to the needs of the people at large through appropriate legislation, the executive must fearlessly and impartially carry out their duties in accordance with the law and the Constitution. It is only when the legislature and the executive fail in their responsibility or try to avoid it, that judicial activism has a role to play. In other words, judicial activism is to be viewed more as a "damage control" exercise. In this sense, judicial activism is only a temporary phase and does not envisage a situation of confrontation between the legislature, the executive and the judiciary but visualizes greater coordination and support for each other, based on respect and understanding for one another.

According to Justice J.S. Verma, Chief Justice, Supreme Court of India, judicial activism must necessarily mean "the active process of implementation of the rule of law, essential for the preservation of a functional democracy". It must mean, in the words of Justice Verma, "an active justice delivery system from the commencement of the process of law till its logical conclusion – the process throughout being the obligation of the judiciary to manage". Viewed in this context, judicial activism envisages police activism, prosecutorial activism and correctional activism, with the primal activist role assigned to the judiciary.

Prevention and detection of crime are said to be the primary functions of the police. With the maintenance of public order and security considerations taking precedence, the primary functions of the police have taken a back seat. Consequent malfunctioning of the law enforcement agency necessitates judicial intervention, often witnessed these days, under Article 32 read with Article 142 of the Constitution. These

judicial directions are more to be understood in the nature of compelling the police in the proper performance of its duty in an objective, honest and fair manner.

That the rule of law or the majesty of law be upheld is a basic tenet of our democracy. The rule of law or the majesty of law, in effect, is also dependent on maintenance of public order and security. The judiciary, therefore, has a duty cast on it, even for issuing such directions as may be necessary in a given circumstance for upholding public order and security.

Prosecutorial activism or correctional activism is hardly noticeable in the present dispensation of the criminal justice system. It should, therefore, be no surprise, if the judiciary steps in to activate the prosecutorial or correctional machinery. The touchstone for all agencies of the criminal justice system for effective discharge of their activist function is their objectivity, fairness and honesty. Within the parameters laid down by the law of the land and the Constitution, answers must be found by them to discharge their functions in an objective, fair and honest manner, failing which alone will the judiciary step in to find the answer. However, no agency of the system can function in a vacuum. While there is need for inter-agency coordination, it is equally relevant that every agency be conscious of the fact that in a democracy, it is the citizen who is the ultimate master.

While the judiciary is required to maintain certain aloofness for the effective discharge of its duties, it is equally necessary that certain functional independence is given complementarily to the other agencies of the criminal justice system so that they could do their duties objectively, fairly and honestly. It is in this specific context that reforms to streamline the police, the prosecutorial and correctional services assume importance.

It has truly been said that judicial activism is, in effect "democratization" of the judicial process. Victims of custodial violence, environmental pollution, ecological damage, poor sanitation, ill-maintained roads and traffic, pollution of rivers and myriad



other ills have found solace due to the activist role assumed by the judiciary. In a pluralistic society like ours with varied socio-economic and political problems, judicial activism has come to play a positive role in cleansing the society and in providing armour against social evils like corruption and casteism. More recently, the activist role of the judiciary in the enforcement of Human Rights of citizens and victims of not only crime but abuse of power is especially welcome and in tune with the spirit of the Constitution.

Judicial activism does not mean judicial "tyranny". Justice A.S. Anand has rightly observed while addressing the judicial and legal fraternity at the Andhra Pradesh Judicial Academy at Hyderabad on September 28, 1977 that "if you are setting standards for others, make sure that you reach those standards also". Justice Anand opined that "accountability coupled with transparency in action would ensure that judges live up to the expectations of the society" and added that it is absolutely essential for judges to 'know their limits'. According to Justice Anand, while justice delayed is justice denied, "justice hurried is justice buried", thus emphasizing that judges cannot take over the function of the executive. Justice Anand averred that the real damage to the independence of the judiciary is from within than from any outside agency and warned that "these self-inflicted wounds are extremely difficult to be cured". He emphasized the need for a tracking mechanism for correcting the erring judicial officers and advocated the need for constituting a body from within the judiciary for the purpose, which, in his opinion, could obviate attempts by any one from outside to bring about the changes.

Besides, auto-limitation on the part of the judiciary, legal reforms, restructuring of the legal systems and new legislation for updating the outmoded laws is also called for.

In the face of increasing judicial activism, an important area for study is the unconcealed zeal with which the senior functionaries in administration try to put a curtain on the wrong-doing of their subordinates in the name of maintaining the morale



of the administration. Morale in public service, it must be understood, is not only to reward those who do well but also to punish those who are guilty of wrong-doing. The Supreme Court has many a time taken to task senior functionaries in administration for their acts of omission and commission in this regard. Shri A.K. Singh Cashyap, Superintendent of Police, Hailakandi, Assam, was sentenced to undergo a simple imprisonment for a term of three months under Article 129 of the Constitution read with Section 12 of the Contempt of Court Act 1971 for interfering with due course of justice by attempting to obstruct the Court from reaching correct conclusion by submitting false, fabricated and misleading report that one Nurul Haque, a dacoit, was beaten by the public before arrest and he was neither tortured in police custody nor died in police lock up, which was supported by an affidavit. His report was subsequently found to be false by the C.B.I., which was directed by the Supreme Court to conduct an enquiry. The report indicted that the Superintendent of Police for his disdainful role in preparing a false and fabricated report to cover up the guilt of his subordinate. The report clarified that Nurul Haque was illegally detained in police custody and the cause of his death was brutal physical torture while he was in police custody.

Disobedience or delayed action in the compliance of lawful directions given by the Supreme Court on the part of the senior functionaries of the administration is another area which is a cause for concern in these days of judicial activism. The classic case of Shri J. Vasudevan, IAS, who has been held guilty of the contempt of Court and sentenced to suffer simple imprisonment for one month by the Supreme Court of India from 25<sup>th</sup> August 1995 may be mentioned in this regard.

In the ultimate analysis, for upholding the rule of law in a democracy, it is not only the judiciary that should play an activist role but the legislature as well as the executive also. In the arena of the criminal justice administration, all the agencies of the system have to not only maintain inter-agency coordination but to discharge their function fairly, impartially and honestly. The majesty of the judiciary need always to be upheld for a democracy to succeed. The administration on its part must enforce the

law of the land and the Constitution and should never try to shift its responsibility in the services of the people, who are the ultimate masters in a democracy.

### Legal Aid and Legal Literacy

It did not take long for the Supreme Court to realize that the lofty and noble Constitutional rights and principles would be futile and of no social relevance if these rights are not accessible or, worse still, are not even known or intelligible to the largely poor and illiterate Indian population. Under the pioneering leadership of judges like P.N. Bhagawathi and V.R. Krishna Iyer who were imbued with a missionary zeal, the Supreme Court held that the State was under a legal obligation to extend legal aid to the poor litigant so that he would not fail to pursue a remedy or lose a case not for lack of merit but of wherewithal. Pursuant to the pronouncements of the Supreme Court, Article 39A has been added by the 42<sup>nd</sup> Amendment Act, 1976 as a directive principle requiring the State to provide legal aid to those suffering from economic or other disabilities. As a sequel to the directions of the Supreme Court, many High Courts and District Courts have set up Legal Aid Cells to help the indigent litigants. The Parliament has also passed the Legal Services Authority Act of 1987 under Article 39A.

### Post-card Writ Petitions

As it is not possible always for an aggrieved party to approach the High Court or the Supreme Court for reasons of lack of financial or other means, the Supreme Court has started entertaining petitions contained in letters or even post-cards as writ petition cutting the shackles of legal formalities and technicalities.

To sum up, the Founding Fathers of the Indian Constitution were inspired by the freedom movement which liberated India from the oppressive British Colonial rule and by the strong urge to provide the teeming millions of India with fundamental rights and freedoms and social justice that would emancipate them from the equally



oppressive poverty and social deprivation. In their endeavour, the Founding Fathers have drawn liberally from the long and rich experience of constitutional functioning in U.K., U.S.A., U.S.S.R. and other countries. The fundamental rights enshrined in Part III and the Directive Principles incorporated in Part IV of the Constitution stand testimony to the devotion and dedication with which they have meticulously constructed the normative and institutional infrastructure for the declaration and enforcement of the human rights for the benefit of the Indian people. These rights and freedoms did not merely remain on paper, and the care and concern of the draftsmen of the Constitution were matched by the missionary zeal with which the Supreme Court and the High Courts have interpreted, enhanced and protected the fundamental rights. The great judges of the past and the present in the Indian higher judiciary have, over a period of nearly five decades, built up a formidable corpus of human rights jurisprudence which holds aloft and aglow the beacon lights of democracy and freedom. The Supreme Court, in particular, has ushered in the era of public interest litigation. Even an ordinary petition on postcard these days merit the attention of the highest court in the country. Judicial activism in this context is nothing but an active justice delivery system from the commencement of process of law till its logical conclusion. Viewed in this context, judicial activism envisages activism on the part of the police, prosecutorial system as well as of the correctional services, besides the primal activist role of the judiciary. Considering the steep legal costs involved to a litigant and high levels of illiteracy in several parts of the country, legal aid mechanisms and legal literacy campaigns also assumed significance. The present and future generations of decision makers and the people in India have to show that they are capable of the vision and devotion that can further nurture and sustain this great legacy.

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## **CHAPTER – 3**

# **REVIEW OF RELATED LITERATURE ON TRAINING INTERVENTIONS AND OBSERVANCE OF HUMAN RIGHTS**

### CHAPTER - 3

#### REVIEW OF RELATED LITERATURE ON TRAINING INTERVENTIONS AND OBSERVANCE OF HUMAN RIGHTS

In this chapter, the Investigator has reviewed the existing and related literature on training interventions for observance of human rights by police personnel. The objective of this review is to draw lessons with respect to best training practices and methodologies as are already obtaining with regard to upholdment of human rights.

3.1. In honour of 40<sup>th</sup> anniversary of the Universal Declaration of Human Rights, an **International Seminar (1988)** on the Teaching of Human Rights was held at Geneva under the auspices of United Nations. The agenda for the seminar was based on three background papers, that included:

- (a) Teaching of human rights through the training of law enforcement officers and others,
- (b) Teaching of human rights to trainers at all levels including those at Police Academies, and
- (c) Non-formal education and methods and their target groups – parents, professional associations, addressing the questions – individual and collective rights Vs. duties and inductive teaching (real life situations).

The following conclusions emerged from the seminar:-

- (1) Teaching was meant to indicate awareness, education and ultimately, the liberation of the human mind and spirit. It was a continuing process;
- (2) What to teach? Generally speaking, the term meant combining awareness with education, to make known the intercultural background of the now

universally accepted international standards on human rights, developed essentially in the wake of gross violations of these very rights during and between the two world wars in this century. The inter-relationship between human rights and peace, development and environment should also be emphasized in this respect.

- (3) Whom to teach? First of all, those in a position directly to affect the basic human rights of the individual, be they law enforcement personnel, lawyers and judges, or the military when at war or when called upon to maintain security in times of emergency internal situations. Legislators who are in charge of drafting laws needed to be educated about international standards so that their legislation was in conformity with their countries' international obligations. Balancing those rights with the requirements of social stability and public order should not result in limitations beyond those needed in a democratic society for the respect of the rights of others, and with full respect for those rights which did not admit of derogation, even in times of emergency, and of the principles of equality and non-discrimination. Other professional categories, in medicine, engineering, technology, media, data banks, political parties, municipalities and other centers of power, such as village councils, labour union leaders, etc., also needed to learn about human rights. Basic regulations should not be limited to the organization of their respective professions, but should also include a code of ethics taking into account the impact of their activities on the basic human rights of others. School children and students at all institutions, civil, police or military, should also be targets of this process;
- (4) Was it a right and a duty to learn or to teach about human rights? It was the right of everyone to learn about his or her rights and it was also the duty of those who knew better to disseminate whatever information they had about those rights. After all, this right was consecrated in universally recognized standards. It was embodied in the right to education in the International Covenant on Economic, Social and Cultural Rights as well as in article 19 (2) of the International Covenant on Civil and Political Rights, which stated that



everyone should have the right to receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his or her choice. This obviously included the right of everyone to share information about the basic rights and freedoms of individuals;

- (5) How to teach? A multidisciplinary, global approach and differing methodologies should be adopted depending on the target group. Emphasis should be placed on the fact that knowledge of human rights was in the best interest of all. Means of imparting knowledge could range from seminars, training courses, the use of media, classroom instruction, the activities of non-governmental organizations, as well as those of national and regional institutions and centers for human rights. Activists and other committed persons could play major roles in the process;
- (6) Manuals containing information about national experiences, such as those of Australia, Belgium, Canada, China, Japan and others could be very useful. Equally so would be a digest of case law in the field of human rights emanating from international and regional courts or committees in conveying the message to certain targets of the educational process;
- (7) The political will of those in power was indispensable to achieve the purpose of teaching of human rights. Neither the international legislative process, which was almost completed, nor ratification of the international instruments, however important and essential, could automatically guarantee the realization of human rights. Attention to meeting the basic needs of people everywhere was necessary, particularly in the developing countries. If, in the international arena, priority was given to the right of peoples to self-determination, and their right to a fair share of the world's resources, economy and trade, success would be achieved.

3.2. A manual (1992) prepared by the Human Rights unit of the Commonwealth Secretariat laid down in great detail Human Rights training techniques, methodologies and relevance of Human Rights training to law enforcement personnel.

## Training Techniques

Training is vitally important for public officials who are responsible for promoting respect for and a better understanding of human rights. Training group provide an opportunity for people to share experiences, to experiment with different ideas and ways of doing things, and to discuss difficult or vulnerable topics in a safe and non-threatening environment.

## Motivating Participants

Training process also provides opportunities for participants to translate the ideas into practice, and to experience the training as appropriate and relevant to their needs.

## Human Rights Education

In planning human rights training, it is worthwhile to consider involving individuals who have had direct experience with human rights violations. But extreme care must be taken to avoid powerful emotions from dominating the session.

There must be a substantial component of the training, which is practical and applicable. The participants must be encouraged to see the relevance of the course to his/her own work. It should provide clear guidance on how to handle situations that fall within their responsibility, where they have institutional support, and what value will be placed by the department on a positive attitude toward compliance with human rights standards.

## Adult Learning

People learn most effectively when verbal messages are visually reinforced and when they are actively participating in the learning process. The trainer's overall role is to facilitate learning that meets the participant's and organization needs in an efficient manner. An effective trainer is a facilitator of learning focused on the needs of the participants, as opposed to being a traditional lecturer.

## Learning Through Participation

### Learning Objectives

Learning objectives are often divided into three "types"-

- Knowledge –what human rights are? (through documents and presentations)
- Skills- how we protect human rights (extensive practice and experimentation), and
- Attitudes –understanding how human rights should guide our actions (through involvement in a series of training events, reinforced by organizational management practices).

### Training Approaches

- i. A relevant exercise (eg: simulation, case study, role play) for the participants to experience together;
- ii. General reflection and discussion on the exercise;
- iii. Analysis of the basic principles/models/concepts involved or development of a conceptual framework, and
- iv. Experimentation or practice.



## Trainer as Expert or Facilitator

- i) "Trainer-as-facilitator" Approach where the focus is clearly on the participants, and
- ii) "Trainer-as-expert" where the trainer controls the process and content more closely by starting each activity with a full conceptual presentation and then giving the participants a diagnostic questionnaire, a simulation exercise in small groups to practise the concepts or skills.

## Training Methods and Tools

### 1. Presentation

- Structure a presentation with a beginning, middle, and a clear end.
- Limit them to a maximum of 4 or 5 main points or themes.
- Keep their language short and simple, speak slowly and clearly;
- Watch the audience and check whether they are "with you" or not;
- Possibly use visual aids to support the verbal message/prepare well.

### 2. Discussion

- have everyone sitting down;
- ask other participants to answer;
- have prepared key questions.
- try to ensure that everyone participates;
- give an overview/summary at the end.

### 3. Case Study

- should be short, realistic, and not overly complex and lastly short cases.

#### 4. Simulations

- Excellent for introducing the dynamics of a topic or problem.

#### 5. Problem-solving and "Brainstorming"

- Problem solving: analyzing the problem and developing situations.
- Brainstorming is a progressive exercise designed to generate maximum creativity and participation and follows (a) solicit/record participant idea (b) organize and analyse the ideas that have been formulated (c) take decisions/make recommendations/set priorities.

#### 6. Audio-visual materials

- i. Flip Charts: Essential for group discussions and presentations.
- ii. Overhead Projectors: Helps in showing complicated diagrams.
- iii. Videos : For recording participant presentations, group discussions and role-playing for later viewing by participants.

### Special Concerns of Public Officials

#### Law Enforcement Officials

Law enforcement officials are to be aware of those international human rights and humanitarian standards which relate to their work, for such an awareness reinforces domestic standards and promotes ethical, legal and humane policing. Human rights training courses for law enforcement officials need to be based on an understanding of the nature of policing and of the problems which confront law enforcement officials in their day to day work.

## Law Enforcement Issues

A perversion of the law enforcement role to violate law protecting human rights in seeking to enforce other law is the fundamental issue, to be confronted in human rights training programmes for law enforcement officials. Others issues:

- Consideration on ethical standards for policing.
- Use of force by law enforcement officials;
- Arrest;
- Treatment of detainees;
- Confidentiality and privacy; and
- Policing during civil war and civil disorder.

## Issues for Discussion

- Relationship between good police practices, and protection of human rights generally, issues of privacy and police surveillance, proper balancing between the rights of suspects and the rights of society as protected by the police force.
- Police and race relations, "standard setting" by senior police officers of conduct conducive to the promotion and protection of human rights and the encouragement of internal accountability for misconduct.
- Involvement of the courts and of other bodies set up to monitor complaints about police conduct and content of U.N. instruments dealing specifically with police work.
- Elements of the Civil and Political Covenant and of the Torture Convention particularly relevant for police work. Relevant provisions of regional instruments of course participants.
- What can governments and public officials do to prevent or stop abuses of police powers?
- What constitutes "arbitrary arrest"?
- Are there issues not adequately covered by the U.N. instruments covering police work?



A manual (1993) prepared by the Human Rights Unit of the Commonwealth Secretariat laid down in great detail the relevance of human rights training to law enforcement personnel.

#### Relevance of Human Rights Training to Law Enforcement Officials

##### Human Rights standards as restraints on policing

Human rights training of police will show how order and liberty may be reconciled and how respect for the dignity and worth of the human person is to be the basis of all police activity.

##### The relationship of policing to different categories of Rights

Police in some states have a direct responsibility to enforce domestic legislation designed to protect economic, social and cultural rights. Article 10 of the International Covenant on Economic, Social and Cultural Rights requires that: "the widest possible protection and assistance should be accorded to the family".

##### Policing and civil and political rights

Policing is a powerful and essential factor in the protection and promotion of civil and political rights. The International Covenant on Civil and Political Rights and various regional human rights treaties require the right to life, which is a civil right, to be protected by law. Police can be seen as enablers of political rights to participative and representative government or rights essential to the political process such as:

- i. the right to freedom of thought, conscience and religion;
- ii. the right to freedom of expression; and
- iii. the right to peaceful assembly. (Article 18, 19, 20 of International Covenant on Civil and Political Rights).

Article 28 of the Universal Declaration of Human Rights states: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized". Police are essential to securing that social order.

### Relevance of International Human Rights Standards to Policing

Police need an awareness both of international human rights standards as well as of the legal provisions protecting human rights in their own country for reinforcement of national standards, the international context of policing, and compliance with international obligations by states.

#### Reinforcement of national standards

Awareness of philosophical and historical rationales for the development of national standards and systems protecting human rights :

- i) provides insights into the nature of specific rights; and
- ii) underlines reasons for their protection.

It enhances the probability of compliance with domestic provisions designed to protect human rights.

#### The international context

Police operate largely within a national context- they enforce their own state's domestic law and have no international jurisdiction – they are increasingly required to take the international context into account because:

- (i) Agreements between States to deal with criminals who operate across national boundaries, and with other law enforcement matters, are increasing.

There is often a human rights dimension to situations arising from these agreements;

- (ii) Police are required to respond to sensitive situations with international legal and political implications, which include obligations under international human rights law (eg. Police action against international terrorist groups; and police action against refugees), and
- (iii) Police participate in international conferences and meetings where human rights issues are either explicitly or implicitly on the agenda. Awareness of international standards, treaty obligations, and the nature and development of human rights law will ensure a more complete and useful contribution by such representatives. Furthermore, it may assist the spread of best practice between states and lead to an improvement in national and international standards.

#### Compliance with international legal obligations by states

All states are bound, to varying degrees, by international legal obligations protecting human rights. More effective compliance by states with these obligations will be secured if police and other public officials are aware of their nature and purpose.

#### Basic Principles of Training

- The training process should provide opportunities for participants to translate ideas into practice;
- Contradictions between international human rights and official or unofficial practice may engender insecurity in participants or create other forms of resistance to the training process;
- In order to change attitudes of participants, a series of training events reinforced by organizational and managerial practices is usually necessary, i.e. it will not be sufficient to simply organize the seminars;



- The participants group should be clearly defined, careful thought may be required here, especially in relation to the status of participants in the official hierarchy, and to the different functions they carry out in their daily tasks.

### Effective Training of Law Enforcement Officials

Human rights education and training programmes for law enforcement officials should be directed at affecting the attitudes and hence the behaviour of individual officials, and at securing and maintaining an ethos of legality and compliance. Police organization and police culture are neither monolithic, universal nor unchanging; and there are variables between individual law enforcement officials based on personality, generation and career path.

### Implications for training law enforcement officials

Educators and trainers of law enforcement officials should take into account a variety of factors, and their implications for training, when planning their curricula and approach so that they may adopt the most appropriate techniques and methods. They should consider basic principles of training, significant factors in police organization, culture and work; and local conditions and circumstances.

- The training of middle management grades can often be combined successfully with the training of the lower or higher grades.
- To train command level officials separately it should organize its training in the form of seminars, and allow a greater degree of participation by such officials.
- The participation of officials with different functions is desirable on the same course, and then the different experiences of the course participants can be exploited for training process. Different perspectives and priorities can be contrasted in discussion to good effect.

- Officials identified as being receptive to approaches based on theory and principle should be encouraged and developed, and this may require modification of training techniques for these particular participants.

#### Code of Conduct for Law Enforcement Officers

The code of conduct is an ethical code. It provides guidance on how to meet existing legal obligations under international human rights law; and a basis for the development of national codes of ethics for police. The Guidelines were adopted under UN Economic and Social Council Resolution of 28 May, 1989.

#### Use of Force

Law Enforcement officials may use force only when this is strictly necessary and only to the extent required for the performance of duty. (Article 3 of Code of conduct)

Law Enforcement officials may use firearms against persons. National guidelines are required to meet as a minimum, the criteria laid down in Principle 9.

The principles on prevention of extra-judicial executions include requirements that such executions be prohibited by law, and that strict control be exercised over officials responsible for arrest and detention, and over those authorized to use force and firearms.

The principle dealing with investigation require thorough, prompt and impartial investigations of all suspected cases of extra-legal executions, and set out a series of requirements designed to assist the investigate process.

## Treatment of Detainees

The Declaration against Torture was adopted by UN General Assembly Resolution of 9 December 1975 and requires training of law enforcement officials to take full account of the prohibition against torture; that general rules or instructions be issued to officials responsible for custody of detainees; keep under systematic review interrogation methods and arrangements for custody and treatment of persons deprived of liberty be also kept under review. It includes officials at all levels that may be held responsible if they knowingly fail to prevent torture.

The Standard Minimum Rules for the treatment of prisoners will be apparent from direct relevance of the Body of principles to the work of law enforcement officials' scope as it contains judicial supervision of arrest and detention; explanation of rights; access to legal counsel and to family; interrogation; inadmissibility of evidence obtained in contravention of the Principles, and record keeping.

The UN Standard Minimum Rules for the Administration of Juvenile Justice.

- Notification to parents or guardians when juveniles are apprehended;
- Consideration of issue of release without delay by a judge or other competent official or body and diversion of juvenile offenders from criminal justice processing.

The UN Rules for the Protection of Juveniles Deprived of their Liberty.

The instrument is designed to ensure that juveniles are deprived of liberty and kept in institutions only when there is an absolute necessity to do so; and to ensure that those juveniles who are detained are treated humanely, with due regard to their status as juveniles, and with due respect for their human rights.



## Civil War

### Article 3 common to the four Geneva Conventions of 1949

It is designed to protect victims of non-international armed conflicts, sets out a fundamental principle of humane and non-discriminatory treatment and then enumerates a number of prohibited acts such as murder, torture and hostage taking. It also contains provisions which are designed to assist the wounded and sick.

### 1977 Geneva Protocol II additional to the Geneva Conventions of 1949

This instrument seeks to regulate high intensity non-international armed conflicts.

## Civil Disorder

Some of the most fundamental principles of International Human Rights Law apply to situations of civil disorder but no international instrument specifically concerned with civil disorder have yet been adopted.

## Means of Implementing Human Rights Standards

Law enforcement officials should be familiar with those provisions of constitutional and legal texts designed to secure implementation of human rights standards, which are relevant to policing in their own countries.

### 1. Implementation through education and training

The first step in securing compliance by Law enforcement officials with human rights standards is to create awareness of those standards through the dissemination of human rights information through established training programmes.

## 2. Implementation through explanation and guidance

The documentary means by which information, instructions and guidance are issued within any particular law enforcement agency are likely to be well known to officials participating in a human rights training course. It consist of standing orders or instructions, orders and instructions issued on a regular basis, operational orders issued in relation to specific operational events, regular circulars on crime and criminal activity and wide variety of ad hoc notices and memoranda.

## 3. Implementation through supervision

Law enforcement officials should be aware of the system operating in respect of their own agency and have confidence in the system by both the public and the police. They should also focus on matters relating to supervision, discipline and accountability of personnel; the quantity and nature of complaints against officials; how they are investigated; the resolution of those complaints and supervision. There is a fine balance to be maintained between news media and law enforcement agencies and to let the public be informed about their rights.

## 4. Implementation through non-governmental organizations

Law enforcement officials should be particularly interested in how NGOs gather evidence to support the claims and allegations they make; how they verify the accounts of witnesses and complainants; and what techniques and expertise they have to carry out investigations.

## 5. Implementation through Self-regulation

Self-regulation of a law enforcement agency operates through the command and management structure. It must be based on high ethical standards of individual official.

3.3. The World Conference (1993) on Human Rights through its Vienna Declaration stated that human rights education, training and public information were essential for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace. It called on all states and institutions to include human rights among others as a subject in the curricula of all learning institutions in formal and non-formal settings.

Pursuant to a suggestion of the Vienna Conference, the General Assembly of the United Nations through a resolution dated 23.12.94 proclaimed the ten year period beginning on 1.1.95 the UN Decade for human rights education with the following five objectives:-

- 1) The assessment of needs and formulation of strategies for furtherance of human rights education
- 2) Building and strengthening human rights education programmes
- 3) Developing education material
- 4) Strengthening mass media, and
- 5) Global dissemination of the universal declaration of human rights.

Human Rights education consists of efforts to build a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes directed towards:-

- Strengthening respect for human rights and fundamental freedoms
- Fully developing the human personality and its sense of dignity.
- Promoting/understanding tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups.
- Enabling everyone to participate effectively in a free society, and
- Furthering United Nations activities for maintaining peace.



3.4. UN decade for Human Rights Education 1995-2004, office of the **UN High Commissioner for Human Rights (1995)** outlined the considerations that are to be taken into account in the development of education material for specific audiences:-

1) Collegial Presentations

Training effort will be effective if the experts drawn to be the faculty are more practical in their orientation. Consideration should be given to drawing practitioners in the same field as the audience.

2) Training the Trainers and capacity building

The participants in the training programme should themselves be able to carry out the training function on completion of their training. This would bring about a multiplier effect.

3) Pedagogical Techniques

Courses developed should include a variety of techniques and methodologies suited to the target audience. Particular emphasis should be laid on the use of creative and interactive teaching methods, which secure the active and engaged participation of the trainees.

Suggested methodologies include the use of work groups, lecture-discussions, brainstorming sessions, simulation, role-play, field visit, practicals and the use of audio visual aids as are appropriate to the audience.

4) Audience specificity

The mere recitation of vague principles may not much affect the actual behaviour of a given audience. Therefore the teaching activities should directly address those Human Rights standards which are relevant to the target group.

5) Practical approach

Police abuse their authority in investigation partly on account of their poor interrogational skills. It could also be that they are unaware of what is expected of them under the law. Therefore any educational effort shall have to address both these issues – the imparting of knowledge of what is expected of them and the passing on of those skills, which enables them to perform their duties in a much better way.

6) comprehensive presentation of standards

All relevant international instruments and standards should be thoroughly presented.

7) Teaching to sensitize

Besides imparting the knowledge and the skills, the training must also aim at sensitizing the trainees themselves considering their own potential for violent behaviour, however unwitting! Further, this sensitivity should also include the attitude to sections of the public like women, ethnic minorities etc.

8) Flexibility of design and application

Courses must be so designed that they are adaptable to particular cultural, educational, regional and experiential needs and realities of any diverse group within the target audience.

9) Evaluation tools

Training material should include pre- and post-training evaluation exercises. They help in the design and improvement of the course and allow the trainees to gauge what they have assimilated.

3.5. Human Rights **Manual (1993)** published by Department of Foreign Affairs and Trade, Australia dwells on Human Rights issues pertaining to development.

The right to development is no longer a principle espoused solely by the South. Since 1986, it has been enshrined in the International Instrument, the 1986 declaration on the right to development. Article 1 of the declaration expressly recognizes development as an "inalienable right".

To a greater extent than other international instruments recognizing human rights, the declaration on right to development expressly emphasizes the notion of the indivisibility of all human rights, since the enjoyment of such a right can only be as a consequence of the enjoyment by people of all human rights. In this respect, the declaration itself looks to the International Bill of Human Rights as the primary source of the right to development.

Given the subject matter, the declaration on right to development is particularly prone to emphasizing the image of a North-South delineation of perceptions of Human Rights.

3.6. J. Alderson and Edward Lawson have dealt extensively on the subjects of teaching of human rights and the role of U.N. and its various agencies like UNESCO and UN Commission on Human Rights in improving the standard of human rights teaching respectively.

According to Alderson, (1984) the teaching of Human Rights at all levels of education and training is of paramount importance. It should promote the teaching of the safeguard of human rights and the relevant protection machinery in an appropriate manner as part of the training for members of the civil and military services. The police, both individually and collectively, have a fundamental role in helping to secure the high ideals. All police officials can help their governments to secure the aims of the human rights legislation and practice and in doing so can also express "their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world."



Alderson gave an outline of the training techniques in imparting Human Rights training. The purpose is to provide a basis for training of police officials in the subject of Human Rights in relation to the police function.

There are numerous levels in the training of police officials from the elementary, or initial training, to the higher training of senior officials.

The trainee should understand that the ultimate basis of true order in a democracy is founded on upholding the rule of law which applies to the public and the police that nobody is above the law and secondly, no person may be deprived of his fundamental liberty.

The trainer should point out that respect for the human dignity of people must be constantly borne in mind and be regarded as strength rather than a weakness.

The police trainee should see the complete police role, upholding the law whilst protecting human rights, and from it he or she will acquire greater self-respect.

Alderson delineates the contextual role, interplay between people, police and government. Free people expect much of their police. In such societies, the police stand at the point of balance, on the one hand securing human rights and, on the other, exercising their lawful powers given to them by governments in the name of the people, to protect the people and their institutions.

Societies which are not free, or which are despotic, acquire omnipotent police who serve only those in power. Laws are promulgated which give police wide powers to deny human rights. Police in corrupt systems are themselves corrupted and through degeneration, are permitted to indulge in arbitrary conduct, including torture and inhuman or degrading treatment.

Police authority can be abused even in democracies. It can become more the master and less the servant. It is important to remember that abuses can flourish not only because of official negligence or acquiescence but because rightly or wrongly, broad sections of the people identify with such practices and consider that in spite of their excesses, the police are carrying out a necessary and unpleasant task if both state and society are to be preserved and protected.

Alderson also discussed various forms of policing and their implication for observance of Human Rights. Punitive policing if carried to extremes may be described as control through suspended terror. Although the philosophy of social control has existed from time to time and place to place, it runs counter to the provisions of the Universal Declaration of Human Rights (Article 5).

Preventive police activity when carried out properly and effectively is superior activity since it is not only prevents victimization of citizens and their own lawful human rights but it also reduces the stigma and moral obloquy associated with the criminal offender. Preventive policing may operate at primary, secondary and tertiary levels in the control of crime and at each level the principles of human rights should be observed.

The primary level consists of any form of legal activity, which is likely to diminish the prospects of crime. The secondary level of prevention might be said to consist of police patrolling, guarding and a general presence. This function is passive but is also reactive where necessary and when it becomes reactive, it moved from secondary to tertiary prevention. The tertiary level of prevention consists of deterrence of repeated criminality through detection and arrest of offenders, their arraignment before a proper judicial authority and their punishment, supervision and rehabilitation.

A form of police activity which is designed to counteract problems as terrorism, subversion of institutions of the state, as well as serious organized crime, is that of secret police or security services. Operating under cover and in plain clothes, secret



police are subject to less direct supervision. They are also often empowered to carry out surveillance, to gather intelligence, and in doing so to lawfully interfere with rights of privacy and similar liberties. It should be contained within domestic laws and amenable to the control of human rights provisions.

Police at the service of human rights will develop a demeanour, which embodies an instinct or a perception for human dignity. Being witness to human beings, as they sometimes are, in degrading and degraded situations, police are exposed to the influence of cynicism. They have to avoid becoming indifferent, however difficult that may be, if they are to develop and retain proper judgment of an appreciation for the rights and dignities of all.

The foundations of good police practice will therefore be based on an understanding and acceptance of ethical principles of duty to the enforcement of laws not as an end in themselves but as a means of securing fairness and justice to all manner of persons irrespective of their race, creed, religion or social standing. The provisions of human rights law seek no lower standard of police behaviour and practice.

Referring to police rights and duties, Alderson observes that the police themselves are protected as individual citizens in the exercise of their fundamental rights and freedoms. The police are endowed with powers and duties in excess of those given to other citizens in order that they may carry out their function effectively. There are at least two problems in this connection. One concerned with the problem of unlawful orders of senior officials, and the other is concerned with limitations on the use of force.

People operate on those margins of society where liberties are at risk and where freedoms and rights often have to be curtailed and infringed if police are to be effective. The police are not a law unto themselves. They are the servants and agents of both their domestic laws and of the great body of internal human rights law also. It



is this rule, which protects both police and public. It protects the public from arbitrary and improper interference with their liberties and it protects the police in the proper discharge of their duties.

Lawson (1996) has reviewed the role of United Nations and its various agencies like UNESCO and UN Commission on Human Rights in improving the standard of Human Rights teaching.

Each year, the UN General Assembly and Commission on Human Rights intensively review recent activities within the United Nations system aimed at the promotion and protection of human rights and fundamental freedoms and consider the approach to be taken to future work in this field.

At its 1971 session, the UN Commission on Human Rights examined a report prepared by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) which drew attention to the difficulties encountered by educators in the teaching of human rights in schools and universities, and requested UNESCO "to consider the desirability of envisaging the systematic study and the development of an independent scientific discipline of human rights, taking into account the principal legal systems of the world with a view to facilitating the understanding, comprehension, study and teaching of human rights at the university level, and subsequently at other educational levels..."

According to the report of the Director General, UNESCO transmitted to the UN General Assembly in November 1988, UNESCO's action with regard to human rights education has developed on the following lines:

- (a) co-operation with institutions specializing in human rights teaching, including universities;
- (b) preparation of educational and teaching materials;
- (c) development of human rights teaching methods;

- (d) training at the primary, secondary, and higher levels, including teacher training; and
- (e) knowledge of the basic texts on the protection and promotion of human rights, notably the International Bill of Human Rights.

UNESCO has organized two major international conferences on the teaching of human rights : the International Congress on the Teaching of Human Rights, held at Vienna in 1978, and the International Congress on Human Rights Teaching, Information and Documentation, held at Malta in 1987.

3.7. In the very first year of the UN Decade for Human Rights Education, **National Law School of India University (NLSIU) Bangalore (1995)** undertook an experimental project for Intensive Human Rights sensitization at Sub Inspector level in the State of Karnataka, with support from Ford Foundation. What follows is a case study of this training project.

In September 1994, nearly 175 Sub Inspectors have been selected by a specially constituted selection committee from amongst several thousand applicants. More than 90% of them are Post Graduates and the group is all male officers. Some are law graduates and all are in the age group of 25-30. Their training in the Police Academy at Mysore is of one year duration. During this period, NLSIU organized an eight-week training on Human Rights.

The broad objectives of this Human Rights training were as under:-

- (i) Improving police role and responsibilities for rule of law and human rights protection.
- (ii) Making criminal justice administration conform to minimum standards in the observance of Human Rights.
- (iii) To extract accountability from the police to rule of law and constitutional governance, and

- (iv) To prevent Human Rights violations in policing by larger awareness, better corrective interventions at the administrative level and greater transparency in police functioning.

The specific objectives, inter alia, are the following:-

- 1) To make each and every one of the 175 Sub Inspectors understand, appreciate and internalize, to the extent possible, international instruments on Human Rights, fundamental rights under the Indian Constitution and the boundaries set on police powers by the Constitution, the laws of evidence, criminal procedure and police organizations.
- 2) To motivate them, not necessarily through "the carrot and stick" policy to adhere to human rights standards in police work disregarding external and internal compulsions to do the contrary.
- 3) To inculcate a sense of pride in public service and to empower them to act as the agent of law to protect the weak and the exploited sections of people.
- 4) To develop in them qualities of leadership in infusing a new human rights culture in the entire force by influencing their colleagues and subordinates particularly in challenging situations when human rights are under threat.
- 5) To innovate and institutionalize locally relevant mechanisms for human rights accountability in the respective jurisdiction through public participation, effective grievance redressal systems, imaginative public relations exercises and a humanist revival of neighbourhood policing arrangements.
- 6) To promote a healthy respect for judiciary and to respond positively to judicial directions and orders even if they are not palatable to organizational culture or to the ego of the individual.



- 7) To develop the use for continuing education in human rights jurisprudence and, in the process, to participate in law and judicial reform for higher standards of professional conduct and good governance, and
- 8) To cooperate in the reconstruction of a people-friendly police force and towards this end, strive to improve the public image by individual and collective action.

This programme of Human Rights training presupposes the following basic principles of any training exercise:-

- 1) The focus of training has to be the trainees and so lecture method is an inadequate tool. The knowledge and experience of the trainee has to be acknowledged, respected, shared and enriched by the group and more particularly by the trainers.
- 2) It is very necessary to convey the impression that participation in the training is valued by the organization and particularly by the superior officers. This is very important in a hierarchical organization like the police.
- 3) The trainees need to realize continuously that what they are being taught is relevant to their work and they can enhance their prestige and efficiency if they conform to the standards.
- 4) It is important that the trainers are people well aware of the realities on the ground and are appreciative of the difficulties faced by police in their day-to-day functioning. The trainers must make conscious effort to identify themselves with the group by invoking examples from the field and explaining the choices available for those who want to be protecting human rights without compromising police efficiency, and
- 5) The method of training will have to be interesting, participative and progressively moving towards complex questions. Audio-visual aids, case studies, field visits, mock exercises and

illustrative examples can make the method of teaching interesting. Seminars, group exercises, role-play etc. can make it participative as well.

Broadly speaking, the content and method of this Human Rights training programme reflects the following concerns and strategies:-

(a) Knowledge Inputs

This module will contain (i) select documents from International human rights instruments, (ii) the relevant provisions of the Constitution and the laws of the country, (iii) select cases (judicial decisions) properly edited carrying questions and comments, (iv) excerpts from the reports of the Law Commission, Inquiry Commissions, Human Rights studies of NGOs like PUCL, Amnesty International etc., and (v) policy statements of the government and political parties on rights of women, children, dalits, etc.

(b) Motivational Inputs

Several programmes and techniques may have to be developed and imaginatively implemented to maximize the motivational potential of the trainees. This partly depends on the existing level of motivation and the possible impact on them of other components of the one-year training programme. An individual fact sheet needs to be prepared in advance and an individualized programme may have to be organized to cater to the motivational needs of the participants. The techniques employed to monitor the changes in attitudes have to be perfected according to the requirements of the group.

In the ultimate analysis, respecting human rights involves attitudinal and behavioural changes both in personal and professional lives of individual policeman. Attitudes and behaviour patterns are the result of interaction of a complex set of forces and environmental situations, which are constantly

changing in all progressive societies. The assumption is that they can be cultivated and modified depending on correct motivations and proper training.

To influence attitudinal and behavioural changes, the conventional practice is to reward good conduct and to punish unacceptable behaviour. This is based on human nature. Laws are made and operated generally on this understanding of human nature. However, in the case of professional behaviour, there are other mechanisms also like professional training, code of ethics, peer supervision etc., which can condition attitudes and behaviours. Educational psychologists have perfected strategies for development of professional attitudes and standards of behaviour and it is necessary to look into and select from educational psychology appropriate materials and methods to accomplish the task of human rights sensitization.

#### (c) Skill Inputs

Skills form the essence of every profession. To accomplish the tasks of the police, there can be a choice of skills, some human rights-friendly and others not so-friendly with the training, one can expect the officers to employ the former category of skills, if they can show performance. It is therefore necessary to search and evaluate alternate skills packages in performing police functions, particularly in sensitive situations prone to human rights violations. Furthermore, one needs to investigate remedial steps available if human rights violations did take place in order to limit the damage and restore the balance in difficult situations. Case studies and group exercises may be appropriate to learn the skills relevant in this regard.

#### (d) Ethical Inputs

In professional conduct, ethics and humanism are major considerations for promising respect for Human Rights. It is not different for policeman also.



The training will have to take cognizance of the ethical dilemmas police operations will encounter, especially in a democratic, multi-cultural society. The training course should endeavour to give at least the minimum ability to individual policeman to make the choice in favour of ethical and socially acceptable conduct. Values education is a slow process for which multi-disciplinary approaches may have to be invoked.

Sangita (1997) made an evaluation report on Human Rights Training for police personnel in Karnataka carried out by the National Law School of India University. The objectives of this evaluation are:-

- 1) to examine the design of training. With a view to find out its relevance in the context of organizational needs and learning abilities, cognitive skills and motivational levels of trainees;
- 2) to find out the change in perceptions, orientation and motivation levels of the trainees in order to know the extent of their appreciation and internalization of training;
- 3) to analyse the effectiveness of police organization and Human Rights friendly behaviour of police personnel with a view to find out the impact of the Human Rights training.
- 4) To see whether the perceptions developed through this evaluation could provide policy measures for institutionalizing and replicating Human Rights training and also sustain interest towards Human Rights among the trainees on the field.

#### Impact of the Training Programme

Almost every trainee appreciated the relevance of Human Rights training in police functioning though the emphasis and reasons given by them varied. Majority of them were of the opinion that uncivilized behaviour of police personnel, at all levels was responsible for the bad image which needed to be corrected by training .

#### Acquisition of Inputs:

##### Knowledge:

Training helped the trainees to know the limitations of police powers, rights of the accused, rule of law and so on.

##### Skills:

Skills like mob control, extraction of truth without violating HR, adoption of techniques available in forensic science and criminology and so on appeared to be popular among the trainees.

##### Motivation:

The training reinforced trainees motivational levels. Trainees took an oath that custodial deaths, rapes and tortures would not take place in their jurisdictions. They are determined to improve the image of the police and become the guardians of the society. The training has helped to develop the positive image of the police and their role in policing.

#### Reasons for Success

Designing, the training course scientifically on the basis of organizational needs and trainees' learning abilities and perception of Human Rights was the main reason for the success of the training.

Knowledge inputs help trainees to appreciate the significance of Human Rights and understand the standards and procedures along with the responsibilities and obligations for the protection of Human Rights. Development of skills helps to analyse and apply the standards and procedures in the decisions and actions related to Human Rights.

### Consultation with Experts

The consultation with experts not only helped to revise the original course design but also identify appropriate course material, trainers and training techniques. Prolonged free interactions of faculty with the trainees outside the lecture sessions won the appreciations of the trainees. This helped the trainees to develop a variety of perspectives on Human Rights.

### Course Material

Manual covered all the four themes of training programme. The issues of the video films included scientific temper in police work, rights of the accused under criminal procedure, laws relating to arrest, dalits and police, and children and police.

### Participative Techniques in Teaching

Seminar type, semi-circular sitting arrangement to facilitate easy interaction with trainees, discussion of course layout and teaching methods with the trainees to ascertain their views, permission to attend the classes with light uniforms instead of khaki uniforms, persuasion of the trainees and also their interest in the training were the participative techniques adopted.

### Other Factors Responsible for the Success

- NLSIU has not only enhanced the credibility of the training but also helped to improve the motivational levels of the trainees.
- Work done at NLSIU on Human Rights under various laws has provided a strong base for this course.
- Dynamic and committed leadership provided by the NLSIU sustained interest among the trainers and trainees.
- maximum cooperation from police.



- Financial assistance.
- Strong desire to improve the image of police through HR friendly initiative.

#### Reasons for Moderate Success:

- Lack of integration between the regular training and Human Rights training appears to have resulted in duplication of efforts and at times confusion in the minds of the trainees.
- The conventional training placed emphasis on exclusive adherence to formal rules on the basis of compliance approach.
- The absence of competent and committed resource persons, adoption of traditional modes of teaching and inadequate finances.
- Short duration course.

#### Apprehensions in Adopting Human Rights

- Police suspect that they would not get support from their colleagues, subordinates and superiors if they adopt Human Rights friendly approaches in practice.
- Society considers police unfit for the police job if they fail to prevent and detect crimes and maintain law and order at any cost (even at the cost of violating Human Rights).

#### Policy Perspectives

##### Institutionalizing Human Rights training

- There should be a proper interaction between the regular training and Human Rights training to achieve better results and to avoid duplication of efforts and wastage of resources.
- The duration of the training course should be extended at least for another six months.

- Trainers should be sent for specialized training programmes to inculcate effective communication skills and teaching techniques.
- Participant teaching methods in communicating skills are desirable.

Sustaining Human Rights interest among the trainees:

- Short-term training courses on the Human Rights are to be imparted to the constabulary as well as the superior officers under whom the trainees are to work while on probation in a phased manner.
- The behaviour of trainees after one year of posting is to be evaluated by ascertaining the views of the superiors, subordinates and the public.
- A comparative study of police stations manned by the trainees and other should be conducted to assess the status with a view to find out the reasons and to introduce necessary corrective actions.

3.8. **National Human Rights Commission (2002)** in its Annual Report for 2000-2001 dwelt upon the Human Rights teaching at length.

#### National Action Plan for Human Rights Education

The Commission had highlighted the need for the Government of India to draw-up, expeditiously, a National Action Plan for Human Rights Education as part of the observance of the UN Decade for Human Rights Education 1995-2000. Pursuant to the urging of the Commission, a Coordination Committee was appointed to work out a schedule of activities for the UN Decade for Human Rights Education, under the Chairmanship of the Home Secretary, Government of India. The Coordination Committee, comprising representatives of various Ministries, drew up a draft National Action Plan which was considered and approved on 29 March 2001. The Commission welcomes this development, even though it was belated. It takes this opportunity to underscore the importance of ensuring the full implementation of the Action Plan for

Human Rights Education. The Commission, on its own part, also intends to monitor closely the follow-up action that is being taken by the concerned Ministries.

### Mobilising the Educational System

The University Grants Commission (UGC) has informed the Commission that certificate courses in human rights were being conducted in Devi Ahilya Vishwavidyalaya, Indore; National Law School of India University, Bangalore; and Berhampur University, Berhampur; and that Diploma Courses were being held in the Universities of Mumbai, Nagpur, Jamia Millia Islamia, Saurashtra, Chennai, Jammu, Pondicherry, and Mysore. It was further stated that Degree Courses in Human Rights were being conducted in Aligarh Muslim University, Aligarh; Cochin University of Science and Technology, Kochi; Andhra University, Visakhapatnam; and M.S. University of Baroda, Vadodara; Banaras Hindu University, Varanasi; and Sri Venkateswara University, Tirupati.

In order to provide a further stimulus to human rights education, the Commission has taken the view that research should also be conducted on human rights issues under the aegis of the UGC. The Commission has, therefore, urged the UGC to earmark a certain number of fellowships for research on clearly identified human rights subjects. It is the belief of the Commission that its work to redress human rights grievances can be greatly strengthened if backed by well-researched material.

With a view to accelerating the spread of human rights education, the Commission also urged the UGC to convene a meeting of its Standing Committee on Human Rights at the earliest. In response, the Commission was informed that the tenure of the Standing Committee was of two years, that this period had expired and that no new Committee had been constituted in its place. Deeply concerned at this state of affairs, the Commission was taking steps to have the situation rectified.



During the period under review, the Commission sanctioned a one-time grant of Rs.2 lakhs to the Indian Law Institute, Delhi for starting a Post Graduate Diploma Course in Human Rights Law.

#### National Institute of Human Rights

In order to establish a center of excellence for human rights education, the Commission had set up the National Institute of Human Rights (NIHR) at the National Law School of India University, Bangalore. A Chair on Human Rights was also created with the assistance of this Commission. The Institute was inaugurated on 7 August 1999. During the year under review, work was completed by the Institute on a Hand Book on Human Rights for Judicial Officers. It seeks to address the needs of Judicial Officers at the district level and provides practical guidelines to those who seek remedies in courts for the violation of human rights. The Hand Book covers a range of issues that Trial Court Judges and Magistrates deal with in their daily functioning and provides guidance and information to facilitate their work and widen their understanding of human rights related issues. The Commission hopes that this effort will not only be of assistance to members of the Judiciary, but also to police officers, administrators and NGOs interested in protecting human rights. The Commission is of the view that the writing of this Hand Book should not be considered to be a one-time exercise. The Hand Book will need to be continuously updated and its contents refined from time to time. The Commission would like to recall that this Hand Book was prepared with a grant of Australia \$25,000 from the Australian Human Rights Fund Small Grants Scheme, which was given to the Institute upon the recommendation of the Commission. The grant was also used to conduct Continuing Education Programmes for Judicial Officers in Karnataka and Andhra Pradesh.

A draft Human Rights training syllabus has been prepared by **National Human Rights Commission (1995)** for : (a) Police Officers of gazetted ranks; (b) Inspectors and Sub Inspectors; and (c) Police Constables. Details of the training syllabus for different ranks of police personnel are given below:

## Topics on Human Rights for Inclusion in the Basic Training of Gazetted Officers

1. Rule of law and fundamentals of the Indian Criminal Justice System.
2. Challenges of policing a pluralistic and democratic society like India.
3. Concept of Human Rights – historical evolution and cultural roots.
4. Important International Human Rights Instruments – country's international obligations and police responsibilities.
5. Human Rights and constitutional provisions – preamble, Part III & IV – fundamental rights and duties of the citizens.
6. Special status of articles 20 and 21 in the scheme of Fundamental Rights – Supreme Court/High Court judgements expanding the frontiers of article 21.
7. Human Rights, Provisions in Indian laws enforceable by the police.
8. Violation of Human Rights by police; custodial crimes and other abuses – causes and cures.
9. Departmental instructions and judicial guidelines on the treatment of complainants, victims of crime, witnesses, suspects and arrested persons. Supreme Court's directions on use of handcuffs.
10. Violation of Human Rights of weaker sections of the society and role of police in up-holding their rights.
11. Special responsibilities of the police to combat bonded labour, child labour and denial of minimum wages etc.
12. Crimes against women and gender bias prevalent in the society – special responsibilities of the police to safeguard women's rights.
13. Ethics in law enforcement and the principles of police code of conduct.
14. A critical appraisal of the role and activities of the different Human Rights groups and organizations at national and international level.
15. Role of police leadership in fostering Human rights values and culture in the police organizations.
16. Complaints of violations of Human Rights – mode of enquiry and redressal. Pattern of liability for wanton violations of Human Rights – public interest



litigation and the emerging trends of judicial pronouncements to make the erring officials liable for payment of compensation to the victims of violation of Human Rights.

17. The Protection of Human Rights Act, 1993 and the functioning of the National and State Human Rights Commissions.

Topics on Human Rights for inclusion in the Basic Training of Sub-Inspectors and Inspectors

1. Human rights and their relevance to and importance in police work.
2. International Human Rights instruments – importance for law-enforcement officials – obligations of the government and responsibilities of police.
3. Human Rights and constitutional provisions – Parts III & IV of the constitution.
4. Human Rights provisions in various laws enforceable by police.
5. Violation of Human Rights by police and other connected government agencies.
6. Role of police in protection and promotion of Human Rights
7. Atrocities against weaker sections of society and role of police in protecting their Human Rights.
8. Crimes against women and children – amendments to IPC, Cr.P.C. and Indian Evidence Act; need for active police intervention.
9. Police role in combating child labour, bonded labour, denial of Minimum Wages Act.
10. Activities and achievements of non-governmental organizations working for the cause of human rights.
11. Departmental instructions and judicial guidelines on the treatment of complainants, victims of crime, suspects arrested persons, particularly women and children.
12. Departmental and Supreme Court guidelines on the use of handcuffs.
13. Custodial violence – torture, death and rape – causes and cure.



14. Human Rights concerns in duties of crowd control and dispersal of unlawful assemblies.
15. Human Rights and enforcement of anti-terrorist laws.
16. Prevention of violation of Human Rights at police station level by proper supervision over subordinates.
17. Complaints of violation of human rights – mechanism for investigation, enquiry and redressal at Police Station level.
18. Police liability for compensation to victims for violation of Human Rights.
19. Principles of police conduct – good manners and etiquettes.
20. National and States Human Rights Commissions – powers and functions.
21. Important court-judgements on the issue of human rights.

Topics on Human Rights for inclusion in the Basic Training Courses for Police Constables

- 1) Human Rights and their importance in police work.
- 2) Universal Declaration of Human Rights (1948) and obligations of India.
- 3) Fundamental Rights as guaranteed under the Indian Constitution.
- 4) Legal provisions for protection of human Rights of complainants, suspects and accused persons – duties and obligations of constables.
- 5) Departmental guidelines on treatment of complainants, victims of crime, witnesses and accused persons.
- 6) Police code of conduct – proper behaviour towards public in performance of duties of beat patrolling, traffic regulations, crowd control; performance of VIP duties, dispersal of unlawful assemblies, assistance in investigative processes etc.
- 7) Proper treatment of women, children and weaker sections of society.
- 8) Dos and don'ts in protection and observance of human rights in day to-day duties of the constables.
- 9) Torture and other custodial crimes – accountability/punishment.

The objectives of the human rights training courses will be :

- (a) To develop among police officers and men concern for human rights. adherence to human rights standards in police work, disregarding external and internal compulsions to do the contrary.
- (b) Foster higher standards of professional conduct. Make officers and men appreciate, understand the internalize international instruments on human rights, fundamental rights under the Indian Constitution and restrictions on police power under constitutional provisions and various sections of Cr.P.C., Indian Evidence Act etc.
- (c) To create among the officers and men, a people-friendly approach and make them aware of the fact that observance of human rights is not only desirable from an ideological point of view but also from the pragmatic stand-point. Trainees should realize that what they have been taught is relevant to the work they will do and they can enhance the prestige and efficiency of the organization they serve if they conform to these standards.

It is felt that different innovative programmes and techniques have to be developed to imaginatively impart human rights training to the police personnel. There should be programmes and techniques to maximize motivation of the trainees. There should be practical sessions using case studies from real life, which will show how respect of human rights on the part of the policemen have produced positive results. There should also be role-playing sessions where it can be demonstrated how attitude and respect for human rights can help the police in their law enforcement and other investigative duties.

The suggested syllabi offer broad guidelines for the basic post-induction training courses for Constables, Sub-Inspectors/Inspectors and Gazetted Police Officers. For special orientation programmes and capsule courses, suitable changes

regarding methodologies, knowledge inputs, etc. can be worked out; *mutates mutandis*, after taking into account local needs and requirements.

3.9. What follows is a review of the writings of eminent Indian authors, jurists, criminologists and senior police officers on the subject of Human Rights education and training.

Iyer (1990) has rightly observed "We live in a period of civilization when human rights have received recognition through universal instruments and national constitutions. But the poignant paradox of contemporary times is that humans without rights are on the increase. Human rights must triumph over inhuman wrongs. But without struggle injustices cannot be wished away. Here comes the need for operation sensitization reflect on this fundamental duty to dignity, liberty and fraternity in an activist frame of mind and do what you can". At another place he writes "Human rights are never safe in the country unless an activist judiciary with pragmatic humanism becomes the sentinel on the *qui vivie*. And we have to evolve a new code of conduct for the police in crisis situations, a new ethos of reverence for life on their part, a stern, strict drill before shoot-to-kill strategies are resorted to. A reckless police force is a 'killed' liability for the state. Given a finer culture, social tranquility is in their safe-keeping".

Adverting on Human Rights concerns pertaining to Developmental issues, Baxi (1994) observed crimes against the right to development are intentional acts or omissions or patterns of behaviour designed to defeat, distort, deflect or detract from laws directed to fulfill the core components of the right to development. At the very least, crimes against development will include the following categories: -

- agricrimes (crimes against agrarian development)
- ecocrimes (crimes against environment)
- habitat crimes (crimes against the right of the poor to adequate shelter)
- crimes against human health



- crimes against women
- crimes against minorities
- anti-participation crimes (crimes which subvert associational rights of the poor in their struggle for the fulfillment of basic needs)
- crimes against children; and
- crimes against human dignity and fundamental freedoms.

**Arora (1995)** raised a few issues in safeguarding Human Rights against custodial crimes and failure of police training in this regard.

- a) Constitution does not guarantee a right to compensation for violations of human rights. Such a right should be specifically incorporated in the Constitution.
- b) In many cases the States have sought from liability to pay compensation by seeking refuge under the doctrines of 'Sovereign Immunity in torts'. This outdated distinction between sovereign and non-sovereign functions of the state should be done away with and state should not be exempted from liability in such situations.
- c) 'Custodial death' should be defined and made a crime inviting stringent punishment under I.P.C.
- d) 'Who is to pay compensation' – The State or the guilty police official – One view is that the delinquent police officer should be made personally liable and the state should be finally resolved.
- e) A new concept of 'Encounter Deaths' is fast emerging as the police is arming itself with vast powers to deal with the threat of terrorism. This concept needs to be defined and concretized and the ambit of the exercise of police powers in the light of that definition demarcated.
- f) Legal requirement of production of arrested person before the Magistrate within 24 hours is generally not observed in case of custodial crime. Victims of such crimes are not shown to have been arrested. This arbitrary and unjust exercise of police powers needs to be bridled.

- g) Commission of 'Custodial Crimes' may raise a presumption that 'General Diary' meant for recording events and proceedings at a police station is not being maintained properly. In a reported case of lock-up death, the courts should scrutinize the General Diary to ascertain the complicity of the police official in the crime.
- h) Law Commission recommendation that when death occurs in custody, it should be presumed that it was not due to natural causes should be accorded statutory recognition.
- i) Can we deny that there is something wrong with the training imparted to members of police force that instead of inculcating a feeling of confidence and protection in the minds of laypersons, their presence and strategy of operation is striking terror and disgust in the community?

Experience of the working of our political system holds ample testimony to the fact that at times there is an active involvement of political figures wielding enormous powers, in using the machinery of police to gag the voice of dissent or opposition to paralyse the system for the aggrandizement of their vested interests.

Emphasising the observance of the Code of Conduct by policemen in upholding Human Rights, **Vadackumchery (1996)** averred

"The best way to combat police excesses is to fight them vigorously through legal processes and methods by exposing them and publicizing them so that people may guard themselves against such atrocities committed against them. The public are ignorant about the code of conduct of the policeman and this ignorance of the public make the policeman to violate the human rights of the people. The media should be made use of extensively for educating the public about their rights and freedoms. Let the public also know that all policemen are not brutal and lawless."

On the issue of Human Rights in Low Intensity Conflicts, **Subramanian (1996)** observed that "today we are facing a new situation – the low intensity conflicts,

also known as proxy wars. Collapse of bi-polar international power structure has given rise to emergence of regional and smaller conflicts.

In low intensity conflict there are no neutral citizens. Fear of gun makes people to take sides. Human Rights become the first casualty.

Since the base of low intensity conflicts is the discontentment existing among the affected people, the State should take steps to remove the genuine political, economic, social and cultural problems of the affected.

The State should also realize the over-reaction by the security forces create an atmosphere of oppressive security and lead to further alienation of the people.

Human Rights are aimed to preserve democracy and the rights of the people to govern themselves. The Common Article 3 in the four Geneva Conventions and Article 4 of the Covenant on Civil and Political rights dealing with derogation do not deal with basic problems created by the proxy wars.

It is time Human Rights parameters in low intensity conflicts are clearly spelt out in a new Instrument."

Advocating that Human Rights in peace time have to be differentiated from Human Rights in proxy war situations, Singh (1996) observed that in India, we have generally been on the defensive on the subject and feel flattered when some report published in the west commends improvement in the situation. The security forces have been repeatedly criticized for human rights violations in Punjab and Kashmir. There was extensive damage to public and private property, disruption of normal life, setback to economic development, and large-scale migration of people also probably does not enter into their calculations.



As the Human Rights Watch stated in its report of September 11, 1994 : "The human rights situations in Punjab and Kashmir have been acutely affected by the militants" acquisition of advanced small arms and light weapons diverted from the US supplied Afghan pipeline. In recent years, militants in both States have committed numerous, serious violations of humanitarian law, including direct attacks on unarmed civilians, indiscriminate attacks, summary executions, hostage taking, rape, threats to commit bodily harm, and the use of religious sites for military purposes.

The Vienna Declaration passed at the end of the World Conference on Human Rights accordingly urged the international community to take steps to enhance cooperation to prevent and combat the acts, methods and practices of terrorism aimed at the destruction of human rights. Subsequently, the United Nations Human Rights Commission adopted a resolution (1194/46) unequivocally condemning "all acts, methods and practices of terrorism regardless of their motivation, in all its forms and manifestations, wherever and by whomsoever they are committed, as acts of aggression aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of states, destabilizing legitimately constituted governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of states". Significantly the resolution was opposed by Pakistan.

The security forces should be sensitized to human rights through training courses. The monitoring mechanisms like the Human Rights Commission should have adequate power to take cognizance of and deal with the violations.

Emphasising the need for building an organizational culture promoting Human Rights observance, Sen (1996) noted:

There is a direct and critical inter-relationship and inter-dependence between policing and human rights. Policing can be a positive or negative factor in securing respect and ensuring protection of human rights. The word police is derived from the

Greek word 'Politeia' or its Latin equivalent 'politia'. The Latin word politia stands for State or administration. The word police however today, is generally used to indicate the body of civil servants whose duties are prevention and detection of crime and enforcement of laws.

Police is one of the means by which the state seeks to meet its obligation to protect some of the fundamental human rights – right to life, liberty and security of persons, right to fair trial, equal protection of law.

In modern democratic societies, the police is vested with authority to use legitimate and situationally justified force against law-breakers and offenders. This mandate of the police to use violence to curb or prevent violence raises the key issue that the police itself should not indulge in unnecessary or excessive use of force.

The basic principles on the use of force and firearms by Law Enforcement Officials (adopted in September, 1990, by the Eighth UN Congress on the prevention of Crime and Treatment of Offenders) provide that "Law enforcement agencies shall give special attention to the issue of police ethics and human rights, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the methods of persuasion, negotiation and mediation, as well as to technical means with a view to limiting the use of force and firearms".

The practice of policing to break law in the name of law enforcement is totally unacceptable and intolerable and has no place in a democratic society governed by the rule of law.

For ensuring adherence to human rights norms by the police it is necessary to build up an organizational culture that frowns on abuse or misuse of force and authority. Emancipatory human rights training of the police personnel, particularly of the subordinate ranks, is necessary to make the police more professional, responsive and people friendly.



Policing is a field of activities in which interaction between the world of the powerful and the world of the powerless are manifested.

A new police Act which can redefine the role of the police and lay down in no uncertain terms that the duties of the police include safeguarding the rights of the people is urgently necessary. The National Human Rights Commission in its Annual Report (1994-95) has endorsed the various practical recommendation of the National Police Commission (Vol-II, Chapter XV) to insulate the police from extraneous pressure and yet make it accountable to the people.

Dwelling on the ambivalent attitude of the public towards observance of Human Rights by Police, **Tripathi (1996)** noted that society has a strangely ambivalent attitude towards observance of human rights by law enforcement agencies. The author has come across very strong objections, almost bordering on complaints of dishonesty, if accused were not routinely handcuffed after arrest and if suspects were not beaten and otherwise roughly treated by the police.

The problems get infinitely more complicated in areas where insurgency and terrorism is rampant. People in authority, even up to the highest levels, occasionally speak with their tongues in cheek. They encourage, sometimes demand, harsh measures and talk of putting down terrorism with an "Iron hand".

Occasionally and sporadically the society attempt a legislative response. It is unfortunate that fifty years after independence, tinkering with the system, which only has been attempted till now, has been counterproductive. The functioning of police is still guided by the Police Act of 1861. There have been several recommendations to change the Act. But politically leaders do not seem to have the requisite political will to overhaul the police system. Since they manipulate the police for narrow political ends, they have a vested interest in maintaining the status quo.



Referring to Police Sub-culture and the need to respect Human Rights, Menon (1997) observed:

The increasing number of custodial deaths, police torture of suspects in criminal cases, and excessive use of force in curbing terrorist crimes have not only brought bad name to the entire police force, but tended to undermine efficiency of policing under a democratic framework. One of the causes for this unacceptable police behaviour in criminal investigation and social defense is said to be the inadequate training on their responsibilities towards rule of law and human rights. It requires a very strong commitment on the part of the trainee officers to be able to withstand the deleterious influence of the sub-culture and cultivate respect for human rights.

Harmony between the individual and the State is an inevitable necessity. It also reflects a congruent poise between the individual rights *per se* and the collective rights of the community. The Universal Declaration of Human Rights vide its Article 3 and vide Article 6 of the Covenant on Civil and Political Rights has made it explicit that every individual has the duty to respect the life, liberty and security of person of others.

Under the universally accepted international standards, any society has to account for some of basic requirement of such limitations or restrictions with the following:

1. The requirement so designed must be "determined by law" or pursuant to law or prescribed by law or as provided by law.
2. That such a requirement is not arbitrary or unlawful.
3. It respects the rights and freedom of others.
4. The general welfare of the community is the object of such restrictions or limitations.
5. Such prescriptions are subject to the "due process of law".
6. That such a proposition takes note of the need for respect for the right of others.

Referring to the Impact of State of Emergency and the situation of terrorism on Human Rights, Menon further observed that almost all legal systems provide for the derogation from Constitutional guarantees in times of war or other emergencies, as contemplated under Article 4 of public emergency. Thus, actual existence of an emergency is a condition precedent principle for invoking the emergency powers by the member state. There are certain non-degorable rights even in emergencies and they have got to be respected at all costs by the comity of nations. Example: Right to life (Article 6), Freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 7) and Freedom of thought, Conscience and Religion (Article 18).

The intensity of current terrorist movements in India is on an intermediate level and as said by Chalmers Johnson, "terrorism is, however, more lethal in mixed regimes, least lethal in autocratic regimes and intermediately lethal in democratic regimes". However, "the society will tolerate terrorism as long as it is no more than a nuisance. Once insecurity spreads and terrorism becomes a real danger, the authorities are no longer blamed for disregarding human rights in their struggle against it. On the contrary the cry goes up for more repressive measures, irrespective of the price that has to be paid in human rights" (Chalmer Johnson, *Terrorism Reader*, Political Anthology, Wildwood House, London, 1974 at pg.256).

Democratic governments must be very careful about the scale and nature of reaction to terrorist carnages, as in contrast the autocratic or in countries where ideological commitment to individual liberty is not every high, responses to terrorist demands are grossly different and varied with the sole objective of being ruthlessly effective to put down the menace. In democracies, any terrorist action gets enormous publicity for which the terrorist movement is hungry. Easy and ready availability of destructive weaponry all over the globe and comparatively unchecked access to means of communication and transport aided by great strides in application of science in this devastating enterprise, has transformed the crisis of terrorism into a really difficult and tricky challenge to the Governments.

Finally, Menon makes a few suggestions for improved observance of Human Rights:

- A firm commitment on the part of the Government to uphold human rights consistent with the international standards and in accordance with the law of the land is a must. This firm resolve is reflected in the written directions communicated to the organizations connected with these delicate and difficult tasks, like the police, or paramilitary or armed forces in various sensitive zones of operations.
- Proper documentation
- Strict compliance with penal procedures
- Avoidance of using hideouts etc: The Government should direct detention, if necessary, should be done only in authorized and prescribed places for incarceration.
- Mandatory actions.
- Clear and explicit guidelines and publication of the same.
- Greater emphasis on training of personnel.
- Political will to meet the challenge.
- Prompt response to complaints of abuse.

On the subject of education and human rights Nalini (2001) observed

- (1) Education should promote human rights by building the morale of the people and by generating faith with the help of better planning with the advancement of science and technology with a view to build a brave new world.
- (2) Education should induce certain values in an individual that makes him a staunch supporter of human rights.



- (3) Education should aim at the full or rather all round development of human personality by bringing out the best in man. The contents of education have to be so devised that no one feels physically, mentally or spiritually displaced in society.
- (4) To train one's mind to show full regard for human values and rights in the united interest of the world should be the basic objectives of education. Since learning can take place effectively only if there is harmony in the varying global scenario.

To sum up the outcome of the present review of the existing and related literature:-

1. Enforcement of laws is not an end in itself, but is a means of securing fairness and justice to all, irrespective of one's race, creed, religion or social standing.
2. Balancing human rights with the requirements of social stability and public order should not result in limitations beyond those needed in a democratic society for the respect of the rights of others, and with full respect for those rights which did not admit of derogation, even in times of emergency, and of the principles of equality and non-discrimination.
3. A perversion of the law enforcement role to violate law protecting human rights in seeking to enforce other law is the fundamental issue to be confronted in human rights training programmes for law enforcement officials. Other issues include –
  - a) Consideration on ethical standards of policing.
  - b) Use of force by law enforcement officials.
  - c) Arrest.
  - d) Treatment of detainees.
  - e) Confidentiality and privacy, and
  - f) Policing during civil war and civil disorder.

4. Human Rights education and training programmes for law enforcement officials should be directed at affecting the attitudes and hence the behaviour of individual officials, and at securing and maintaining an ethos of legality and compliance.
5. Implementation of Human Rights standards which are relevant to day-to-day policing may be done through:-
  - a) Education & Training
  - b) Explanation and guidance.
  - c) Supervision
  - d) NGOs, and
  - e) Self-regulation.
6. The third generation of human rights are of recent origin. They have evolved in response to various concerns of recent origin. They include environmental, cultural and developmental rights. They are concerned with rights of groups and peoples and even in their enjoyment; law enforcement agencies do have a role.
7. Crimes against the right to development are intentional acts or omissions or patterns of behaviour designed to defeat, deflect or detract from laws directed to fulfill the core components of the right to development.
8. UN agencies' action with regard to Human Rights education has developed on the following lines: -
  - a) Cooperation with institutions specializing in Human Rights teaching
  - b) Preparation of educational and teaching materials
  - c) Development of Human Rights teaching methods
  - d) Training at primary, secondary and higher levels, including teachers' training
  - e) Knowledge of basic texts on the protection and promotion of Human Rights, notably the International bill of Human Rights.

9. The prime function of Human Rights and indeed the rule of law is to protect the weak against the strong.
10. The poignant paradox of contemporary times is that humans without rights are on the increase.
11. The courses on human rights training at various police training establishments need to have a far higher standard and greater degree of consistency.
12. There is something wrong with the police training as instead of including a feeling of confidence and protection in the mind of laypersons, their presence and strategy of operation is striking terror and disgust in the community.
13. The objectives of Human Rights training courses will be: -
  - a) Adherence to human rights standards.
  - b) Foster higher standards of police conduct
  - c) Create a people-friendly approach among police personnel
14. The best way to combat police excesses is to fight them vigorously through legal process and methods by exposing them and publicizing them so that people may guard themselves against such atrocities.
15. Since the basis of low intensity conflicts is the discontentment existing among the affected people, the state should take steps to remove the genuine political, economic, social and cultural problems of the affected.
16. Human Rights in peacetime have to be differentiated from Human Rights in proxy war situations.
17. There is a direct and critical inter-relationship and inter-dependence between policing and human rights.



18. Society has a strangely ambivalent attitude towards observance of human rights by law enforcement agencies.
19. For improved observance of human rights, a firm commitment on the part of the government to uphold human rights consistent with the international standards and in accordance with the law of the land is a must.
20. Human Rights education should aim at the full or rather all round development of human personality by bringing out the best in man.

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## **CHAPTER – 4**

# **HUMAN RIGHTS VIOLATIONS IN** **INDIA**

## CHAPTER – 4

### HUMAN RIGHTS VIOLATIONS IN INDIA

Amnesty International in its annual report for 2002 on India has commented that the right of minorities to live in the country as equals was increasingly undermined by both state and non-state actors, despite it being clearly asserted in the Constitution. Religious minorities, particularly Muslims, were increasingly targeted for abuse. In Gujarat, Muslims were victims of massacres allegedly masterminded by nationalist groups with the connivance of state agencies. New and stringent security legislation, which gives wide powers of arrest and detention to the police, was misused to target political dissent in areas of armed conflict and elsewhere. Human rights defenders were frequently harassed by state and private actors, and their activities labeled as “anti-national”. The criminal justice system remained extremely slow, under-resourced and difficult to access for people from socially and economically marginalized sections of society, including lower castes and women. Security agencies continued to enjoy virtual impunity for past abuses, thanks to specific provisions contained in security legislation and to political protection. International human rights monitors, including UN independent experts and international human rights organizations, were de facto denied access to areas of armed conflict and were granted only very limited access to the rest of the country.

The victims of human rights violations and abuses are not just statistics; they are people with names, families, friends and aspirations, whose lives are irrevocably affected when state officials or opposition groups abuse their rights. Amnesty International tells their stories and condemns those who have abused them – often men in uniform who have been entrusted to protect the very rights they violate – and urges that they be brought to justice and that steps be taken to end the violations.

Whatever imperatives the Indian state has to maintain internal peace and security, the violation of rights protected by the Constitution of India as well as by



international human rights standards is avoidable. Yet, in recent years Amnesty International has reported the following patterns of human rights violations:

- Preventive detention provisions have meant that thousands of political prisoners have been held without charge or trial.
- Torture of detainees in police and military custody remains endemic, often in an effort to extract confessions or information. The most common method of torture is beating with lathis. Other methods include suspension by the wrists and ankles and electric shocks. Reports of rape indicate that it is used as a method of torture by state agents as well as armed opposition groups.
- Within prison and other places of detention, poor conditions amounting to cruel, inhuman and degrading treatment is widespread and fails to meet the requirements of the UN Standard Minimum Rules for the Treatment of Prisoners.
- Dozens of political detainees have "disappeared", most of whom are young men suspected of links with armed opposition groups. The lack of adequate redress runs counter to the provisions of the UN Declaration on the Protection of All Persons from Enforced Disappearance.
- The excessive use of force in counter-insurgency and law enforcement has led to the reported extra-judicial execution of hundreds of people by the security forces, and
- The death penalty is still applied.

Police functions normally include the maintenance of law and order and prevention and detection of crime and traffic regulation and control. However in the recent decades, several other 'social service functions' are getting added on to the domain of police work. In fact, there can be hardly any area of police function whose values and principles that constitute the core and content of "Human Rights" can be

deemed as insignificant. However, it is in "pre-trial areas" that human rights violations look glaring and cause immense concern in the minds of every right thinking citizen.

#### 4.1. HUMAN RIGHTS VIOLATIONS IN "PRE-TRIAL AREAS"

##### (a) Non-Registration of FIR/Cases (Violative of Section 154 Cr.P.C.)

A large number of complaints received by National Human Rights Commission (NHRC) pertained to the non-registration of cognizable cases by the police. Various strategies were adopted for this illegal act. The Station House Officers (SHOs) may accept the report and enter it to some unofficial register, giving to the complainant on erroneous impression that his case has been registered. Cognizable offence may be registered as non-cognizable to avoid investigation. F.I.Rs. are not lodged under the pretext of jurisdictional controversy. By non-registration of cases, police indirectly help the proliferation of crimes. Offenders against whom genuine cases are not registered feel emboldened to carry on their criminal depredations with impunity and innocent victims curse the police and complains of police criminal nexus. The most important factor for the non-registration of complaints is the anxiety of political executives in state governments to keep the recorded crime figures low so that they can claim before the public and state legislature that crime is well controlled and all is well with police administration under their charge.

##### (b) Fabrication of evidence by introducing false witnesses.

Too much obsession with direct oral evidence and number of witnesses prompt police to pad up evidence, with the help of false witnesses. What is required in successful investigation is the right blend of scientific and oral evidence.

##### (c) Summoning male below 15 years or women to police stations as witnesses for recording statements (Violative of Section 160 (1) Cr.P.C.)

#### (d) Arrests

The police process of arrest is often grossly misused. The National Police Commission has observed that "60% of the arrests were unnecessary and as such unjustified". The Commission also estimated that "43% of the expenditure in the connected jails was over such prisoners who in the ultimate analysis need not have been arrested at all".

Through this process of "liberal arrests" police, very often, deny human rights to the accused through the violation of various rights and privileges to the arrested persons, as enshrined in the constitution and other Acts. These provisions include:

- (1) Article 22(1) and Section 50 (1) Cr.P.C. : Rights against arbitrary arrest and right to be informed of the grounds of arrest.
- (2) Article 22(1) and Section 303 Cr.P.C. : Right to Counsel for the arrested.
- (3) Article 39A of the Constitution of India. : Right to Legal Aid
- (4) Section 56 & 76 Cr.P.C. : Right to be produced before a Magistrate within 24 hours of arrest.
- (5) Section 50, 55 & 75 of Cr.P.C. : Right to be informed of the ground of arrest immediately after the arrest.
- (6) Sections 56 & 57 Cr.P.C. : Right against arbitrary and illegal detention in custody.
- (7) Section 54 Cr.P.C. : Right to have himself/herself medically examined.



(8) Sections 436, 437, 438, 50(2) & 167 CrPC: Right to be released on bail if arrested.

(9) Section 51 Cr.P.C. : Strict regard to decency while arresting female accused.

(10) Section 83 I.P.C. and The Probation of Offenders Act, 1956. : Preventing incarceration of Juvenile and young offenders.

Apart from the above provisions, the apex Court, while disposing a Public Interest Litigation by Dr. D.K. Basu, Executive Chairman of Legal Aid Services, West Bengal, laid down important guidelines to be followed by police in all cases of arrest or detention.

#### (e) Custodial Violence

“Custodial Violence/death is perhaps one of the worst crimes in a civilized society governed by rule of law” (Justice Kuldeep Singh and Justice A.S. Anand). Any form of torture or cruel, inhuman or degrading treatment of persons, would fall within the inhibition of Article 21 (Right to Life and Liberty) of the Constitution, whether it occurs during investigation, interrogation or otherwise. Sections 330 and 331 of I.P.C. Prohibit harassment and ill-treatment of accused during investigation, whereas Section 49 of Cr.P.C. underlines that accused should not be subjected to unnecessary restraint. Article 5 of Universal Declaration of Human Rights, 1948, spells out that “no one shall be subjected to torture or to cruel inhuman or degrading treatment and punishment” and same spirit can be seen in Article 10 of International Covenant on Civil and Political Rights, 1966 as, “All persons deprived of their liberty, shall be treated with respect for the inherent dignity of human person.” The UN General Assembly in December 1975, adopted another declaration on “Protection of all persons from being subjected to Torture or other cruel, inhuman or degrading treatment or punishment, in which torture has been defined as “offence against humanity” (Article 2). Further, UN General Assembly in November 1979 adopted a resolution prescribing a Code of

Conduct for Law Enforcement Officers. Article 2 lays down that “in the performance of their duties, the law enforcement officers shall protect and respect human dignity and uphold human rights of all persons”. In India, the Home Ministry also approved and circulated a Code of Conduct for the police, which enjoins the police to respect and uphold the rights of the citizens as guaranteed by the Constitution. In spite of the International Covenants/Declarations, Constitutional-Legal provisions and Executive moves, custodial violence is on the increase. This has even prompted National Police Commission (NPC) to recommend for Compulsory Judicial Enquiry in all lock-up deaths and the Law Commission to suggest compulsory prosecution of those responsible for custodial deaths. The Supreme Court has whittled down the doctrine of “sovereign immunity” making the police official personally responsible for paying compensation to the victims of ‘custodial offences’.

#### An analysis of Deaths in Police Custody during 2000

	<u>No. of Deaths</u>
(i) Of persons remanded to police custody by court.	40
(ii) Of persons not remanded to police custody by court	38
(iii) During Production/process in courts/journey connected with investigation.	25
(iv) Death in Police custody during Hospitalisation/Treatment	35
(v) Due to Accidents	2
(vi) In Mob Attack/Riot	4
(vii) By other criminals	3
(viii) By suicides	26
(ix) While escaping from custody	11



**TABLE 79**  
**DEATHS IN POLICE CUSTODY/LOCKUP DURING 2000**  
**(OF PERSONS REMANDED TO POLICE CUSTODY BY COURT)**

SL. NO.	STATE/UT	NUMBER OF						
		DEATH REPORTED	AUTOPSY CONDUCTED	MAGISTERIAL ENQUIRY ORDERED/ CONDUCTED	JUDICIAL ENQUIRY ORDERED / CONDUCTED	CASES REGD. IN CONNECTION WITH DEATHS	POLICE MEN CHARGE - SHEETED	POLICEMEN CONVICTED
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>STATES:</b>								
1	ANDHRA PRADESH	4	4	1	0	2	0	0
2	ARUNACHAL PRADESH	1	0	1	0	1	0	0
3	ASSAM	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0
5	GOA	1	1	0	0	0	0	0
6	GUJARAT	9	7	1	0	0	3	0
7	HARYANA	2	0	0	0	1	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	1	0	0
10	KARNATAKA	0	0	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0
12	MADHYA PRADESH	3	3	3	0	0	0	0
13	MAHARASHTRA	14	14	11	0	2	5	0
14	MANIPUR	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	0
19	PUNJAB	3	0	4	0	2	6	0
20	RAJASTHAN	0	0	0	0	0	0	0
21	SIKKIM	NR	NR	NR	NR	NR	NR	NR
22	TAMIL NADU	0	0	0	0	0	0	0
23	TRIPURA	3	0	0	0	0	0	0
24	UTTAR PRADESH	0	0	0	0	0	0	0
25	WEST BENGAL	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>40</b>	<b>29</b>	<b>21</b>	<b>0</b>	<b>9</b>	<b>14</b>	<b>0</b>
<b>UNION TERRITORIES:</b>								
26	A & N ISLANDS	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0	0
31	LAKSHADWEEP	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>40</b>	<b>29</b>	<b>21</b>	<b>0</b>	<b>9</b>	<b>14</b>	<b>0</b>

NR - NOT RECEIVED  
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**TABLE 79A**  
**DEATHS IN POLICE CUSTODY/LOCKUP DURING 2000**  
**(OF PERSONS NOT REMANDED TO POLICE CUSTODY BY COURT)**

SL. NO.	STATE/UT	NUMBER OF						
		DEATH REPORTED	AUTOPSY CONDUCTED	MAGISTERIAL ENQUIRY ORDERED/ CONDUCTED	JUDICIAL ENQUIRY ORDERED/ CONDUCTED	CASES REGD. IN CONNEC-TION WITH DEATHS	POLICE-MEN CHARGE-SHEETED	POLICEMEN CONVICTED
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>STATES:</b>								
1	ANDHRA PRADESH	3	3	1	0	3	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0
3	ASSAM	4	4	4	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0
6	GUJARAT	3	1	1	0	0	0	0
7	HARYANA	0	0	0	0	0	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0
12	MADHYA PRADESH	4	3	3	0	2	0	0
13	MAHARASHTRA	3	3	1	0	2	0	0
14	MANIPUR	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	0
19	PUNJAB	4	1	4	0	2	2	1
20	RAJASTHAN	1	0	0	0	1	6	0
21	SIKKIM	0	0	0	0	0	0	0
22	TAMIL NADU	2	2	2	0	1	0	0
23	TRIPURA	2	0	0	0	0	0	0
24	UTTAR PRADESH	11	11	10	0	11	0	0
25	WEST BENGAL	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>37</b>	<b>28</b>	<b>26</b>	<b>0</b>	<b>22</b>	<b>8</b>	<b>1</b>
<b>UNION TERRITORIES:</b>								
26	A & N ISLANDS	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0
30	DELHI	1	1	1	0	1	0	0
31	LAKSHADWEEP	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>38</b>	<b>29</b>	<b>27</b>	<b>0</b>	<b>23</b>	<b>8</b>	<b>1</b>

**TABLE 79B**  
**DEATHS IN POLICE CUSTODY AT THE TIME OF PRODUCTION / PROCEEDINGS IN**  
**COURT / JOURNEY CONNECTED WITH INVESTIGATION DURING 2000**

SL. NO.	STATE/UT	NUMBER OF						
		DEATH REPORT ED	AUTOPSY CONDUCT ED	MAGISTE -RIAL ENQUIRY ORDERE D/ CONDUCT ED	JUDICIAL ENQUIRY ORDERE D/ CONDUCT ED	CASES REGD. IN CONNE C- TION WITH DEATHS	POLICE- MEN CHARGE - SHEETE D	POLICEM EN CONVICT ED
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>STATES:</b>								
1	ANDHRA PRADESH	7	7	2	0	5	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0
3	ASSAM	0	0	0	0	0	0	0
4	BIHAR	1	0	0	0	1	0	0
5	GOA	1	1	0	0	0	0	0
6	GUJARAT	3	2	1	0	2	0	0
7	HARYANA	0	0	0	0	0	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	0
10	KARNATAKA	1	1	0	0	1	0	0
11	KERALA	0	0	0	0	0	0	0
12	MADHYA PRADESH	0	0	0	0	0	0	0
13	MĀHARASHTRA	8	8	4	0	4	7	0
14	MANIPUR	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	0
19	PUNJAB	2	1	1	0	1	4	0
20	RAJASTHAN	0	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	0	0
23	TRIPURA	1	0	0	0	0	0	0
24	UTTAR PRADESH	1	1	1	0	1	0	0
25	WEST BENGAL	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>25</b>	<b>21</b>	<b>9</b>	<b>0</b>	<b>15</b>	<b>11</b>	<b>0</b>
<b>UNION TERRITORIES</b>								
26	A & N ISLANDS	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0	0
31	LAKSHADWEEP	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>		<b>25</b>	<b>9</b>	<b>0</b>	<b>15</b>	<b>11</b>	<b>0</b>



**TABLE 79C**  
**REASONS OF CUSTODIAL DEATHS DURING 2000**

SL. NO.	STATE/UT	NUMBER OF DEATHS IN POLICE CUSTODY					
		DURING HOSPITALISATION / TREATMENT	DUE TO ACCIDENTS	BY MOB ATTACK/ RIOT	BY OTHER CRIMINALS	BY SUICIDE	WHILE ESCAPING FROM CUSTODY
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<b>STATES:</b>							
1	ANDHRA PRADESH	0	0	1	0	1	0
2	ARUNACHAL PRADESH	0	0	0	0	1	0
3	ASSAM	2	0	0	1	1	0
4	BIHAR	1	0	0	0	0	0
5	GOA	0	0	0	0	1	0
6	GUJARAT	3	1	0	0	2	1
7	HARYANA	3	0	0	0	2	0
8	HIMACHAL PRADESH	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0
10	KARNATAKA	1	1	0	0	0	0
11	KERALA	0	0	0	0	0	0
12	MADHYA PRADESH	1	0	0	0	4	0
13	MAHARASHTRA	13	0	0	2	10	1
14	MANIPUR	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0
19	PUNJAB	0	0	0	0	1	0
20	RAJASTHAN	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	2
23	TRIPURA	0	0	0	0	0	0
24	UTTAR PRADESH	2	0	3	0	2	7
25	WEST BENGAL	9	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>35</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>25</b>	<b>11</b>
<b>UNION TERRITORIES:</b>							
26	A & N ISLANDS	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	1	0
28	D & N HAVELI	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0
31	LAKSHADWEEP	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>35</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>26</b>	<b>11</b>



## Rape in Police Custody

Rape in police custody is seen as a stigma on the law enforcing agency by the citizens. Police, which is a primary agency for ensuring safety of women is not forgiven by the society if they themselves get involved in rape cases that too in police custody. The number of such cases reported at all India level for the years 1996-2000 are as under :

### Incidents of Rape in Police Custody during 1996-2000

Sl.No.	Year	No. of reported Custodial Rape Cases
(1)	(2)	(3)
1.	1996	6
2.	1997	6
3.	1998	4
4.	1999	4
5.	2000	2
% Change in 2000 over 1999		- 50%
% Change in 2000 over 1996		- 66.6%

**TABLE 81**  
**REPORTED CUSTODIAL RAPE CASES AND THEIR DISPOSAL BY POLICE AND COURTS DURING 2000**

REPORTED CUSTODIAL RATE CASES AND THEIR DISPOSAL BY POLICE AND COURTS DURING 2000										
SL.NO.	STATE/UT	INVESTIGATION STAGE								
		CASES PENDING INVESTIGATION FROM PREVIOUS YEAR	CASES REPORTED DURING THE YEAR	CASES WITHDRAWN BY GOVT. DURING INVESTIGATION	CASES NOT INVESTIGATED OR IN WHICH INVESTIGATION WAS REFUSED	CASES DECLARED FALSE ON ACCOUNT OF MISTAKE OF FACT OR LAW	CASES IN WHICH CHARGE-SHEETS WERE SUBMITTED	CASES IN WHICH CHARGE-SHEETS WERE NOT LAID BUT FINAL REPORT SUBMITTED DURING THE YEAR	TOTAL CASES (COL.8 +9)	CASES PENDING INVESTIGATION AT THE END OF THE YEAR
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
STATES:										
1	ANDHRA PRADESH	2	0	0	0	2	0	0	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	0	0	0	0	0	0	0	0	0
7	HARYANA	1	0	0	0	0	1	0	1	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	0	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0	0	0
12	MADHYA PRADESH	0	1	0	0	0	0	1	1	0
13	MAHARASHTRA	0	0	0	0	0	0	0	0	0
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	1	0	0	0	1	0	1	0
19	PUNJAB	0	0	0	0	0	0	0	0	0
20	RAJASTHAN	0	0	0	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	0	0	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	0	0	0	0	0	0	0	0	0
25	WEST BENGAL	0	0	0	0	0	0	0	0	0
	TOTAL STATES	3	2	0	0	2	2	1	3	0
UNION TERRITORIES:										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0	0	0	0
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0	0	0
	TOTAL (UTs)	0	0	0	0	0	0	0	0	0
	TOTAL (ALL-INDIA)	3	2	0	0	2	2	1	3	0



TABLE 81(Concluded)

SL.NO.	STATE/UT	TRIAL STAGE								
		CASES PENDING TRIAL FROM PREVIOUS YEAR	CASES SENT FOR TRIAL DURING THE YEAR	CASES WITHDRAWN BY GOVT. DURING TRIAL	TOTAL CASES FOR TRIAL DURING THE YEAR	CASES COMPOUND- ED OR WITH- DRAWN	CASES IN WHICH TRIALS WERE COMPLE- TED	CASES CONVICTED	CASES ACQUITTED OR DISCHARGED	CASES PENDING TRIAL AT THE END OF THE YEAR
(1)	(2)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
<b>STATES:</b>										
1	ANDHRA PRADESH	0	0	0	0	0	0	0	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	0	0	0	0	0	0	0	0	0
7	HARYANA	0	1	0	1	0	0	0	0	1
8	HIMACHAL PRADESH	1	0	0	1	0	0	0	0	1
9	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	0	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0	0	0
12	MADHYA PRADESH	0	0	0	0	0	0	0	0	0
13	MAHARASHTRA	4	0	0	4	0	1	0	1	3
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	1	0	1	0	0	0	0	1
19	PUNJAB	0	0	0	0	0	0	0	0	0
20	RAJASTHAN	0	0	0	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	0	0	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	1	0	0	1	0	0	0	0	1
25	WEST BENGAL	1	0	0	1	0	0	0	0	1
	<b>TOTAL STATES</b>	<b>7</b>	<b>2</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>8</b>
<b>UNION TERRITORIES:</b>										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	1	0	0	1	0	0	0	0	1
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>8</b>	<b>2</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>9</b>



(f) Other violations during police investigations

1. Surveillance of persons on suspicious grounds (denial of right to privacy – Article 19 of Constitution).
2. Search of premises in contravention of legal provisions (Sub-sections 6 & 7 of Section 100 Cr.P.C.)
3. Denial of the right of female accused during search (Section 100 (3) Cr. P.C.
4. Implicating persons in wrong cases or under wrong provisions of law (Article 20(1) of the Constitution – Right against ex-post facto laws, based on the concept “Nulla Poena Sine Lege” i.e. no man shall be made to suffer except for a distinct breach of criminal law, which law shall be enacted before hand in precise and definite terms).
5. Denial of the right against ‘Double Jeopardy’ (Article 20(2) of the Constitution based on the concept ‘Nino bis debit puniri pro-uno delicto i.e. no one ought to be twice punished for one offence.

**4.2. HUMAN RIGHTS VIOLATIONS UNDER EMERGENCY LAWS/ SITUATIONS ETC.**

It is a general concept that extraordinary situations demand extraordinary treatment. Terrorism or Insurgency is such an extraordinary situation, which naturally compels any State to bring ‘reasonable restrictions’ on the unbridled freedom/rights of individuals. The “reasonable restrictions” or “the due process of law” emanate from the basic concept that “The freedom of the individual must take second place to the security of the State” (Lord Denning). Based on this, India, which is rocked with ethnic strife and internecine conflicts in the North East, caste-communal tensions released by growing changes in the socio-economic milieu, agrarian/Naxalite uprising graduating to full-scale urban guerilla type violence, foreign aided militancy in Jammu

& Kashmir, creating low intensity conflict (LIC) situation, has promulgated legislations such as National Security Act, Disturbed Areas Act and Armed Forces Special Powers Act, Prevention of Terrorism Act etc. in order to face the situation in larger national interest. These Acts and broad powers conferred to Police and security forces have led to sharp increase in human rights violations especially in States/areas where terrorists have become the worst violators of human rights. The Anti-Terrorist/Extremist operations evoked major human rights issues like "encounter killings", constant raid of villages and excesses against civil population particularly women, detention of civilians, their interrogation etc. To deal with the terrorists very often, there is demand for ruthless counter measures, irrespective of the price that has to be paid in terms of human rights. It is important that abuses of authority in such situations can flourish not only because of official negligence or acquiescence but because rightly or wrongly, broad sections of people consider that in spite of their excesses, the police are carrying out an unpleasant and a necessary task, if both the state and society are to be preserved. Such conditions place considerable moral burden on conscientious police officers whose actions to check drifts of this kind are of paramount importance for the preservation of human rights. For such officers, the UN declaration and International Covenants should act as guide and philosophy, as these covenants give glimpses of the moral, ethical and legal codes that law enforcement officers should follow in extreme situations of terrorism and militancy. Their main thrust is that even in emergencies, there are non-derogable rights, which include (a) right to life (Article 6) (b) freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 7) and (c) freedom of thought, conscience and religion (Article 8), as enshrined in International Covenant on Civil and Political Rights to which India is a signatory. Further, any importance or limitations set upon the rights of man in any society, must, according to internationally accepted legal standards, be based on guidelines like the Principle of Legality, the Principle of the Rule of Law, the Principle of Equality and non-discrimination among the members of the society.

#### 4.3. HUMAN RIGHTS VIOLATIONS WHILE HANDLING LAW AND ORDER.

In a developing society, the gap between the rising expectations and aspirations of masses kindled by the enunciated constitutional ideals on the one hand and the reality on the other, leads to heightened strains, tensions and challenges to the authority, often resulting in agitations and disturbances. The maintenance of order, is the sole duty of police. Non-adherence to various rules and procedures, misuse or improper use of police discretion and authority in such situations, lead to human rights violations, especially while dealing with unruly mobs, frenzied caste/communal groups, student agitators, industrial agitators etc. Some of the violations of common nature are :-

- a) Using force blindly against the individual members or collectively while dealing with unlawful assemblies (power gives to police to regulate and control assemblies are to be used strictly to achieve the objective mentioned in Article 19 (3) of the Constitution. The Fundamental Rights granted by Constitution, should not be interfered with).
- b) Partisan role while dealing with communal riots or caste conflicts.
- c) Delayed police action in riots or conflicts, causing the death of innocent civilians and destruction of properties.

#### 4.4. HUMAN RIGHTS VIOLATIONS CONCERNING DALITS/WEAKER SECTIONS.

The success or failure of many social legislations depends much on the professionalism, competence and commitment of police. There is an array of such legislation such as :

1. The Protection of Civil Rights Act, 1976.



2. The Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The Child Labour (Prevention and Regulation) Act 1986.
4. The Bonded Labour System (Abolition) Act, 1976.
5. Commission of Sati (Prevention) Act, 1987.
6. Immoral Traffic (Prevention) Act, 1983.
7. The Indecent Representation of Women (Prohibition) Act, 1986.

In fact, these are all well-motivated legislations meant to safeguard the socio-economic, political and cultural interests of the weaker sections of the society like dalits, women, children, unorganized labour etc. But, the tragedy is that these sections continue to remain the most exploited lot – they are the worst victims of the human rights violations. Untouchability, discrimination of SC/ST, child and bonded labour, archaic and inhuman practice of 'Sati', "Commoditisation of women", denial of minimum wages, etc. are still prevalent in many States even though, we are on the threshold of 21<sup>st</sup> century. This speaks of a reality, that the solemn promises of democratic rulers, constitutional safeguards or an array of legislations, can never accelerate social-change or protect the interests of the weaker sections, unless these are effective mechanisms or instruments for their implementation at ground level. Police, no doubt, is such an instrument, which can play a pivotal role in the enforcement of many social legislations and thereby minimizing the human rights violations in this field. But, when they collaborate with caste-communal forces, or power syndicates which are the kingpins in organised social evils like child/bonded labour, prostitution, etc. due to extraneous influences or 'deviants' such as corruption, human rights become a myth.

All facets of police work, apart from the major areas, as discussed above – are inextricably linked to the very concept of human rights. The improper or illegal police conduct, demeanour and behaviour, can seriously imperil the human rights of citizens. The Police Act of 1861, the substantive as well as procedural penal laws like I.P.C. and Cr.P.C. together with Indian Evidence Act, have comprehensively prescribed the way in which the police will have to fulfill their duty commitments and meet their tasks.

The code of conduct for the Law Enforcement officials has been well accepted by the comity of nations and is also reflected as code of conduct, applicable in our country. Some of the common misconduct/perversions by police, where human rights violations are indeed real are:

1. Minimisation of the enormity of the crime.
2. Delay in investigation
3. Biased or perverse or poor investigation
4. Supporting unjustifiably the counterparts in cases.
5. Delay in execution of processes to harass the complainant.
6. Exerting pressure on prosecution witnesses.
7. Making perverse enquiries into complaints.
8. Favouritism, while granting various licences, and
9. Making mischievous entries or falsifying records

And the known categories of misbehaviour tantamount to human rights violations are:

1. Rude and discourteous conduct
2. Refusal to entertain complaints
3. Overbearing attitude
4. Beating, and
5. Other harassment.

#### **4.5. IMPACT OF HUMAN RIGHTS VIOLATIONS**

The extra-legal methods or human rights violations are ineffective in criminal investigation or in controlling the troubled situations. The high-handedness of police may create a temporary lull in the crime scene, but in the world of organised crimes, the illegalities of human rights violations have either no impact or have just the opposite impact. The repeated violation of human rights, embolden the criminals mentally and physically against any threat to their basic rights. Another reason why



acts of human rights violations will not put an end to crimes is that the criminals get hardened and try to take revenge on the perpetrators of violations and thereby embarrass the establishment. Another impact of these violations is the loss of fear and respect for the authority of the state. A state or government devoid of moral authority cannot survive long. A major dimension of the violation is its commission for personal ends in the garb of fighting a social or national cause. In the atmosphere of violence, individuals, enforcement agencies as well as terrorist outfits may take advantage of the situation and indulge in killings, extortion, rape etc. Such a scenario, undermines the vitals of rule of law. Further, committing injustice in the name of justice cannot be called a service in the cause of justice. Neither police nor any other organization can encourage such justice.

The National Human Rights Commission in its annual report for 2000-2001 dwelt on the Indian scenario with regard to custodial violence and fake encounters.

Soon after being established in 1993, the Commission issued instructions that any instance of custodial death must be reported to it within 24 hours of occurrence. Such information was to be followed by the submission to the Commission of the relevant post-mortem report, the magisterial inquest report and a videography report on the post-mortem. Unfortunately, it was observed that there was frequent delay in the sending of these reports. This in turn delayed the processing of cases of custodial violence in the Commission and the awarding of interim relief when, prima facie, there was reason to conclude that a custodial death had resulted from custodial violence. Of the total number of 1093 cases of custodial death reported in 1999-2000, the States from which the highest number of inquiry reports were awaited were; Maharashtra-28, West Bengal-19, Uttar Pradesh-17, Madhya Pradesh-12, Andhra Pradesh-11, Assam-11, Gujarat-11, Punjab-10 and Tamil Nadu-9. In total, of the 177 cases of death in police custody registered in 1999-2000, the Commission had yet to receive full reports in respect of 165 cases. As regards deaths in judicial custody, which numbered a total of 916 in 1999-2000, reports had been received in respect of 396 cases but were awaited in respect of 520 cases. The highest number of reports awaited were from:



Bihar – 112, followed by Maharashtra – 89, Andhra Pradesh – 61, Tamil Nadu – 41, Rajasthan – 39, Punjab – 38.

Given this unsatisfactory situation, the Commission has issued fresh instructions requesting that all concerned reports, namely the post-mortem, videograph and magisterial inquiry reports, must be sent to the Commission within two months of the incident. The postmortem reports have to be recorded on a new form, designed by the Commission, which has been circulated to all concerned authorities. Further, in every case of custodial death, a magisterial inquiry has also to be conducted as directed by the Commission. It should be completed expeditiously and transmitted to the Commission within the deadline of two months that has been set by the Commission.

In certain cases of custodial death, and after the post-mortem examination, the viscera are sent for examination and a viscera report is required. However, such reports also take time in being received. The Commission has therefore clarified that the post-mortem reports and other related documents should be sent to the Commission without waiting for the viscera report, with the latter being sent subsequently as soon as it is available.

The Commission has noted with interest and satisfaction that there has been a decline in the total number of custodial deaths reported in 2000-2001, the number having gone down to 1037 from 1093 in 1999-2000. The total number of deaths in police custody have shown a significant decrease, from 177 in 1999-2000 to 127 in 2000-2001. The deaths in judicial custody too have declined from 916 in 1999-2000 to 910 in 2000-2001.

The States in which deaths in police custody have shown notable decline were Andhra Pradesh, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Uttar Pradesh. However, there has been an increase in such deaths in Delhi, Assam and Punjab.

The state-wise position indicating the number of custodial deaths/rapes is given in the tables below:-

**Statement showing details of Custodial Deaths/Rapes  
Reported since 1993-94**

State/UT	1993-94	1994-95				1995-96			1996-97		
	Total	PC	JC	Others	Total	PC	JC	Total	PC	JC	Total
Andhra Pradesh	0	6	0	0	6	10	45	55	27	70	97
Arunachal Pradesh	0	0	0	0	0	0	0	0	2	0	2
Assam	1	14	4	0	18	7	15	22	13	12	25
Bihar	4	17	0	0	17	8	67	75	14	79	93
Goa	0	1	1	0	2	0	0	0	3	0	2
Gujarat	0	0	0	0	0	18	4	19	18	32	50
Haryana	1	2	0	0	2	4	5	9	2	7	9
Himachal Pradesh	0	2	0	0	2	0	1	1	1	0	1
Jammu & Kashmir	1	0	0	3	3	15	0	15	4	0	4
Karnataka	0	1	0	0	1	3	10	13	8	28	36
Kerala	1	3	0	0	3	2	2	4	6	9	15
Madhya Pradesh	1	2	8	1	11	2	7	9	8	7	15
Maharashtra	0	2	0	0	2	9	25	34	21	180	201
Manipur	1	2	1	0	3	4	0	4	1	0	1
Meghalaya	1	3	0	0	3	0	3	3	0	10	10
Mizoram	0	0	0	0	0	0	2	2	0	0	0
Nagaland	0	1	0	1	2	2	0	2	2	1	3
Orissa	0	3	1	1	5	2	8	10	3	10	13
Punjab	0	10	2	0	12	8	8	16	5	12	17
Rajasthan	1	10	0	0	10	6	11	17	5	25	30
Sikkim	0	0	0	0	0	1	0	1	0	0	0
Tamil nadu	6	7	0	2	9	4	1	5	3	18	21
Tripura	0	1	0	0	1	0	0	0	0	0	0
Uttar Pradesh	8	5	0	1	6	13	24	37	32	139	171
West Bengal	0	14	1	0	15	14	37	51	6	42	48
A & N Islands	0	0	0	0	0	0	0	0	0	0	0
Chandigarh	0	0	0	0	0	0	0	0	0	0	0
D & N Haveli	0	0	0	0	0	0	0	0	0	0	0
Daman & Diu	0	0	0	0	0	0	0	0	0	0	0
Delhi	7	5	33	0	38	7	33	40	5	19	24
Lakshadweep	0	0	0	0	0	0	0	0	0	0	0
Pondicherry	1	0	0	0	0	0	0	0	0	0	0
Chattisgarh	0	0	0	0	0	0	0	0	0	0	0
Jharkhand	0	0	0	0	0	0	0	0	0	0	0
Uttaranchal	0	0	0	0	0	0	0	0	0	0	0
<b>Total Cases</b>	<b>34</b>	<b>111</b>	<b>51</b>	<b>9</b>	<b>171</b>	<b>136</b>	<b>308</b>	<b>444</b>	<b>188</b>	<b>700</b>	<b>888</b>

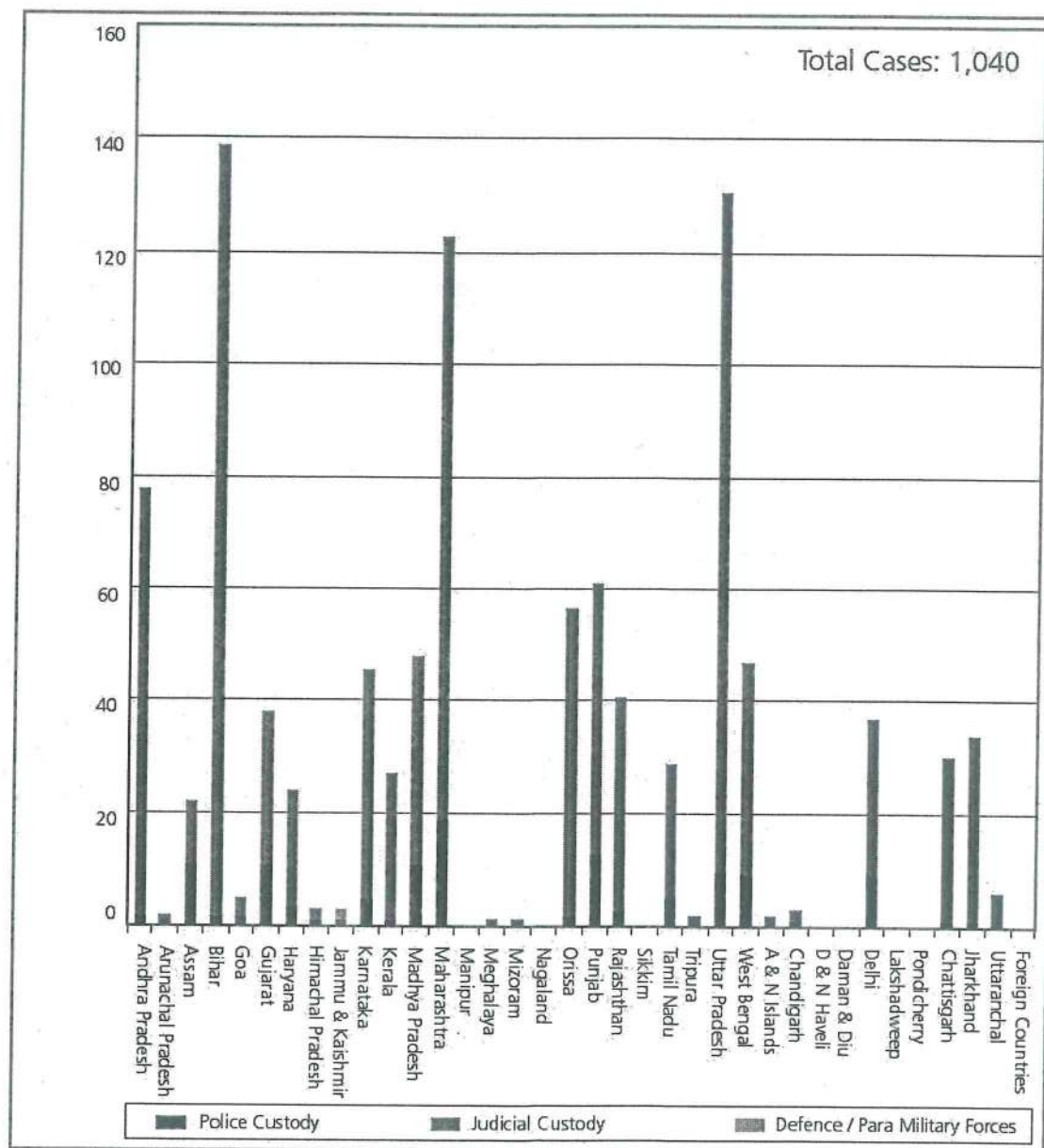
During the year 2000-2001 two deaths took place in the custody of Army and Custodial Rape also, hence the total number of deaths/rapes in custody comes to 1,040.



1997-98			1998-99			1999-2000			2000-2001			Grand
PC	JC	Total	PC	JC	Total	PC	JC	Total	PC	JC	Total	Total
21	53	74	25	96	121	11	73	84	2	76	78	515
2	2	4	2	1	3	4	0	4	1	1	2	15
18	15	33	15	22	37	11	22	33	11	11	22	191
10	107	117	10	182	192	7	155	162	2	137	139	799
0	2	2	0	1	1	2	2	4	2	3	5	16
10	27	37	8	37	45	13	19	32	11	27	38	221
3	7	10	4	18	22	5	24	28	4	20	24	106
0	0	0	2	0	2	1	0	1	1	2	3	10
2	0	2	0	0	0	0	0	0	0	1	1	26
7	33	40	10	40	50	6	35	41	5	41	46	227
6	30	36	4	25	29	6	14	20	1	26	27	135
17	43	60	19	99	118	13	58	71	11	37	48	333
17	116	133	20	98	118	30	126	156	19	104	123	767
1	0	1	3	0	3	0	1	1	0	0	0	14
2	0	2	1	6	7	0	2	2	1	0	1	29
0	1	1	0	0	0	0	0	0	1	0	1	4
1	0	1	1	0	1	0	0	0	0	0	0	9
4	19	23	0	68	68	1	45	46	2	55	57	222
8	27	35	12	43	55	11	42	55	13	48	61	249
11	30	41	3	47	50	3	45	48	3	38	41	238
0	0	0	0	0	0	0	0	0	0	0	0	1
13	54	67	14	41	55	9	48	57	4	24	28	248
2	0	2	0	0	0	0	0	0	2	0	2	5
14	172	186	20	222	242	18	141	159	10	121	131	940
10	43	53	6	40	46	19	43	62	9	38	47	322
0	0	0	0	2	2	1	2	3	0	2	2	7
0	0	0	0	0	0	0	0	0	1	2	3	3
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	1	1	0	0	0	0	0	0	1
11	26	37	0	17	17	6	19	25	9	28	37	225
0	0	0	0	0	0	0	0	0	0	0	0	0
1	0	1	1	0	1	0	0	0	0	0	0	3
0	0	0	0	0	0	0	0	0	1	29	30	30
0	0	0	0	0	0	0	0	0	1	33	34	34
0	0	0	0	0	0	0	0	0	0	6	6	6
191	807	998	180	1100	1286	177	916	1093	127	910	1037	5951

Annexure 7, Pages 238-239, NHRC, Annual Report, 2000-2001.

## Custodial Deaths/Rapes during the year 2000-2001



Page 255, NHRC Annual Report, 2000-2001.

The guidelines framed by the Commission in respect of the procedures to be followed by the authorities in dealing with deaths that occurred in encounters involving the police were circulated to all Chief Secretaries of States and Administrators of Union Territories on 29 March 1997.

In the course of the year 2000-2001, however, the Commission received 109 complaints alleging that deaths had occurred as a result of 'fake' encounters. A statement showing the state-wise position in respect of such complaints is given below. In each of these cases, the Commission is seeking to ensure that enquiries are made and action taken in accordance with its standing instructions relating to encounter deaths.



**Statement showing the cases of alleged fake encounters  
reported to the NHRC during 2000-2001**

	States/Union Territories	No. of Cases
1	Andhra Pradesh	14
2	Arunachal Pradesh	—
3	Assam	—
4	Bihar	6
5	Goa	—
6	Gujarat	2
7	Haryana	—
8	Himachal Pradesh	—
9	Jammu and Kashmir	1
10	Karnataka	—
11	Kerala	—
12	Madhya Pradesh	1
13	Maharashtra	9
14	Manipur	—
15	Meghalaya	—
16	Mizoram	—
17	Nagaland	—
18	Orissa	—
19	Punjab	—
20	Rajasthan	—
21	Sikkim	—
22	Tamil nadu	2
23	Tripura	—
24	Uttar Pradesh	68
25	West Bengal	—
26	Andaman and Nicobar Islands	—
27	Chandigarh	—
28	Dadra and Nagar Haveli	—
29	Daman and Diu	—
30	Delhi	—

States/Union Territories		No. of Cases
31	Lakshadweep	—
32	Pondicherry	—
33	Chattisgarh	—
34	Jharkhand	2
35	Uttaranchal	4
Total Cases		109

Annexure 8, Pages 240-241, NHRC, Annual Report 2000-2001.

#### 4.6. HUMAN RIGHTS VIOLATIONS BY POLICE

An attempt has also been made to gather information on details of cases where human rights were violated due to Police extremities such as 'Illegal Detentions', 'Fake Encounters', 'Extortion', 'Torture', etc. The details are presented in the following table:

**INCIDENCE OF HUMAN RIGHTS VIOLATION BY POLICE DURING 2000**

SL.NO.	STATE/UT/CITY	DISAPPEARANCE OF PERSONS			ILLEGAL DETENTION / ARRESTS			FAKE ENCOUNTER KILLINGS		
		CR	CS	CV	CR	CS	CV	CR	CS	CV
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
<b>STATES:</b>										
1	ANDHRA PRADESH	0	0	0	0	0	0	0	0	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	1	0	0	0	0	0	0	0	0
7	HARYANA	0	0	0	0	0	0	0	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	1	0	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	1	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0	0	0
12	MADHYA PRADESH	1	0	0	0	0	0	0	0	0
13	MAHARASHTRA	0	0	0	2	0	0	0	0	0
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	0	0	1	0	0	0	0	0
19	PUNJAB	0	0	0	1	0	0	0	0	0
20	RAJASTHAN	0	0	0	1	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	0	1	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	1	0	0	6	18	18	0	0	0
25	WEST BENGAL	0	0	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>18</b>	<b>18</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>UNION TERRITORIES:</b>										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0	0	0	0
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>18</b>	<b>18</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>CITIES:</b>										
33	AHMEDABAD	0	0	0	0	0	0	0	0	0
34	BANGALORE	0	0	0	0	0	0	0	0	0
35	BHOPAL	0	0	0	0	0	0	0	0	0
36	CHENNAI	0	0	0	0	0	0	0	0	0
37	COIMBATORE	0	0	0	0	0	0	0	0	0
38	DELHI (CITY)	0	0	0	0	0	0	0	0	0
39	HYDERABAD	0	0	0	0	0	0	0	0	0
40	INDORE	0	0	0	0	0	0	0	0	0
41	JAIPUR	0	0	0	0	0	0	0	0	0
42	KANPUR	0	0	0	6	18	18	0	0	0
43	KOCHI	0	0	0	0	0	0	0	0	0
44	KOLKATA	0	0	0	0	0	0	0	0	0
45	LUCKNOW	0	0	0	0	0	0	0	0	0
46	LUDHIANA	0	0	0	0	0	0	0	0	0
47	MADURAI	0	0	0	0	0	0	0	0	0
48	MUMBAI	0	0	0	0	0	0	0	0	0
49	NAGPUR	0	0	0	0	0	0	0	0	0
50	PATNA	0	0	0	0	0	0	0	0	0
51	PUNE	0	0	0	0	0	0	0	0	0
52	SURAT	0	0	0	0	0	0	0	0	0
53	VADODARA	0	0	0	0	0	0	0	0	0
54	VARANASI	0	0	0	0	0	0	0	0	0
55	VISHAKHAPATNAM	0	0	0	0	0	0	0	0	0
	<b>TOTAL (CITIES)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>18</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>0</b>

CR – Cases Registered; CS – No. of Police Personnel Charge-sheeted; CV – No. of Police Personnel Convicted



TABLE (CONTINUED ...)

SL.N O.	STATE/UT/CITY	VIOLATION AGAINST TERRORISTS/EXTREMIS TS			EXTORTION			TORTURE		
		CR (12)	CS (13)	CV (14)	CR (15)	CS (16)	CV (17)	CR (18)	CS (19)	CV (20)
(1)	(2)									
<b>STATES:</b>										
1	ANDHRA PRADESH	0	0	0	0	0	0	0	0	0
2	ARUNACHAL PRADESH	0	0	0	1	3	0	0	0	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	0	0	0	0	0	0	1	0	0
7	HARYANA	0	0	0	0	0	0	0	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	0	0	0	1	0	0
11	KERALA	0	0	0	1	0	0	0	0	0
12	MADHYA PRADESH	0	0	0	0	0	0	0	0	0
13	MAHARASHTRA	0	0	0	2	2	0	0	0	0
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	0	0	0
19	PUNJAB	0	0	0	0	0	0	0	0	0
20	RAJASTHAN	0	0	0	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	0	0	0	0	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	0	0	0	0	0	0	5	4	2
25	WEST BENGAL	0	0	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	0	0	0	4	5	0	7	4	2
<b>UNION TERRITORIES:</b>										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	0	0	0	4	3	0	1	2	0
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	0	0	0	4	3	0	1	2	0
	<b>TOTAL (ALL-INDIA)</b>	0	0	0	8	8	0	8	6	2
<b>CITIES:</b>										
33	AHMEDABAD	0	0	0	0	0	0	0	0	0
34	BANGALORE	0	0	0	0	0	0	0	0	0
35	BHOPAL	0	0	0	0	0	0	0	0	0
36	CHENNAI	0	0	0	0	0	0	0	0	0
37	COIMBATORE	0	0	0	0	0	0	0	0	0
38	DELHI (CITY)	0	0	0	4	3	0	1	2	0
39	HYDERABAD	0	0	0	0	0	0	0	0	0
40	INDORE	0	0	0	0	0	0	0	0	0
41	JAIPUR	0	0	0	0	0	0	0	0	0
42	KANPUR	0	0	0	0	0	0	0	0	0
43	KOCHI	0	0	0	0	0	0	0	0	0
44	KOLKATA	0	0	0	0	0	0	0	0	0
45	LUCKNOW	0	0	0	0	0	0	0	0	0
46	LUDHIANA	0	0	0	0	0	0	0	0	0
47	MADURAI	0	0	0	0	0	0	0	0	0
48	MUMBAI	0	0	0	0	0	0	0	0	0
49	NAGPUR	0	0	0	0	0	0	0	0	0
50	PATNA	0	0	0	0	0	0	0	0	0
51	PUNE	0	0	0	0	0	0	0	0	0
52	SURAT	0	0	0	0	0	0	0	0	0
53	VADODARA	0	0	0	0	0	0	0	0	0
54	VARANASI	0	0	0	0	0	0	1	1	1
55	VISHAKHAPATNAM	0	0	0	0	0	0	0	0	0
	<b>TOTAL (CITIES)</b>	0	0	0	4	3	0	2	3	1

TABLE (CONTINUED ...)

SL.NO.	STATE/UT/CITY	FALSE IMPLICATION			FAILURE IN TAKING ACTION			INDIGNITY TO WOMEN		
		CR	CS	CV	CR	CS	CV	CR	CS	CV
(1)	(2)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)
<b>STATES:</b>										
1	ANDHRA PRADESH	0	0	0	0	0	0	3	2	1
2	ARUNACHAL PRADESH	0	0	0	1	0	0	4	4	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	0	0	0	0	0	0	0	0	0
7	HARYANA	0	0	0	0	0	0	0	0	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	0	0	0
10	KARNATAKA	0	0	0	0	0	0	0	0	0
11	KERALA	0	0	0	0	0	0	0	0	0
12	MADHYA PRADESH	0	0	0	0	0	0	0	0	0
13	MAHARASHTRA	0	0	0	1	5	0	0	0	0
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	0	0	0
19	PUNJAB	0	0	0	0	0	0	1	0	0
20	RAJASTHAN	0	0	0	0	0	0	0	0	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	0	0	0	1	0	0	0	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	0	0	0	0	0	0	0	0	0
25	WEST BENGAL	0	0	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	0	0	0	3	5	0	8	6	1
<b>UNION TERRITORIES:</b>										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	0	0	0	0	0	0	1	1	0
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERY	0	0	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	0	0	0	0	0	0	1	1	0
	<b>TOTAL (ALL-INDIA)</b>	0	0	0	3	5	0	9	7	1
<b>CITIES:</b>										
33	AHMEDABAD	0	0	0	0	0	0	0	0	0
34	BANGALORE	0	0	0	0	0	0	0	0	0
35	BHOPAL	0	0	0	0	0	0	0	0	0
36	CHENNAI	0	0	0	0	0	0	0	0	0
37	COIMBATORE	0	0	0	0	0	0	0	0	0
38	DELHI (CITY)	0	0	0	0	0	0	1	1	0
39	HYDERABAD	0	0	0	0	0	0	0	0	0
40	INDORE	0	0	0	0	0	0	0	0	0
41	JAIPUR	0	0	0	0	0	0	0	0	0
42	KANPUR	0	0	0	0	0	0	0	0	0
43	KOCHI	0	0	0	0	0	0	0	0	0
44	KOLKATA	0	0	0	0	0	0	0	0	0
45	LUCKNOW	0	0	0	0	0	0	0	0	0
46	LUDHIANA	0	0	0	0	0	0	0	0	0
47	MADURAI	0	0	0	0	0	0	0	0	0
48	MUMBAI	0	0	0	0	0	0	0	0	0
49	NAGPUR	0	0	0	0	0	0	0	0	0
50	PATNA	0	0	0	0	0	0	0	0	0
51	PUNE	0	0	0	0	0	0	0	0	0
52	SURAT	0	0	0	0	0	0	0	0	0
53	VADODARA	0	0	0	0	0	0	0	0	0
54	VARANASI	0	0	0	0	0	0	0	0	0
55	VISHAKHAPATNAM	0	0	0	0	0	0	0	0	0
	<b>TOTAL (CITIES)</b>	0	0	0	0	0	0	1	1	0



TABLE (CONCLUDED)

SL.NO.	STATE/UT/CITY	ATROCITIES ON SC/ST			OTHERS			TOTAL		
		CR	CS	CV	CR	CS	CV	CR	CS	CV
(1)	(2)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(37)	(38)
<b>STATES:</b>										
1	ANDHRA PRADESH	65	34	2	10	8	0	78	44	3
2	ARUNACHAL PRADESH	0	0	0	10	8	0	16	15	0
3	ASSAM	0	0	0	0	0	0	0	0	0
4	BIHAR	0	0	0	0	0	0	0	0	0
5	GOA	0	0	0	0	0	0	0	0	0
6	GUJARAT	0	0	0	7	5	0	9	5	0
7	HARYANA	1	1	0	1	0	0	2	1	0
8	HIMACHAL PRADESH	0	0	0	0	0	0	0	0	0
9	JAMMU & KASHMIR	0	0	0	0	0	0	1	0	0
10	KARNATAKA	2	2	0	0	0	0	4	2	0
11	KERALA	0	0	0	7	5	0	8	5	0
12	MADHYA PRADESH	2	0	0	0	0	0	3	0	0
13	MAHARASHTRA	31	28	0	9	5	0	45	40	0
14	MANIPUR	0	0	0	0	0	0	0	0	0
15	MEGHALAYA	0	0	0	0	0	0	0	0	0
16	MIZORAM	0	0	0	0	0	0	0	0	0
17	NAGALAND	0	0	0	0	0	0	0	0	0
18	ORISSA	0	0	0	0	0	0	1	0	0
19	PUNJAB	1	0	0	3	0	0	6	0	0
20	RAJASTHAN	0	0	0	6	1	0	7	1	0
21	SIKKIM	0	0	0	0	0	0	0	0	0
22	TAMIL NADU	1	0	0	0	0	0	3	0	0
23	TRIPURA	0	0	0	0	0	0	0	0	0
24	UTTAR PRADESH	1	0	0	7	0	0	20	22	20
25	WEST BENGAL	0	0	0	0	0	0	0	0	0
	<b>TOTAL STATES</b>	<b>104</b>	<b>65</b>	<b>2</b>	<b>60</b>	<b>32</b>	<b>0</b>	<b>203</b>	<b>135</b>	<b>23</b>
<b>UNION TERRITORIES:</b>										
26	A & N ISLANDS	0	0	0	0	0	0	0	0	0
27	CHANDIGARH	0	0	0	0	0	0	0	0	0
28	D & N HAVELI	0	0	0	0	0	0	0	0	0
29	DAMAN & DIU	0	0	0	0	0	0	0	0	0
30	DELHI	0	0	0	1	0	0	7	6	0
31	LAKSHADWEEP	0	0	0	0	0	0	0	0	0
32	PONDICHERRY	0	0	0	0	0	0	0	0	0
	<b>TOTAL (UTs)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>6</b>	<b>0</b>
	<b>TOTAL (ALL-INDIA)</b>	<b>104</b>	<b>65</b>	<b>2</b>	<b>61</b>	<b>32</b>	<b>0</b>	<b>210</b>	<b>141</b>	<b>23</b>
<b>CITIES:</b>										
33	AHMEDABAD	0	0	0	0	0	0	0	0	0
34	BANGALORE	0	0	0	0	0	0	0	0	0
35	BHOPAL	0	0	0	0	0	0	0	0	0
36	CHENNAI	0	0	0	0	0	0	0	0	0
37	COIMBATORE	0	0	0	0	0	0	0	0	0
38	DELHI (CITY)	0	0	0	1	0	0	7	6	0
39	HYDERABAD	0	0	0	0	0	0	0	0	0
40	INDORE	0	0	0	0	0	0	0	0	0
41	JAIPUR	0	0	0	0	0	0	0	0	0
42	KANPUR	0	0	0	0	0	0	6	18	18
43	KOCHI	0	0	0	7	5	0	7	5	0
44	KOLKATA	0	0	0	0	0	0	0	0	0
45	LUCKNOW	0	0	0	0	0	0	0	0	0
46	LUDHIANA	1	0	0	0	0	0	1	0	0
47	MADURAI	0	0	0	0	0	0	0	0	0
48	MUMBAI	0	0	0	0	0	0	0	0	0
49	NAGPUR	0	0	0	0	0	0	0	0	0
50	PATNA	0	0	0	0	0	0	0	0	0
51	PUNE	0	0	0	0	0	0	0	0	0
52	SURAT	0	0	0	2	0	0	2	0	0
53	VADODARA	0	0	0	0	0	0	0	0	0
54	VARANASI	0	0	0	1	0	0	2	1	1
55	VISHAKHAPATNAM	0	0	0	0	0	0	0	0	0
	<b>TOTAL (CITIES)</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>5</b>	<b>0</b>	<b>25</b>	<b>30</b>	<b>19</b>



During the year, 210 cases of Human Rights Violation by Police were reported throughout the country. For these Human Rights Violations, 141 Policemen were charge-sheeted and 23 of them were convicted. Andhra Pradesh reported the maximum 44 (20.9%) of such cases followed by Maharashtra 40 (19.0%). Among UTs, only 6 cases were reported from N.C.T. of Delhi.

Out of 210 cases, 404 were reported for 'Atrocities on SC/ST', 12 for 'Illegal Detention/Arrests', 12 for 'Indignity to Women' and 8 for 'Torture'.

With regard to Human Rights violations by police in various states, during 2000 the position is as below :

Disappearance	-	04
Illegal Detention/Arrest	-	12
Fake Encounter/Killing	-	02 (one from State and one From U.T.)
Extortion	-	04
Torture	-	04
False Implication	-	Nil
Failure in taking action	-	03
Indignity to women	-	08
Atrocities on SC/STs	-	104
Others	-	60

To sum up, the areas of human rights violations in pre-trial areas include non-registration of first information reports, fabrication of evidence, procedures connected with arrest, custodial deaths and rapes in police custody. Human rights violations are also possible in a state of emergency in the country and while handling law and order related incidents. Human rights violations by Police affect dalits, minorities, women and children. Further, it is also possible for human rights violations to occur in

instances of surveillance by intelligence agencies, search and seizure procedures and false implication of persons in criminal cases.

The National Human Rights Commission has noted with some satisfaction that there has been a decline in the total number of custodial deaths reported in 2000-2001 having gone down from 1093 in 1999-2000 to 1037 in 2000-01. Of these, deaths in police custody have shown a significant decrease from 177 in 1999-2000 to 127 in 2000-2001. During 2000-01 the Commission received 109 complaints about fake encounters. The situation in the States of Andhra Pradesh (14) and Uttar Pradesh (68) is disturbing. With regard to custodial rapes, they have shown a decline from 6 in 1996 to 2 in 2000.

## **CHAPTER – 5**

# **PROCEDURAL DIMENSIONS OF** **STUDY**



## CHAPTER – 5

### PROCEDURAL DIMENSIONS OF STUDY

In this chapter, the investigator presents the details of various procedural steps undertaken by him to complete the study. This chapter covers inter-alia:

- Statement of problem.
- Need and importance of study.
- Objectives of study.
- Procedure Sample of study.
- Data collection and Analysis Methodology.

#### 5.1. STATEMENT OF PROBLEM:

The problem statement was worded by the investigator as under :

**“Development of Training Modules in Human Rights For Police Executives in India”.**

Definition of terms:

- i) **Human Rights :** “Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution and embodied in the International Covenants and enforceable by Courts in India”-Sec 2 (d) of the Protection of Human Rights Act, 1993.
- ii) **Human Rights Education:** It has been defined as training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes and which are directed to:
  - a) The strengthening of the respect for human rights and fundamental freedoms.

- b) The full development of the human personality and the sense of its dignity.
  - c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national ethnic, religious and linguistic groups.
  - d) The enabling of all persons to participate effectively in a free society.
  - e) The furtherance of the activities of the UN for the maintenance of peace.
- iii) **Awareness :** For the purpose of this study, the term awareness is defined as-
- awareness of police personnel regarding National Human Rights Commission and its role and functions
  - awareness of relevant provisions of law regarding human rights
  - awareness of various committees and commissions for checking custodial violence
  - awareness of various laws and regulations related to arrest/detention, treatment to arrestees/detainees, their medical treatment etc., and,
  - awareness of the role and functions of various Governmental/ Non-Governmental and International Organisations working for the cause of Human Rights in India.
- iv) **Training Interventions:** Structured training experiences in induction and in-service courses for inculcating proper knowledge, professional skills and attitudes of Human Rights observance. e.g : Human Relations Training and Sensitivity Training.
- v) **Non-Training OD Interventions:** They include counseling, rewards, performance appraisal, placement of police personnel at police stations based on psychological testing etc.

## **5.2. NEED AND IMPORTANCE OF THE STUDY**

a) Respect for Human Rights is the very basis of a civilized society and of the Indian Democratic Republic, as enshrined in the preamble of our Constitution. A citizen is sovereign and with his consent, power becomes legitimate. In India, we have no subjects but only citizens. Citizens are endowed with certain inherent basic rights with concomitant duties and hold accountable the power of the State, howsoever manifested.

b) Inputs on Human Rights are being imparted at various Police Training Institutions in the country. To the best of the knowledge of the Investigator, no systematic effort has been made to identify the training and non-training organizational interventions for inculcating human rights observance by police in India.

c) Human Rights awareness through Human Rights training and Non-Training Organisational Interventions (like counseling, performance appraisal, rewards, placement of police personnel at police stations based on psychological testing, etc.) will greatly enhance the sensitivities of police personnel and equip them with necessary knowledge, skills and attitudes that would encourage Human Rights observance in their day-to-day policing and also promote a culture of Human Rights observance within the organization.

## **5.3. OBJECTIVES**

The following were the objectives of the study:

1. To assess the Human Rights Awareness levels amongst the Police personnel.
2. To assess the attitudes of Police Personnel towards observance of Human Rights.



3. To elicit the opinion of the Senior Police Officers and the members of Public on Non-training and OD interventions for Human Rights Observance.
4. To identify the role of Senior Police Officers in promoting Human Rights Observance by Police personnel.
5. To design modules for Police personnel on Human Rights on the basis of measurements of Human Rights awareness and attitudes.

#### **5.4. PROCEDURE**

The following steps were undertaken for completing the study:

##### **5.4.1. REVIEW OF LITERATURE ON HUMAN RIGHTS**

To develop the conceptual understanding on Human Rights related issues, a comprehensive review of literature was done (Newspaper Clippings, Articles, Books, Publications of the National Human Rights Commission, Reports of U.N. Agencies, Amnesty International, Indian Constitution, I.P.C., Cr.P.C. and Indian Evidence Act.)

Review of related literature helped in developing a set of questionnaires for data collection.

##### **5.4.2. DATA GATHERING INSTRUMENTS.**

The following data gathering instruments were constructed:

##### **ATTITUDE TOWARDS OBSERVANCE OF HUMAN RIGHTS BY POLICE SCALE**

The investigator reviewed books, periodicals and other descriptive material for developing the attitude scale. The attitude statements were worded in accordance with the following suggestions by Edwards and Kilpatrick (1946), Wang (1932), Thurstone and Chave(1929), and Likert (1932):

- “1. Avoid statements that refer to the past rather than to the present.
2. Avoid statements that are factual or capable of being interpreted as factual.

3. Avoid Statements that may be interpreted in more than one way.
4. Avoid statements that are irrelevant to the psychological object under consideration.
5. Avoid statements that are likely to be endorsed by almost everyone or by almost no one.
6. Select statements that are believed to cover the entire range of the affective scale of interest.
7. Keep the language of statements simple, clear and direct.
8. Statements should be short, rarely exceeding 20 words.
9. Each statement should contain only one complete thoughts.
10. Statements containing universals such as all, always, more and never often introduce ambiguity and should be avoided.
11. Words such as only, just, merely and others of a similar nature should be used with care in writing statements.
12. Whenever possible, statements should be in the form of simple sentences rather than in the form of compound or complex sentences.
13. Avoid the use of words that may not be understood by those who are to be given the completed scale.
14. Avoid the use of double negatives".

An initial pool of 90 statements was prepared. This pool was given to ten experienced police officers. They were requested to rate each statement on three categories by answering the under mentioned question :

"Is the attitude/view measured by this item

- Essential?
- useful but not essential or
- not necessary?"

After collecting their opinions on every statement content validity ratios (CVRs) were calculated by using the following formula (Lawshe, 1975):

$$\text{CVR} = \frac{n_e - N/2}{N/2}$$

Where, ne-number of panelists indicating an item essential. N-Number of panelists.

Considering table statements whose CVRs were more than or equal to 0.62 were selected because CVR 0.62 or more is significant at .05 level of significance for N=10. In this way the content validity of statements was ascertained quantitatively by utilizing Lawshe's suggestions. Out of 125 only 60 statements were retained.

Fifty percent items were of positive polarity and remaining fifty percent items were of negative polarity. This instrument was administered on 100 Police Officers.

The five categories were:

**SA-Strongly Agree -5**

**A- Agree -4**

**N-Neutral -3**

**D-Disagree -2**

**SD-Strongly Disagree-1.**

For items of negative polarity, the scoring system was reversed.

#### **STEP 1.**

The investigator considered the frequency distribution of scores based upon the responses to all statements. Then 25 percent of the subjects (NH=40) with the highest total scores and also 25 percent of the subjects (NL=40) with the lowest total scores were selected. These were termed as high and low group.

#### **STEP 2**

In evaluating the responses of high and the low groups on each statement to values were computed.

The t-values for 32 statements are given in the following Table.



The t-values for 32 items

Statement	$X_E$	$X_L$	t-value
1	3.775	3.3	2.617
2	3.50	2.825	3.147
3	3.525	2.35	4.081
4	3.15	1.8	4.58
5	3.57	2.45	3.96
6	3.50	2.425	3.87
7	3.425	1.976	4.827
8	3.35	1.63	6.04
9	2.75	1.625	5.695
10	3.5	2.393	4.258
11	3.425	2.4	2.71
12	3.525	2.625	3.101
13	3.775	3.3	2.617
14	3.50	2.825	3.147
15	3.525	2.35	4.081
16	3.15	1.8	4.58
17	3.57	2.45	3.96
18	3.50	2.425	3.87
19	3.425	1.976	4.827

20	3.35	1.63	6.04
21	2.75	1.625	5.695
22	3.5	2.393	4.258
23	3.425	2.4	2.71
24	3.525	2.625	3.101
25	3.775	3.3	2.617
26	3.50	2.825	3.147
27	3.525	2.35	4.081
28	3.15	1.8	4.58
29	3.57	2.45	3.96
30	3.50	2.425	3.87
31	3.425	1.976	4.827
32	3.35	1.63	6.04

### **Final Form**

The final form of scale contained 32 statements out of which 17 were of positive polarity and 18 were of negative polarity.

The attitude scale has been constructed to measure holistically the attitude of police personnel towards observance of human rights. Every care has been taken by the investigator to incorporate as below the various ingredients of Human Rights (HR) and Human Rights Education (HRE) as defined at page 143:-

<u>Ingredients of HR &amp; HRE</u>	<u>Attitude Scale Item</u>
Life	8, 11, 32
Liberty	3, 10, 13
Equality and Dignity of individuals	2, 17, 20
Tolerance	21
Gender Equality	24
Facilitating effective participation in Free society.	28, 29
Indian Laws and International Covenants Relating to Human Rights	1, 4, 5, 14, 15, 16, 18, 19, 23, 30, 31.

The reliability of attitude scale as calculated by split-half-method was found to be 0.852. Attitude scale was administered on a randomly selected sample of 1095 police officers in the rank of ASP/Dy.SP/SP from a total population of 9513. Data was analysed to provide information about the internal consistency and discriminate validity of the dimensions.

A copy of the questionnaire is appended (Appendix 'A' )

### HUMAN RIGHTS AWARENESS TEST

This test has 5 parts:

- Part 'I' consists of 5 sentence completion type questions measuring knowledge/awareness of the Police personnel on National Human Rights Commission.

Sample Item: "What is the full form of 'N.H.R.C' ?

- Part 'II' contains matching exercise having 6 questions on related aspects of Law.

Sample Item : Article 21 : \_\_\_\_\_

- Part 'III' consists of 4 short answer type questions based on Sections 302, 330 and 331 of I.P.C. Fourth question in Part 'III' is based on the Recommendation of National Police Commission for checking Custodial Violence.



Sample Item: Recommendations of National Police Commission on stopping Custodial Violence.

- Part 'IV' of the Human Rights Awareness test consists of 10 alternative response type responses.

Sample Item: A person can be prosecuted for the offence for which he is acquitted by court of Law? Yes/No.

- Part 'V' contains 10 multiple choice type questions.

Sample Item: What are the preconditions of using handcuffs by police ?

- a) Recording of reasons and furnishing the same to court.
- b) Taking permission of court before use of handcuffs.
- c) No intimation is to be given to court.

Following tests were used for ascertaining the reliability and validity of Human Rights Awareness Test :-

- 1) Content Validity
- 2) Discriminant Validity of multiple choice items.
- 3) Internal consistency through KR 22 formula, which was found to be 473.

A copy of the questionnaire is appended (Appendix 'B' )

#### POLICE LEADERSHIP ROLE IN OBSERVANCE OF HUMAN RIGHTS QUESTIONNAIRE (PLRHR)

The questionnaire contains 4 alternate response type of questions for eliciting the opinion of a randomly selected sample of 247 Senior Police Officers in the rank of DIG/IGP/ADG out of a total population of 1070 on Human Rights related issues and the role of Police. The questionnaire also elicits the response on professional skills to be developed in Police personnel for observance of Human Rights by them. Questionnaire asks the respondents to identify 5 factors which are responsible for

violation of Human Rights by Police in India. They are also asked to comment on the extent to which Human Rights are being violated in our country in various functional areas viz., Arrest, Police Custody; Use of handcuffs, Use of Third degree, Illegal search, Illegal seizure, Violation of Court orders/directives, Medical attention to detainees, Politicisation of Police work, Treatment of ethnic minorities, Scheduled Castes/ Scheduled Tribes, Coercion to compel one to become witness against one-self, Lack of impartiality and Treatment to women.

The respondents are also required to specify the Police Leadership role in tackling the issue of Human Rights by Police in India. Their expectations from Government, Media, Judiciary, Academicians, Voluntary Organisations/NGOs. International Organisations and Legislature are also elicited through the questionnaire.

A copy of the questionnaire is appended (Appendix 'C').

#### QUESTIONNAIRE ON NON-TRAINING ORGANIZATIONAL INTERVENTIONS FOR HUMAN RIGHTS OBSERVANCE

The investigator after consulting books and articles on HRD & OD evolved this questionnaire. (Appendix 'D'). It contains 22 items. The respondents are a randomly selected sample of 100 Senior Police Officers in the rank of DIG/AIG/ADG out of a total population of 1070. They are required to respond on a 5 - points scale:

- 5 – Fully
- 4 – Very Frequently
- 3 – Frequently
- 2 – To some extend
- 1 – Not at all

Sample of the 22 item non training organizational interventions put in the questionnaire include:-

- Emphasis in Employee Appraisal System on Human Rights.
- Counselling of Subordinates.
- Coaching for Human Rights Observance.
- Feedback through continuous interaction with the colleagues and subordinates.
- Conduct of meetings to discuss human rights violations.

In the questionnaire (Appendix 'E') for eliciting the response of 100 eminent members of the Public through random sampling, the same 22 items of non-training organizational interventions as above were retained, but the category system was :

4 – Fully

3 – To a great extent

2 – To some extent

1 – Not at all

#### 5.5. SAMPLE

Two questionnaires (Attitudes Scale and Human Rights Awareness Test) were administered on a randomly selected sample of 1095 Police personnel in the country in the rank of ASP/DySP and Superintendents of Police from a total population of 9513.

Police Leadership Role in Observance of Human Rights questionnaire was administered on a randomly selected sample of 247 Deputy Inspectors General/Inspectors General and Additional Directors General of Police out of a total population of 1070 who attended various training programmes at the National Police Academy.

Two questionnaires (for Senior Police Officers/Members of the General Public) on Non-Training Interventions for Observance of Human Rights by Police were administered on a randomly selected sample of 100 senior police officers in the rank of DIG/IG/ADG out of a total population of 1070 and 100 eminent members of the public



consisting of Academicians/Lawyers/Judicial Officers and Representatives of NGOs dealing with Human Rights from all over the country.

#### **5.6. DATA COLLECTION AND SCORING OF QUESTIONNAIRES**

Data collection was undertaken by sending civilian research associates all over the country with a view to have objective data from police officers. While maintaining confidentiality, respondents were not insisted to give their signature on the filled questionnaire.

Hand –Scoring was done. Content analysis of qualitative data was also done.

#### **5.7. APPLICATION OF STATISTICAL TREATMENT**

After putting the data on Computer, S.P.S.S. Package was used for the analysis of data, following statistical tools were used :-

1. Descriptive – Mean & S.D. etc.
2.  $X^2$ -Test

## **CHAPTER – 6**

### **ATTITUDE TOWARDS** **OBSERVANCE OF HUMAN** **RIGHTS BY POLICE**

## CHAPTER - 6

### ATTITUDE TOWARDS OBSERVANCE OF HUMAN RIGHTS BY POLICE

#### 6.1: INTRODUCTION:

In this Chapter an attempt has been made to:-

- 1) present attitude profile of the Police executives towards observance of Human Rights.
- 2) Analyse data and report findings on each statement of attitude scale.

#### 6.2: PERFORMANCE ON ATTITUDE SCALE:

A 32 item attitude scale measuring the attitude of police personnel towards observance of Human Rights was administered on 1095 police executives in the rank of ASP and DySP/SP randomly selected out of a population of 7293/2220 respectively. On analysis, the following findings were arrived at:-

**TABLE 1**

#### **DESCRIPTIVE STATISTICAL INDICATORS REGARDING ATTITUDE**

Mean	115.839	Std err. 602	Median 118.000
Mode	18.000	Std dev 19.906	Variance 396.241
Kurtosis	6.858SE	Kurt.148	Skewness - 1.828
SE Skew	.074	Range 151.000	Minimum 4.000
Maximum	155.000	Sum 126612.000	
Valid cases	1093	Missing Cases 2	

(On attitude scale the range of the scores will be 32-160).



On further analysis of data, the following score ranges were derived by the plotting the data on Normal Probability Curve (NPC).

**TABLE 2**  
**RANGE OF ATTITUDE SCORES**

SCORE RANGE	FREQUENCY		DESCRIPTION OF ATTITUDE
155+	1		Very High
135-154	146	147	High
95-115	502		Moderate
	341	843	Moderate
75-94	78		Low
< 74	27	105	Very Low

From Table 2, it is evident that only 147 police executives out of 1095 had high positive attitude towards observance of Human Rights. 843 police executives had moderate attitude towards observance of Human Rights which is not very desirable. 105 Police Executives had low attitude towards observance of Human Rights.

### **6.3: PERFORMANCE ON ATTITUDE SCALE (ITEM-WISE)**

#### **6.3.1. PERFORMANCE ON STATEMENT NO.1**

The results from statistical analysis are presented in Table 3:-

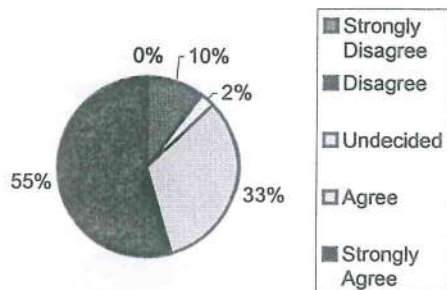
**TABLE 3**  
**RESPONSE ON ATTITUDE STATEMENT NO.1**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Policemen should derive power and authority from the posts they hold rather than from Law.	4.312	0.945	54.4	32.8	2.4	10.4	0	82.456 (s) .05 signi- ficance

From Table 3, it is evident that the Mean score on Item No.1 was found to be 4.312. The X<sup>2</sup> value of 82.456 was found to be significant at 0.05 level of significance. Thus it can be inferred that the respondents were found to have strong agreement with the statement "Policemen should derive their power and authority from the posts they hold rather than from Law".

It is a very negative attitude towards observance of Law by police in the discharge of their duties. They are out-weighing power and authority they derive from the post as against from Law. The diagrammatic representation of data is in figure 1.

Figure (1) Policemen should derive their power and authority from the posts they hold rather than from law.



#### 6.3.2. PERFORMANCE ON STATEMENT NO.2

The results from statistical analysis are presented in Table 4 :-

TABLE 4

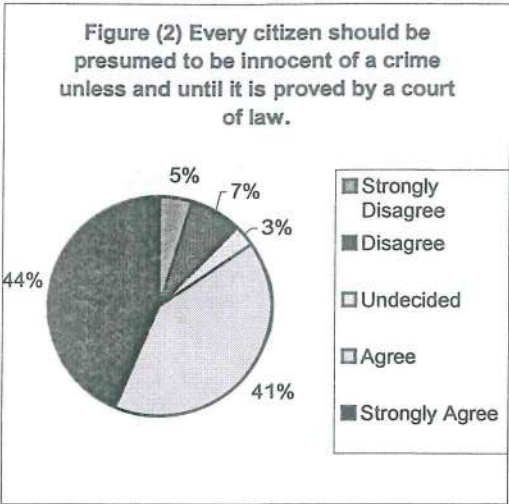
#### RESPONSE ON ATTITUDE STATEMENT NO.2

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Every citizen should be presumed to be innocent of a crime unless and until it is proved by a Court of law.	4.113	1.091	43.2	40.8	3.2	7.2	4.8	103.823 (S) .05 level of signi- ficance df = 4

From Table 4, it is evident that the Mean score on Item No.2 was found to be 4.113. The X<sup>2</sup> value of 103.823 was found to be significant at 0.05 level of significance. Thus it can be inferred that the respondents were found to have strong agreement with the statement "Every citizen should be presumed to be innocent of a



crime unless and until it is proved by a court of law”. It is a very positive attitude towards observance of Law by police during discharge their duties. The diagrammatic representation is in figure 2.



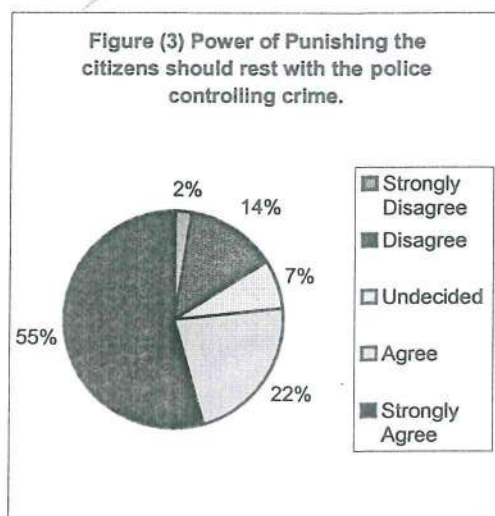
6.3.3. PERFORMANCE ON STATEMENT NO.3:

The results from the statistical analysis are presented in Table 5:-

TABLE 5

RESPONSE ON ATTITUDE STATEMENT NO.3								
Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Power of Punishing the citizens should rest with the Police for controlling crime.	4.128	1.171	54.4	22.4	7.2	13.6	2.4	6.480(S) level of of signi fiance df = 4

From Table 5, it is evident that the Mean score on Item No.3 was found to be 4.128. The  $X^2$  value of 106.480 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Power of punishing the citizens should rest with the police for controlling crime”. It is a very negative attitude towards observance of Law by police as the power of punishing the citizens found guilty vests with the judiciary and not with the police. The diagrammatic representation is in figure 3.



#### 6.3.4. PERFORMANCE ON STATEMENT NO.4:

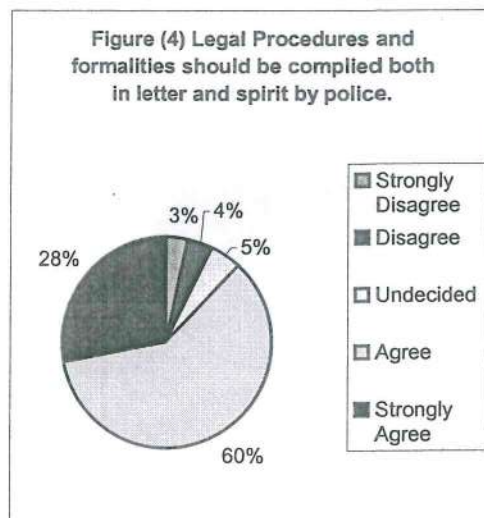
The results from the statistical analysis are presented in Table 6:-

TABLE 6

## RESPONSE ON ATTITUDE STATEMENT NO.4

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Legal procedures and formalities should be complied both in letter and spirit by Police.	4.056	0.883	28.0	60.0	4.8	4.0	3.2	152.080(S) level of significance df = 4

From Table 6, it is evident that the Mean score on Item No.4 was found to be 4.-56. The X<sup>2</sup> value of 152.080 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Legal procedures and formalities should be complied both in letter and spirit by Police”. It is a positive attitude because they seem to respect the legal procedures and formalities both in letter and spirit. The diagrammatic representation is in figure 4.





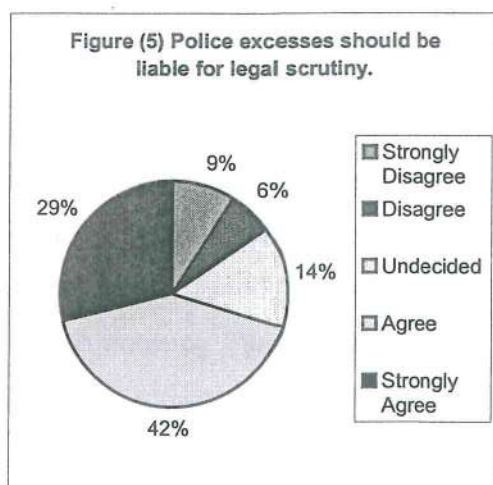
### 6.3.5. PERFORMANCE ON STATEMENT NO.5:

The results from the statistical analysis are presented in Table 7:-

**TABLE 7**  
**RESPONSE ON ATTITUDE STATEMENT NO.5**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Police excesses should be liable for legal scrutiny.	3.752	1.196	28.8	41.6	14.4	6.4	8.8	55.360 (S) .05 level of significance.

From Table 7, it is evident that the Mean score on Item No.5 was found to be 3.752. The X<sup>2</sup> value of 55.360 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to be in strong agreement with the statement – “Police excesses should be liable for legal scrutiny”. It reflected their positive attitude towards observance of Human Rights because they believed that police excesses should be legally scrutinized. The diagrammatic representation is in figure 5.



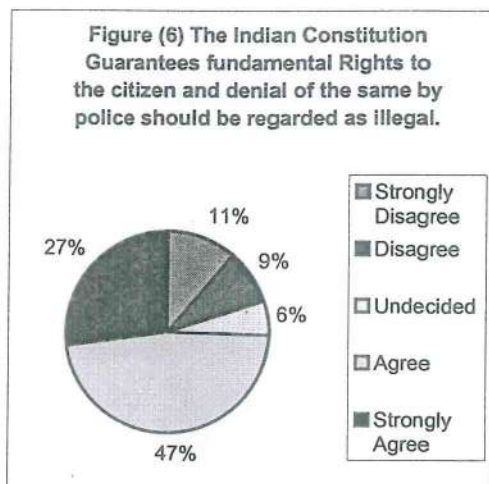
### 6.3.6. PERFORMANCE ON STATEMENT NO.6:

The results from the statistical analysis are presented in Table 8:-

**TABLE 8**  
**RESPONSE ON ATTITUDE STATEMENT NO.6**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
The Indian Constitution guarantees Fundamental Rights to the citizen and denial of the same by police should be regarded as illegal.	3.704	1.270	27.2	47.2	5.6	8.8	11.2	75.120(S) .05 level of significance df = 4

From Table 8, it is evident that the Mean score on Item No.6 was found to be 3.704. The X<sup>2</sup> value of 75.120 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to be in strong agreement with the statement – “The Indian Constitution guarantees Fundamental Rights to the citizen and denial of the same by police should be regarded as illegal”. It reflects their positive attitude towards guaranteeing Fundamental Rights to the citizens as per the Constitution. The diagrammatic representation is in figure 6.



#### 6.3.7. PERFORMANCE ON STATEMENT NO.7:

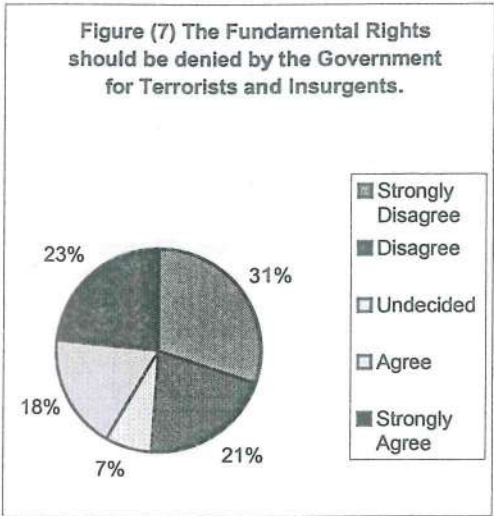
The results from the statistical analysis are presented in Table 9:-

**TABLE 9**  
**RESPONSE ON ATTITUDE STATEMENT NO.7**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
The Funda- mental Rights should be denied by the Government for terrorists and insurgents.	2.832	1.590	23.2	18.4	7.2	20.8	30.4	17.840 (S) .05 level of significance df = 4

From Table 9, it is evident that the Mean score on Item No.7 was found to be 2.832. The X<sup>2</sup> value of 17.840 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents had strong agreement with the statement – “The Fundamental Rights should be denied by the Government for terrorists and insurgents”. This is indicative of a negative attitude towards observance of Human Rights. The diagrammatic representation is in figure 7.





**6.3.8. PERFORMANCE ON STATEMENT NO.8:**

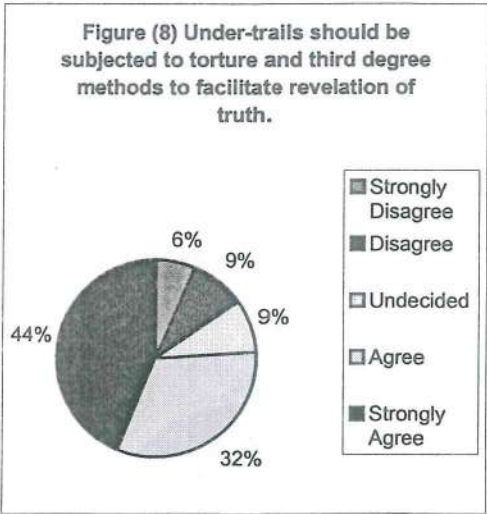
The results from the statistical analysis are presented in Table 10:-

**TABLE 10**  
**RESPONSE ON ATTITUDE STATEMENT NO.8**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Under trials should be subjected to torture and third degree methods to facilitate revelation of truth	3.984	1.211	44.0	32.0	8.8	8.8	6.4	72.240 (S) .05 level of significance df = 4

From Table 10, it is evident that the Mean score on Item No.8 was found to be 3.984. The X<sup>2</sup> value of 72.240 was found to be significant at 0.05 level of

significance. Thus, it can be inferred that the respondents had strong agreement with the statement – “Under-Trials should be subjected to torture and third degree methods to facilitate revelation of truth”. It reflects their negative attitude to Human Rights. The diagrammatic representation is in figure 8.



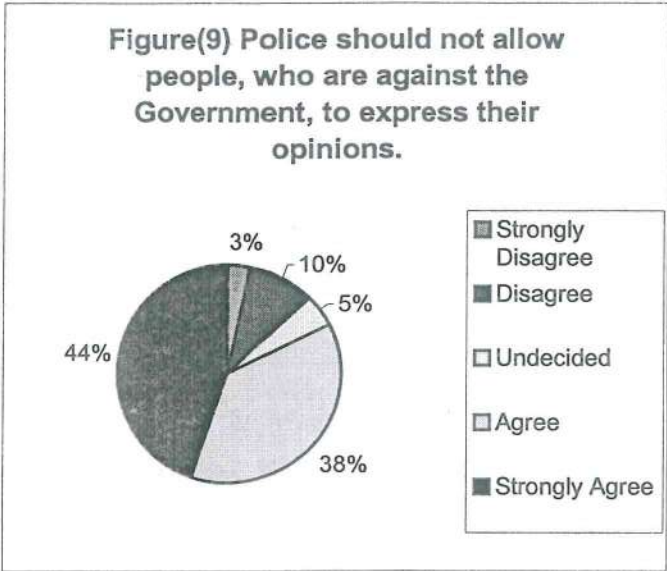
6.3.9. PERFORMANCE ON STATEMENT NO.9:

The results from the statistical analysis are presented in Table 11:-

TABLE 11  
RESPONSE ON ATTITUDE STATEMENT NO.9

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Police should not allow people who are against the Government to express their opinions.	4.112	1.079	44.8	37.6	4.8	9.6	3.2	96.640 (S) .05 level of significance df = 4

From Table 11, it is evident that the Mean score on Item No.9 was found to be 4.112. The  $X^2$  value of 96.640 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to be in strong agreement with the statement – “Police should not allow people, who are against the Government, to express their opinions”. The respondents were found exhibiting a negative attitude towards observance of Human Rights. The diagrammatic representation is in figure 9.



**6.3.10. PERFORMANCE ON STATEMENT NO.10:**

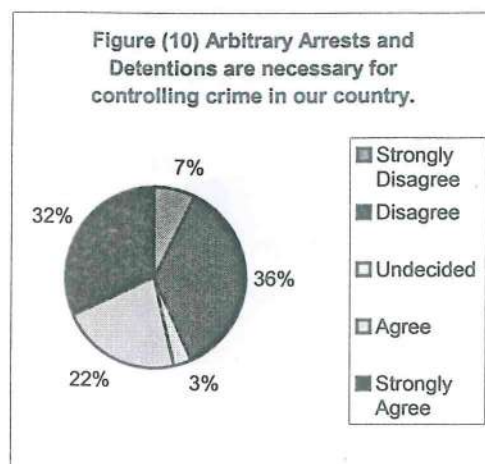
The results from the statistical analysis are presented in Table 12:-



**TABLE 12**  
**RESPONSE ON ATTITUDE STATEMENT NO.10**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Arbitrary arrests and detentions are necessary for controlling crime in our country.	3.352	1.427	32.0	21.6	3.2	36.0	7.2	53.040 (S) .05 level of significance df = 4

From Table 12, it is evident that the Mean score on Item No.10 was found to be 3.352. The X<sup>2</sup> value of 53.040 was found to be significant at 0.05 level of significance. Thus it can be inferred that the respondents were found to have strong agreement with the statement . “Arbitrary arrests and detentions are necessary for controlling crime in our country”. The respondents were found to agree strongly with the view that arbitrary arrests and detentions were necessary for controlling crime. This reflects their negative attitude to observance of Human Rights. The diagrammatic representation is in figure 10.



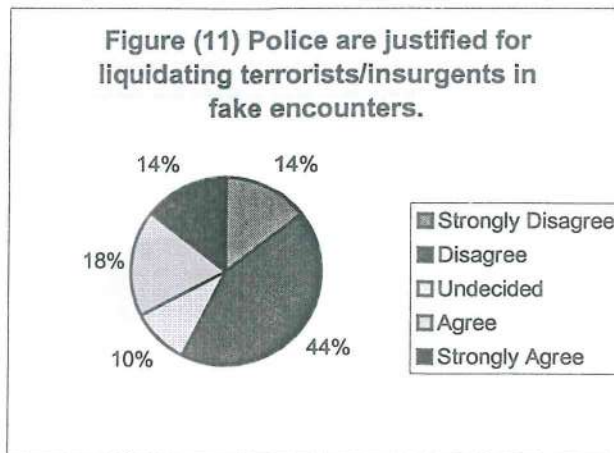
#### 6.3.11. PERFORMANCE ON STATEMENT NO.11:

The results from the statistical analysis are presented in Table 13:-

**TABLE 13**  
**RESPONSE ON ATTITUDE STATEMENT NO.11**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Police are justified for liquidating terrorists/insurgents in fake encounters.	2.752	1.312	14.4	18.4	9.6	43.2	14.4	44.480 (S) .05 level of significance df = 4

From Table 13, it is evident that the Mean score on Item No.11 was found to be 2.752. The X<sup>2</sup> value of 44.480 was found to be significant at 0.05 level of significance. Thus it can be inferred that the respondents were found to have strong disagreement with the statement – “Police are justified for liquidating terrorists/insurgents in fake encounters”. It reflects their negative attitude towards observance of Human Rights of terrorists. The diagrammatic representation is in figure 11.



#### 6.3.12. PERFORMANCE ON STATEMENT NO.12:

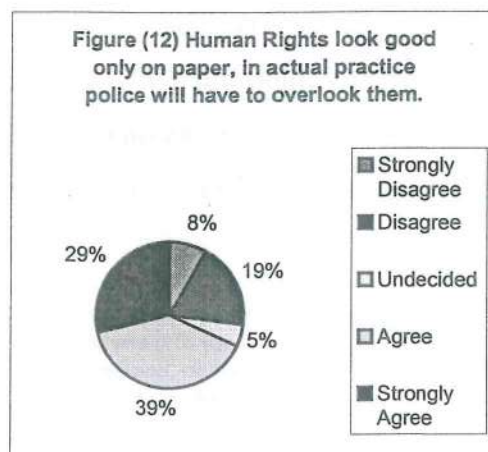
The results from the statistical analysis are presented in Table 14:-

**TABLE 14**  
**RESPONSE ON ATTITUDE STATEMENT NO.12**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Human Rights look good only on paper, in actual practice Police will have to overlook them.	3.616	1.300	28.8	39.2	4.8	19.2	8.00	51.360 (S) .05 level of significance df = 4

From Table 14, it is evident that the Mean score on Item No.12 was found to be 3.616. The X<sup>2</sup> value of 51.360 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents had strong agreement with the statement – “Human Rights look good only on paper, in actual practice police will have to overlook them”. This reflects their very negative attitude towards observance of Human Rights. The diagrammatic representation is in figure 12.





### 6.3.13. PERFORMANCE ON STATEMENT NO.13:

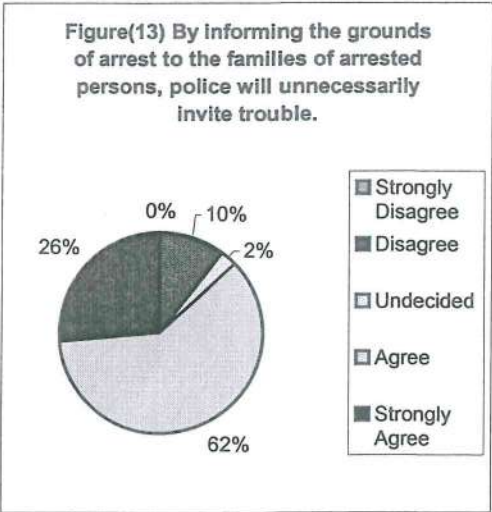
The results from the statistical analysis are presented in Table 15:-

**TABLE 15**  
**RESPONSE ON ATTITUDE STATEMENT NO.13**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
By informing the grounds of arrest to the families of arrested persons, Police will unnecessarily invite trouble.	4.032	0.842	26.4	60.8	2.4	10.4	0	100.376 (S) .05 level of significance df = 4

From Table 15, it is evident that the Mean score on Item No.13 was found to be 4.032. The X<sup>2</sup> value of 100.376 was found to be significant at 0.05 level of

significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “By informing the grounds of arrest to the families of arrested persons, police will unnecessarily invite trouble”. This reflects their negative attitude towards observance of Human Rights of arrested people. The diagrammatic representation is in figure 13.



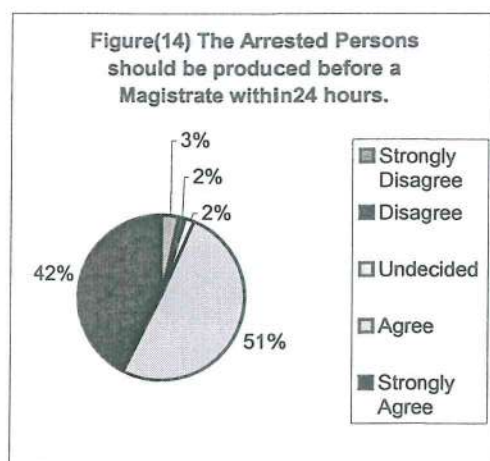
6.3.14. PERFORMANCE ON STATEMENT NO.14:

The results from the statistical analysis are presented in Table 16:-

**TABLE 16**  
**RESPONSE ON ATTITUDE STATEMENT NO.14**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
The arrested persons should be produced before a Magistrate within 24 hours.	4.280	0.848	42.4	51.2	1.6	1.6	3.2	152.160 (S) .05 level of significance df = 4

From Table 16, it is evident that the Mean score on Item No.14 was found to be 4.280. The  $X^2$  value of 152.160 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “The arrested persons should be produced before a Magistrate within 24 hours”. This reflects their willingness to adhere to the rule of law. The diagrammatic representation is in figure 14.



#### 6.3.15. PERFORMANCE ON STATEMENT NO.15

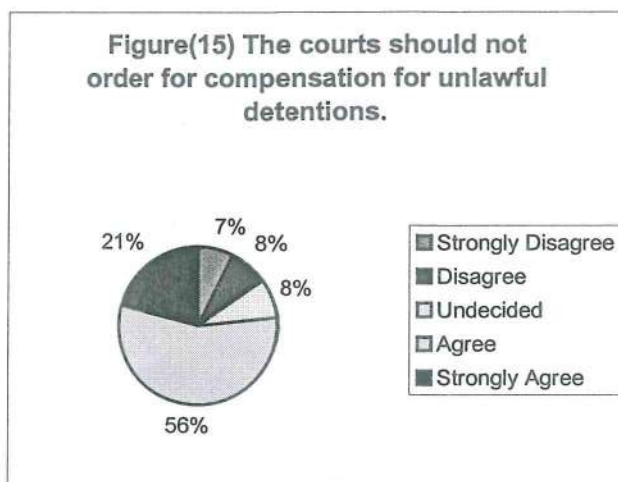
The results from the statistical analysis are presented in Table 17:-

**TABLE 17**  
**RESPONSE ON ATTITUDE STATEMENT NO.15**

Statement	Mean	S.D.	Response (in percentage)					$X^2$ Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
The Courts should not order for compensation for unlawful detentions.	3.752	1.097	20.8	56.0	8.0	8.0	7.2	109.280 (S) .05 level of significance df = 4



From Table 17, it is evident that the Mean score on Item No.15 was found to be 3.752. The  $X^2$  value of 109.280 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “The Courts should not order for compensation for unlawful detentions”. This reflects their negative attitude towards the people under detention. The diagrammatic representation is in figure 15.



#### 6.3.16. PERFORMANCE ON STATEMENT NO.16:

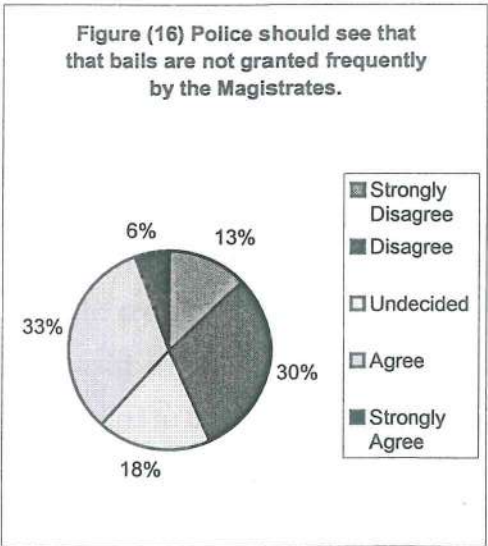
The results from the statistical analysis are presented in Table 18:-

**TABLE 18**  
**RESPONSE ON ATTITUDE STATEMENT NO.16**

Statement	Mean	S.D.	Response (in percentage)					$X^2$ Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Police should see that bails are not granted frequently by the Magistrates.	2.880	1.168	5.6	32.8	18.4	30.4	12.8	33.360 (S) 05 level of significance df = 4

From Table 18, it is evident that the Mean score on Item No.16 was found to be 2.880. The  $X^2$  value of 33.360 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong disagreement with the statement – “Police should see that bails are not granted frequently by the Magistrates”.

This is not a healthy attitude towards observance of Human Rights. The diagrammatic representation is in figure 16.



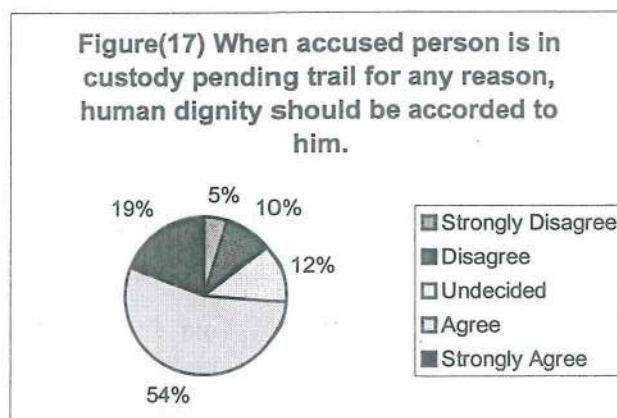
6.3.17. PERFORMANCE ON STATEMENT NO.17:

The results from the statistical analysis are presented in Table 19:-

**TABLE 19**  
**RESPONSE ON ATTITUDE STATEMENT NO.17**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
When accused person is in custody pending trial for any reason, human dignity should be accorded to him.	3.736	1.033	19.2	54.4	12.0	9.6	4.8	99.200 (S) .05 level of significance df = 4

From Table 19, it is evident that the Mean score on Item No.17 was found to be 3.736. The X<sup>2</sup> value of 99.200 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “When accused person is in custody pending trial for any reason, human dignity should be accorded to him”. This reflects their positive attitude towards observance of Human Rights. The diagrammatic representation is in figure 17.





## DESCRIPTIVE STATISTICAL INDICATORS REGARDING ATTITUDES

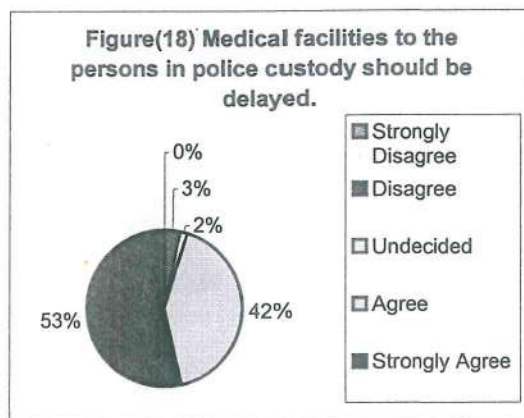
### 6.3.18. PERFORMANCE ON STATEMENT NO.18:

The results from the statistical analysis are presented in Table 20:-

**TABLE 20**  
**RESPONSE ON ATTITUDE STATEMENT NO.18**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Medical facilities to the persons in police custody should be delayed.	4.456	0.690	53.6	41.6	1.6	3.2	0	105.816 (S) .05 level of significance df = 4

From Table 20, it is evident that the Mean score on Item No.18 was found to be 4.456. The X<sup>2</sup> value of 105.816 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Medical facilities to the persons in police custody should be delayed”. This reflects their negative attitude towards people in custody. The diagrammatic representation is in figure 18.



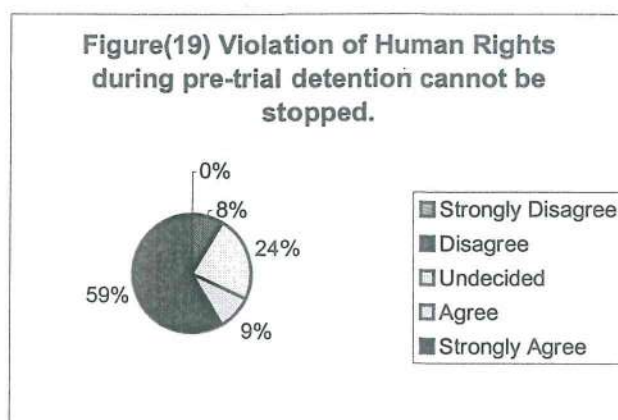
### 6.3.19. PERFORMANCE ON STATEMENT NO.19:

The results from the statistical analysis are presented in Table 21:-

**TABLE 21**  
**RESPONSE ON ATTITUDE STATEMENT NO.19**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Violation of Human Rights during pretrial detention cannot be stopped.	3.456	1.181	15.2	49.6	8.0	20.0	7.2	75.440 (S) .05 level of significance df = 4

From Table 21, it is evident that the Mean score on Item No.19 was found to be 3.456. The X<sup>2</sup> value of 75.440 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Violation of Human Rights during pretrial detention cannot be stopped”. This reflects their negative attitude towards observance of Human Rights. The diagrammatic representation is in figure 19.



### 6.3.20. PERFORMANCE ON STATEMENT NO.20:

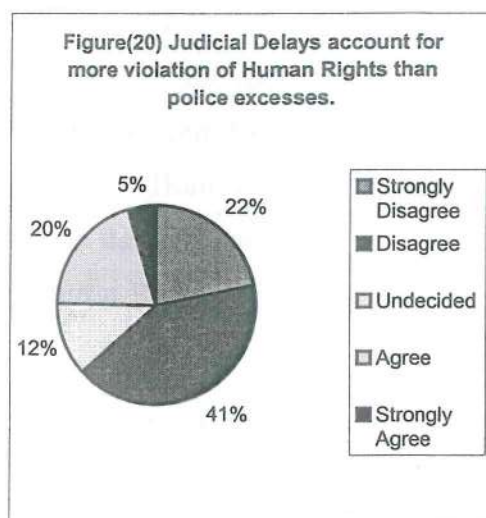
The results from the statistical analysis are presented in Table 22:-

**TABLE 22**  
**RESPONSE ON ATTITUDE STATEMENT NO.20**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Judicial delays account for more violation of Human rights than police excesses.	2.448	1.174	4.8	20.0	12.0	41.6	21.6	47.760 (S) .05 level of significance df = 4

From Table 22, it is evident that the Means score on Item No.20 was found to be 2.448. The X<sup>2</sup> value of 47.760 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong disagreement with the statement – “Judicial delays account for more violation of human rights than police excesses. By implication, they seem to agree that police excesses account for violation of Human Rights more than the judicial delays. This is a healthy attitude towards observance of Human Rights. The diagrammatic representation is in figure 20.





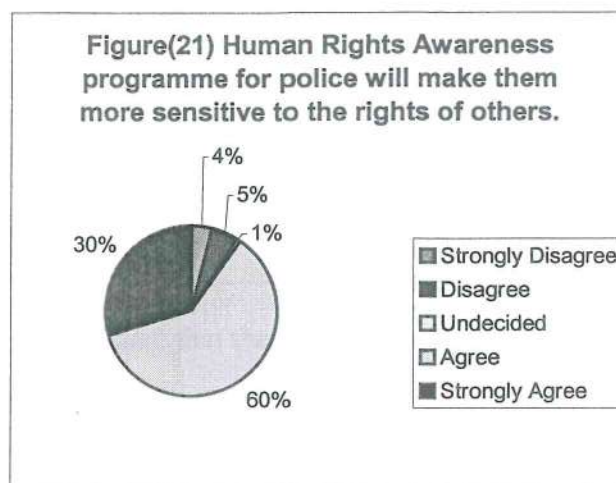
### 6.3.21 PERFORMANCE ON STATEMENT NO.21

The results from the statistical analysis are presented in Table 23:-

**TABLE 23**  
**RESPONSE ON ATTITUDE STATEMENT NO.21**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Human Rights Awareness Programme for Police will make them more sensitive to the rights of others.	4.072	0.926	29.6	60.8	0.8	4.8	4.0	163.280 (S) .05 level of significance df = 4

From Table 23, it is evident that the Means score on Item No.21 was found to be 4.072. The  $X^2$  value of 163.280 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Human Rights awareness programme for Police will make them more sensitive to the rights of others”. This exhibits their positive attitude towards observance of Human Rights. The diagrammatic representation is in figure 21.



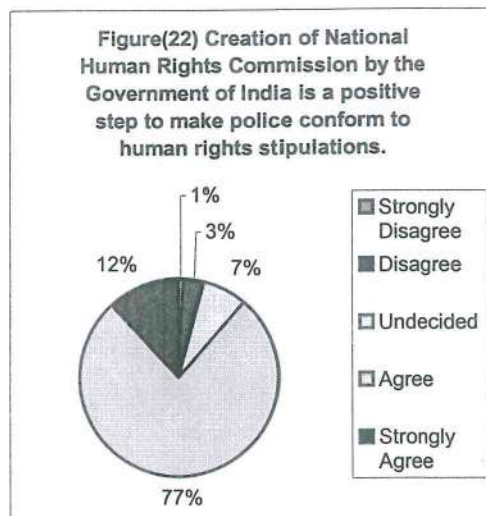
#### 6.3.22. PERFORMANCE ON STATEMENT NO.22:

The results from the statistical analysis are presented in Table 24:-

**TABLE 24**  
**RESPONSE ON ATTITUDE STATEMENT NO.22**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Creation of National Human Rights Commission by the Government of India is a positive step to make police conform to Human Rights stipulation.	3.960	0.627	12.0	76.8	7.2	3.2	0.8	256.560 (S) .05 level of significance df = 4

From Table 24, it is evident that the Mean score on Item No.22 was found to be 3.960. The X<sup>2</sup> value of 256.560 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “Creation of National Human Rights Commission by the Government of India is a positive step to make police conform to Human Rights stipulations”. It reflects their positive attitude to observance of Human Rights. The diagrammatic representation is in figure 22.





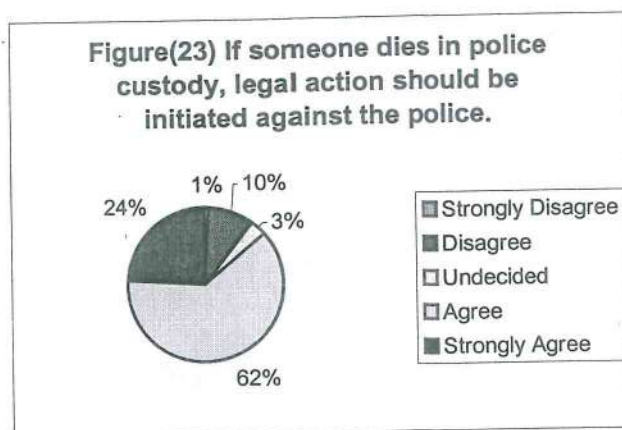
### 6.3.23. PERFORMANCE ON STATEMENT NO.23:

The results from the statistical analysis are presented in Table 25:-

**TABLE 25**  
**RESPONSE ON ATTITUDE STATEMENT NO.23**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
If someone dies in police custody, legal action should be initiated against the Police.	3.992	0.857	24.0	62.4	3.2	9.6	0.8	160.800 (S) .05 level of significance df = 4

From Table 25, it is evident that the Means score on Item No.23 was found to be 3.992. The X<sup>2</sup> value of 160.800 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “If someone dies in police custody, legal action should be initiated against the police”. It reflects their positive attitude towards observance of Human Rights. The diagrammatic representation is in figure 23.



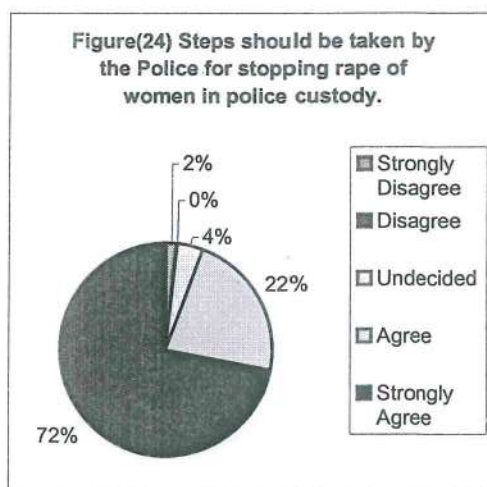
#### 6.3.24. PERFORMANCE ON STATEMENT NO.24:

The results from the statistical analysis are presented in Table 26:-

**TABLE 26**  
**RESPONSE ON ATTITUDE STATEMENT NO.24**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Steps should be taken by the police for stopping rape of women in police custody.	4.632	0.713	72.0	22.4	4.0	1.6	0	160.216 (S) .05 level of significance df = 4

From Table 26, it is evident that the Mean score on Item No.24 was found to be 4.632. The X<sup>2</sup> value of 160.216 was found to be significant at 0.05 level of significance. It can be inferred that the respondents were found to have strong agreement with the statement "Steps should be taken by the police for stopping rape of women in police custody". It is a positive attitude towards women in Police Custody. The diagrammatic representation is in figure 24.



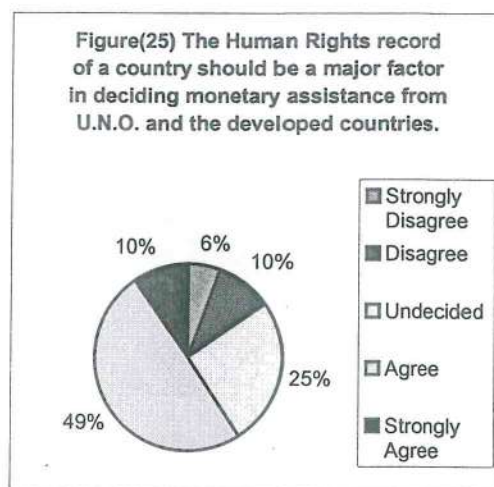
### 6.3.25. PERFORMANCE ON STATEMENT NO.25:

The results from the statistical analysis are presented in Table 27:-

**TABLE 27**  
**RESPONSE ON ATTITUDE STATEMENT NO.25**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
The Human Rights record of a country should be a major factor in deciding monetary assistance from UN and the developed countries	3.480	0.989	9.6	9.6	25.6	9.6	5.6	83.200 (S) .05 level of significance df = 4

From Table 27, it is evident that the Mean score on Item No.25 was found to be 3.480. The X<sup>2</sup> value of 83.200 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to have strong agreement with the statement – “The Human Rights record of a country should be a major factor in deciding monetary assistance from U.N. and the developed countries”. It is a healthy attitude. The diagrammatic representation is in figure 25.





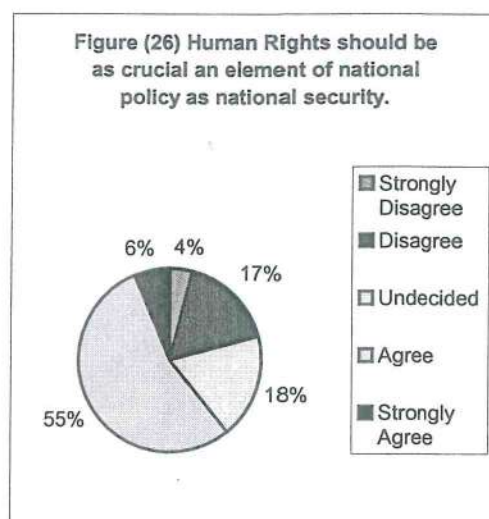
### 6.3.26. PERFORMANCE ON STATEMENT NO.26:

The results from the statistical analysis are presented in Table 28:-

**TABLE 28**  
**RESPONSE ON ATTITUDE STATEMENT NO.26**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Human Rights should be as crucial an element of National Policy as National Security.	3.424	0.978	6.4	54.4	18.4	16.8	4.0	102.320 (S) .05 level of significance df = 4

From Table 28, it is evident that the Mean score on Item No.26 was found to be 3.424. The X<sup>2</sup> value of 102.320 was found to be significant at 0.05 level of significance. Thus it can be inferred that had strong agreement with the statement – “Human Rights should be as crucial an element of National Policy as National Security”. This is a healthy attitude. The diagrammatic representation is in figure 26.



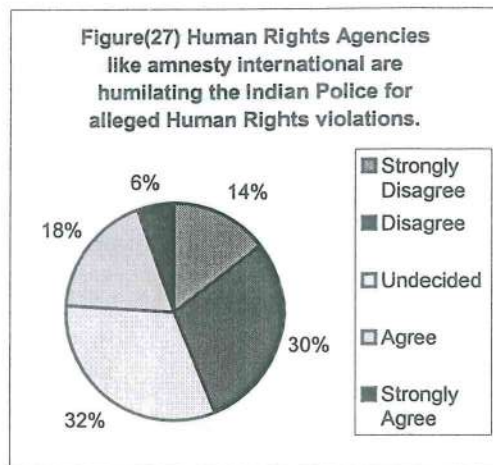
### 6.3.27. PERFORMANCE ON STATEMENT NO.27:

The results from the statistical analysis are presented in Table 29:-

**TABLE 29**  
**RESPONSE ON ATTITUDE STATEMENT NO.27**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
Human Rights agencies like Amnesty International are humiliating the Indian Police for alleged Human Rights violations.	2.712	1.099	5.6	18.4	32.0	29.6	14.4	29.840 (S) .05 level of significance df = 4

From Table 29, it is evident that the Mean score on Item No.27 was found to be 2.712. The X<sup>2</sup> value of 29.840 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents had divided opinion over the statement – “Human Rights agencies like Amnesty International are humiliating the Indian Police for alleged Human Rights violations”. The diagrammatic representation is in figure 27.



#### 6.3.28 PERFORMANCE ON STATEMENT NO.28

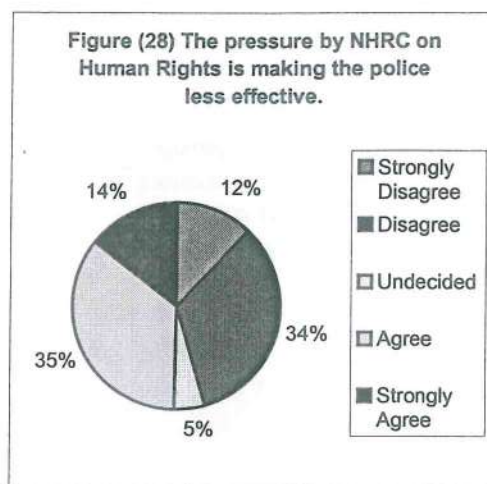
The results from the statistical analysis are presented in Table 30 :-

**TABLE 30**  
**RESPONSE ON ATTITUDE STATEMENT NO.28**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
The pressure By NHRC on Human Rights issues is making the police less effective.	3.064	1.324	14.4	35.2	4.86	33.6	12.0	46.400 (S) .05 level of significance df = 4

From the Table 30, it is evident that the Mean score on Item No.28 was found to be 3.064. The X<sup>2</sup> value of 46.400 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents agree with the statement – “The pressure by NHRC on Human Rights issues is making the police less effective”. The diagrammatic representation is in figure 28.





### 6.3.29 PERFORMANCE ON STATEMENT NO.29:

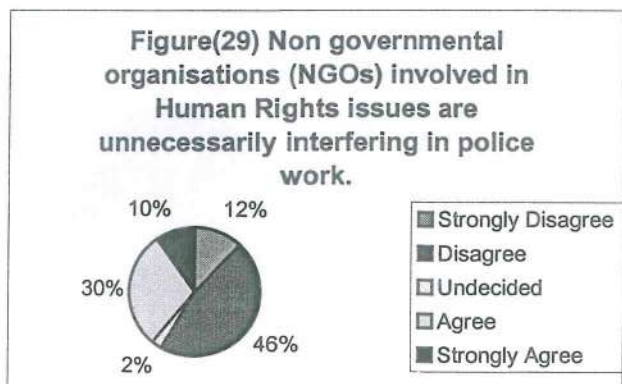
The results from the statistical analysis are presented in Table 31

**TABLE 31**  
**RESPONSE ON ATTITUDE STATEMENT NO.29**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Non Governmental Organisations (NGOs) involved in Human Rights issues are unnecessarily interfering in Police work.	2.784	1.261	9.6	29.6	2.4	46.4	12.0	79.440 (S) .05 level of significance df = 4

From Table 31, it is evident that the Mean score on Item No.29 was found to be 2.784. The X<sup>2</sup> value of 79.440 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents had strong disagreement with the statement – “Non Governmental Organisations (NGOs) involved in Human Rights issues are unnecessarily interfering in police work”. It is a positive attitude towards

NGOs involved in Human Rights issues. The diagrammatic representation is in figure 29.



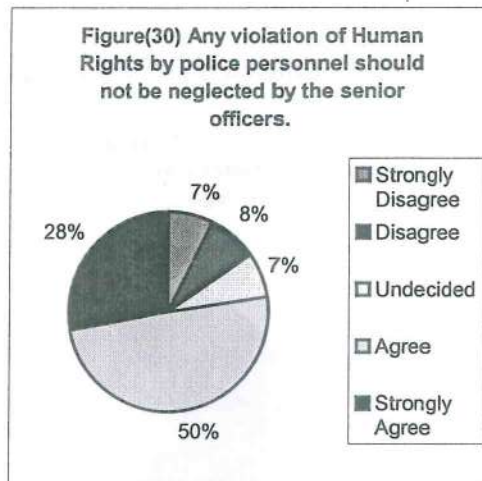
#### 6.3.30. PERFORMANCE ON STATEMENT NO.30:

The results from the statistical analysis are presented in Table 32:-

**TABLE 32**  
**RESPONSE ON ATTITUDE STATEMENT NO.30**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
Any violation of Human Rights by police personnel should not be neglected by the senior officers.	3.832	1.141	28.0	49.6	7.2	8.0	7.2	88.240 (S) .05 level of significance df = 4

From Table 32, it is evident that the Mean score on Item No.30 was found to be 3.882. The X<sup>2</sup> value of 88.240 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to be in agreement with the statement – “Any violation of Human Rights by police personnel should not be neglected by the Senior Officers”. It is a positive attitude towards observance of Human Rights by Police. The diagrammatic representation is in figure 30.



#### 6.3.31. PERFORMANCE ON STATEMENT NO.31:

The results from the statistical analysis are presented in Table 33:-

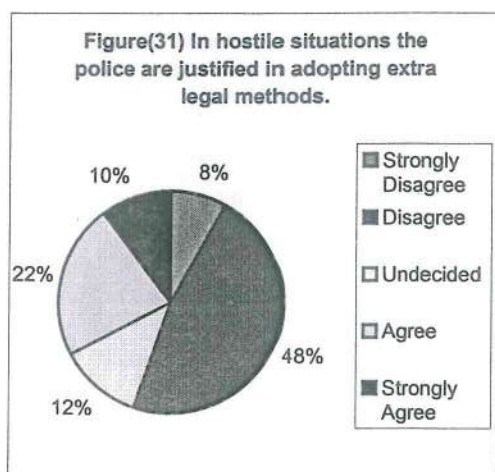
**TABLE 33**  
**RESPONSE ON ATTITUDE STATEMENT NO.31**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Dis-agree	Strongly Disagree	
In hostile situations the police are justified in adopting extra legal methods.	2.800	1.185	10.4	22.4	12.0	47.2	8.0	65.360 (S) .05 level of significance df = 4

From Table 33, it is evident that the Mean score on Item No.31 was found to be 2.800. The X<sup>2</sup> value of 65.360 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were in disagreement with the statement – “In hostile situations the police are justified in adopting extra legal methods”. They were of the opinion that even under hostile situations, the police were not justified in



adopting extra legal methods. It is a positive/healthy attitude towards observance of Human Rights. The diagrammatic representation is in figure 31.



#### 6.3.32. PERFORMANCE ON STATEMENT NO.32:

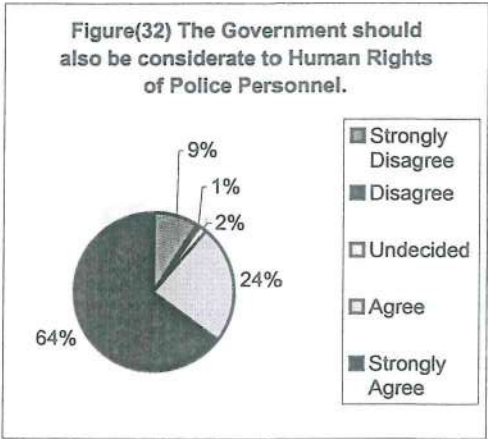
The results from the statistical analysis are presented in Table 34:-

**TABLE 34**  
**RESPONSE ON ATTITUDE STATEMENT NO.32**

Statement	Mean	S.D.	Response (in percentage)					X <sup>2</sup> Value
			Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	
The Government should also be considerate to Human Rights of Police personnel.	4.352	1.173	64.8	24.0	1.6	0.8	8.8	178.480 (S) .05 level of significance df = 4

From Table 34, it is evident that the Mean score on Item No.32 was found to be 4.352. The X<sup>2</sup> value of 178.480 was found to be significant at 0.05 level of significance. Thus, it can be inferred that the respondents were found to be in strong

agreement with the statement – “The Government should also be considerate to Human Rights of Police personnel”. The diagrammatic representation is in figure 32.



To sum up, it is evident that a majority of the police executives exhibited a moderate attitude towards observance of Human Rights which is not a very desirable trait. Only very few were found to have a positive attitude towards observance of human rights. It is, therefore, obvious that training and non-training interventions are strongly indicated to enhance the observance level of human rights by police executives.

## **CHAPTER – 7**

### **HUMAN RIGHTS AWARENESS** **AMONG POLICE EXECUTIVES**



## CHAPTER - 7

### HUMAN RIGHTS AWARENESS AMONG POLICE EXECUTIVES

#### 7.1. INTRODUCTION

In this chapter the results of Human Rights Awareness test administered on police executives are presented. A 32 item attitude scale measuring the attitude of police personnel towards observance of Human Rights was administered on 1095 police executives in the rank of ASP and DySP/SP randomly selected out of a population of 7293/2220 respectively. The Human Rights Awareness Test (HRAT) developed has got the following parts:-

Part 'I' contains 5 questions on National Human Rights Commission. Part 'II' contains 6 matching type questions on various Articles of the constitution pertaining to Human Rights Awareness e.g.:-

- |                   |                                                                               |
|-------------------|-------------------------------------------------------------------------------|
| 1) Article 14     | - Prohibition of discrimination on grounds of religion, race, caste, sex etc. |
| 2) Article 15 (1) | - Right to freedom of speech and expression.                                  |
| 3) Article 21     | - Right to know the grounds of arrest and to consult legal practitioner.      |
| 4) Article 22 (1) | - Equality before law.                                                        |

Part 'III' contains open-ended questions on Sections 330, 331 and 302 of Indian Penal Code.

Part 'IV' contains 10 alternative response type questions meant for measuring the knowledge of police executives regarding practical problems related to Human Right issues in police.

Part 'V' contain 10 multiple choice questions for measuring the awareness of police officers on Human Rights issues pertaining to Handcuffing, Arrest, Detention, various International Covenants on Human Rights .

## 7.2 PERFORMANCE ON HUMAN RIGHTS AWARENESS TEST

On analysis by utilizing the SPSS package the following descriptive statistical indicators regarding Human Rights Awareness were arrived at:-

**TABLE 35**

### **PERFORMANCE ON AWARENESS TEST – STATISTICAL DESCRIPTION**

Mean	28.957	Std.err.	239	Median	30.000
Mode	33.000	Std.dev	8.299	Variance	68.872
Kurtosis	.327	SK Kurt.	141	Skewness	.712
SK Skew	.070	Range	48.000	Minimum	.000
Maximum	48.000	Sum	34893.000		

From Table 35, it is evident that the range of the scores was found to be 0-48. The Mean of the scores of 1095 executives was found to be 28.957 and Standard Deviation was 8.299. On plotting the data on Normal Probability Curve (NPC) the following description score ranges were derived :

TABLE 36

FREQUENCY DISTRIBUTION OF HUMAN RIGHTS AWARENESS TEST MARK (HRAT)

Score Range	Frequency	Description of Awareness of Human Rights.
47-54	1	Very High
38-46	171	High
21-37	840	Moderate
12-20	141	Low
< 12	52	Very Low

From Table 36, it is evident that 1033 Police Executives out of 1095 had inadequate levels of awareness of Human Rights and related issues.)

7.3. PERFORMANCE ON HUMAN RIGHTS AWARENESS TEST (PART-WISE)

The Human Rights Awareness Test comprised of 5 parts.

7.3.1 PERFORMANCE ON PART 'I' OF THE HUMAN RIGHTS AWARENESS TEST.

(Max. Marks – 13)

The Part 'I' of the test has 5 questions:-

PART 'I'

1. What is the full form of 'N.H.R.C.'?
2. In which year 'The Protection of Human Rights Act' was enacted?
3. Who is the Chairperson of NHRC in India?
4. Please specify two functions of NHRC.



(i)

(ii)

4A. Please specify two powers of NHRC.

5. On January 26, 1950, India became a Sovereign Socialist Republic to secure to all its citizens JUSTICE, LIBERTY, ..... and .....

The distribution of marks after analysis was found to be as under:-

**TABLE 37**

**DISTRIBUTION OF MARKS ON PARTN 'I' OF HUMAN RIGHTS  
AWARENESS TEST (HRAT)**

Marks	Frequency
0	22
1	56
2	46
3	90
4	122
5	140
6	140
7	108
8	145
9	61
10	99
11	24
12	37
13	7
	2
Total	1099

On further analysis, the following descriptive statistical indicators were found :-

**TABLE 38**

**DESCRIPTIVE STATISTICAL INDICATORS RELATED TO PART 'I' OF  
HUMAN RIGHTS AWARENESS TEST (HRAT)**

Mean	6.108	Std.err.	089	Median	6.000
Mode	8.000	Std.dev	2.936	Variance	8.622
Kurtosis	.590	SK Kurt	.148	Skewness	.049
SK Skew	.074	Range	13.000	Minimum	.000
Maximum	13.000	Sum	6,700.000		
Valid Cases		1097	Missing Cases		2

From Table 38, it is evident that the Mean of the scores was found to be 6.108 which is on the lower side. It can be inferred that the executives had poor knowledge on NHRC and its functions.

**7.3.2 PERFORMANCE ON PART 'II' OF THE HUMAN RIGHTS AWARENESS**  
- (Max. Marks – 6)

Part 'II' contains 6 matching type questions.

**PART II**

Please match the following items.

**PART A**

**PART B**

- |                        |                                                                                   |
|------------------------|-----------------------------------------------------------------------------------|
| _____ 1. Article 22(1) | A. Equality before laws.                                                          |
| _____ 2. Article 21    | B. Right to know the grounds of arrest and to consult any legal practitioner..    |
| _____ 3. Article 14    | C. Prohibition of discrimination on grounds of religion, race, caste, sex etc.    |
| _____ 4. Article 20(3) | D. Person accused of offence cannot be compelled to be a witness against himself. |

PART A

\_\_\_\_\_ 5. Article 19(1)(a)

\_\_\_\_\_ 6. Article 15(1)

PART B

E. Protection of Human dignity and personal liberty.

F. Right to freedom of speech and expression.

The Mean of the scores of the respondents were found to be 3.88. It is a satisfactory achievement. On further analysis, the following results were obtained:-

TABLE 39

**STATISTICAL ANALYSIS OF RESPONSES ON PART 'II' OF HUMAN RIGHTS AWARENESS TEST (HRAT)**

Q.No.	No. of Respondents	Correct Responses	Incorrect Responses.	X <sup>2</sup> Value 05 level df=1
1.	1206	750 (62.19)	456 (37.81)	71.67(S)
2.	1206	727 (60.28)	479 (39.72)	25.499(S)
3.	1206	956 (79.27)	250 (20.73)	206.65(S)
4.	1206	680 (56.38)	526 (43.62)	9.83(S)
5.	1206	792 (65.67)	414 (36.33)	59.24(S)
6.	1206	777 (64.43)	429 (35.57)	50.20(S)



From Table 39, it is inferred that the respondents attempted all the 6 questions very well. The difference in their responses on all questions were found to be significant at .05 level of significance for  $df=1$ . The calculated values of  $X^2$  viz. 71.67, 25.499, 206.65, 9.83, 59.24 and 50.20 were found to be more than the tabled value of  $X^2 = 3.85$  for  $df=1$ .

### 7.3.3 PERFORMANCE ON PART 'III' OF HUMAN RIGHTS AWARENESS - (Max. Marks: 9)

Part 'III' contains 4 open ended questions (please see Appendix 'B') asking the respondents to elaborate the following:-

- Section 330 of IPC.
- Section 331 of IPC.
- Section 302 of IPC.
- Recommendations of National Police Commission on stopping Custodial Violence.

1099 Police Executives responded the maximum marks in Part 'III' – 9. On analysis of data the following frequency distribution was arrived at:-

**TABLE 40**

#### **DISTRIBUTION OF MARKS IN PART 'III' OF HUMAN RIGHTS AWARENESS TEST (HRAT)**

Marks	Frequency
0	93
1	26
2	122
3	42
4	57
5	103
6	474
7	154
8	23
9	3
10	2
Total	1099

On further analysis of data, the following descriptive statistical indicators were found:-

**TABLE 41**

**DESCRIPTIVE STATISTICAL INDICATORS FOR SCORES IN PART 'III'**

Mean	4.806	Std.err	.067	Median	6.000
Mode	6.000	Std.dev	2.213	Variance	4.897
Kurtosis	-.294S	K Kurt	.148	Skewness	-.955
SK Skew	.074	Range	9.000	Minimum	.000
Maximum	9.000	Sum	5,272.000		
Valid Cases	1097	Missing Cases	2		

The Mean of the scores obtained in Part 'III' was 4.806. Thus, the performance on Part 'III' was not found to be up to the mark.)

**7.3.4 PERFORMANCE ON PART 'IV' OF HUMAN RIGHTS AWARENESS TEST.**

Part 'IV' contains 10 YES/NO type questions (Please refer to Appendix 'B').

On analysis of data it was found that the Mean of the scores was found to be 8.08 (Maximum Marks – 10).

**TABLE 42**

**STATISTICAL ANALYSIS OF RESPONSES ON PART 'IV' OF HUMAN RIGHTS AWARENESS TEST (HRAT)**

Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> Value .05 level df=1
1.	A person can be prosecuted for the offence for which he is acquitted by court of law?	1206 790 (65.51)	416 (34.49)	57.99 (S)

Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> Value .05 level df=1
2.	The accused can be subjected to psychological torture during interrogation in police custody?	1206 692 (57.38)	514 (42.62)	13.13 (S)
3.	Can Policeman use handcuffs for all arrested accused persons in a routine manner?	1206 1095 (90.80)	111 (9.20)	401.43 (S)
4.	The accused has the right to consult a lawyer while in police custody?	1206 1042 (86.40)	164 (13.60)	319.60 (S)
5.	Can Police summon a female witness to come to PS for interrogation in connection with a criminal case?	1206 944 (78.28)	262 (21.72)	192.83 (S)
6.	Are the rights to life, liberty, equality and dignity of the individual as guaranteed by Constitution of India construed as Human Rights?	1206 1073 (88.97)	133 (11.03)	366.33 (S)
7.	Can the victim of a rape be detained in jail for her medical examination?	1206 1043 (86.48)	163 (13.52)	321.06 (S)
8.	Can a girl aged 16 years be detained in jail for recording her statement in connection with her abduction?	1206 1081 (89.64)	125 (10.36)	378.91 (S)



Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> Value .05 level df=1
9.	Can a boy aged 15 years arrested in connection with a theft case be sent to jail after refusal of bail by court?	1206 939 (77.86)	267 (22.14)	187.22 (S)
10.	Can a mentally ill person found wandering in a locality be detained in jail?	1206 1047 (86.82)	159 (13.18)	326.92

The performance on Part 'IV' was found to be very good. The statistical values of X<sup>2</sup> for each item was found to be significant at 0.05 level of significance for df=1.

#### 7.3.5 PERFORMANCE ON PART 'V' OF HUMAN RIGHTS AWARENESS TEST

Part 'V' of Human Rights Awareness Test contains 10 multiple choice questions (Please refer Appendix 'B'). The Mean of the scores was found to be 6.37 (Maximum Marks in Part 'V' – 10).

On further analysis, the following were the findings as presented in Table:-

**TABLE 43**

#### **STATISTICAL ANALYSIS OF RESPONSES ON PART -V OF HUMAN RIGHTS AWARENESS TEST**

Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> value .05 level df=1
1.	What are the pre-conditions of using handcuffs by police?	1206 593 (49.17)	613 (50.83)	0.17 (NS)

Table 43 (contd..)

Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> value .05 level df=1
2.	What is the duty of police after arrest of the accused?	1206 1091 (90.46)	1153 (9.54)	94.93 (S)
3.	What is the time limit for production of arrested accused before the court of a magistrate?	1206 784	422	54.33 (S)
4.	What is the duty of police after arresting a person on the allegation of causing death by rash and negligent driving of a car?	1206 535 (44.36)	671 (55.64)	7.67 (S)
5.	What is the right of a person whose premises are searched and things are seized by police?	1206 851 (70.56)	355 (29.44)	101.996 (S)
6.	Under which act the National Human Rights Commission was Constituted?	1206 791 (65.59)	415 (34.41)	58.61 (S)
7.	Which body can investigate and examine all matters relating to safeguards provided for women under the Constitution and other Laws?	1206 811 (67.25)	395 (32.75)	71.75 (S)
8.	Under which statute "Juvenile Homes", "Special Homes" and "Observation Homes" are established?	1206 854	352	104.47 (S)

Table 43 (contd..)

Q.No.		Correct Responses	Incorrect Responses	X <sup>2</sup> value .05 level df=1
9.	Everyone charged with criminal offence shall have the right to be presumed innocent until proved guilty according to law. Which International Treaty Contains the above Human' Right?	1206 849 (70.40)	357 (29.60)	100.35 (S)
10.	Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation. Which International Covenant Contains this right?	1206 526 (86.82)	680 (13.18)	9.83 (S)

It is evident from Table 43 that the Police Executives require the specific inputs and subject matter related to question numbers 1, 4 and 10. The subjects related to these items are –

- duty of police after arresting a person;
- allocation of responsibility of causing death by negligent driving;
- International Covenant on Human Rights.

To sum up, the level of awareness of human rights and related issues among a majority of police executives had been found to be inadequate. The areas of knowledge which were found wanting include :

- Legal stipulations with regard to handcuffing
- Arrests related procedures



- Issues pertaining to search and seizure
- NHRC and its functions
- Rights of women
- Juvenile Justice Act.
- International Treatise pertaining to human rights.

It is evident that training interventions with regard to improving the levels of awareness of police executives for observance of human rights is necessary.)

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## **CHAPTER – 8**

# **LEADERSHIP ROLE IN PROMOTING OBSERVANCE OF HUMAN RIGHTS**

## CHAPTER – 8

### LEADERSHIP ROLE IN PROMOTING OBSERVANCE OF HUMAN RIGHTS

#### 8.1 INTRODUCTION

In this Chapter an attempt has been made to :-

- Ascertain the views of Senior Police Officers on Observance of Human Rights by Police.
- Identify professional skills to be developed in Police for observance of Human Rights.
- Identify the role of Police Leadership in tackling the issue of Human Rights violation by Police in India.
- Identify the police officers' expectations from the following agencies for strict observance of Human Rights by police:-

Government

Media

Judiciary

Academic

Voluntary Organisations/NGOs

Functional Organisations.

Legislatures.

- To elicit the information from the Senior Police Officers on Human Rights Violations by Police in the following domains:

Arrest

Detention in custody

Use of handcuffs

Use of third degree



Illegal search  
Illegal seizure  
Violation of Court's orders/directives.  
Medical attention to detainees.  
Politicisation of Police Work.  
Treatment of ethnic minorities.  
Treatment of Scheduled Caste/Scheduled tribes and downtrodden.  
Coercion to compel one to become witness against oneself.  
Lack of impartiality  
Treatment to women.  
Treatment to minors.

The data was collected by using a questionnaire (Appendix 'C'). The questionnaire contains 4 alternate response type of questions for eliciting the opinion of a randomly selected sample of 247 Senior Police Officers in the rank of DIG/IGP/ADG out of a total population of 1070 on Human Rights related issues and the role of Police.

## 8.2. ANALYSIS AND INTERPRETATION OF DATA

The findings were as under:

### Research Question 1:

Do you feel that Police in India lack the will to respect Human Rights?

### Response:

Yes = 113 (45.75%) No = 134 (54.25%)  $X^2 = 0.88$  (NS)

247 Senior Police Officers responded to the question, 45.75% of them felt that Police in India lacked the will and respect the Human Rights, at 0.05 level significance calculated  $X^2 (=0.88)$  was found to be non-significant.

**TABLE 44**  
**RESPONSE TO Q.NO.1**

Category of Response	Frequency	$X^2$ = Value
Yes	113(45.75%)	0.88 (NS)
No	134(54.25%)	

It is inferred that in the opinion of Senior Police Officers regarding their feeling that Police in India lacked the will to respect Human Rights, the opinion is nearly equally divided.

Research Question 2:

Do you feel that Police in India lack in knowledge of the Human Rights of People?

Response:

Yes = 149 (60.10%) No = 99 (39.90%)

**TABLE 45**  
**RESPONSE TO Q.NO.2**

Category of Response	Frequency	$X^2$ = Value
Yes	149 (60.10 %)	5.04 (S) at 0.05 level
No	99 (39.90 %)	

From Table 45, it is evident that 60.10% respondents felt that Police in India lacked in knowledge of Human Rights of people. The calculated value of  $X^2$  (=5.08) was more than the tabled value of  $X^2$  (=3.85) of  $df = 1$  at 0.05 level of significance. Hence, the opinion of Senior Police Officers regarding lack of knowledge on the Human Rights of people was found to be significantly negative.]

Research Question 3:

Do Police in India violate the norms of Human Rights observance?

Response

Yes = 190 (78.84%) No = 51 (21.16%)

**TABLE 46**  
**RESPONSE TO Q.NO.3**

Category of Response	Frequency	$X^2$ = Value
Yes	190 (78.84 %)	35.13 (S) at 0.05 level
No	51 (21.16 %)	

From Table 46, it is evident that 78.84% respondents felt that Police in India violated the norms of Human Rights observance. The calculated value of  $X^2$  (=35.13) was found to be significant at 0.05 level of significance for  $df = 1$ . It can be inferred that respondents significantly felt that Police in India violated the norms of Human Rights observance.

Research Question 4:

Do you feel that the Police in India lack the professional skills for effective observance of Human Rights?

Response

Yes = 171 (69.51 %) No = 75 (30.49 %)



**TABLE 47**  
**RESPONSE TO Q.NO.4**

Category of Response	Frequency	$X^2$ = Value
Yes	171 (69.51 %)	17.81 (S) at 0.05 level
No	75 (30.49 %)	

From table 47 it is evident that 69.15% respondents felt that the Police lacked the professional skills for the effective observance of Human Rights. The calculated value of  $X^2$  (=17.81) was found to be more than tabled value of  $X^2$  (= 3.84) at 0.05 level of significance for  $df = 1$ . Therefore, the difference in the opinion was significant and was towards "Yes" Continuum.

Research Question 4 B:

Which professional skills are to be developed in police in India for effective observance of Human Rights?

Response

On content-analysis of data, the following professional skills were identified bdy the respondents for development in police in order of priority:

1. Knowledge of Human Rights
2. Use of Scientific Methods
3. Interrogation & Examination Skills.
4. Practical Training in Human Behaviour.

**TABLE 48**  
**PROFESSIONAL SKILLS FOR DEVELOPMENT**

Professional Skills	Content Factor Loading
• Knowledge of Human Rights	- 76
• Use of Scientific methods	- 44
• Interrogation & Examination Skills	- 38
• Practical Training in Human Behaviour	- 34
• Impartial Investigation Skills	- 30
• Improve Public Relations	- 18

Research Question 5:

Identify 5 factors, which according to you, are responsible for violation of Human Rights by Police in India.

Response

On content analysis of data, the following 5 factors were identified by the Senior Police Officers as responsible for violation of Human Rights in India.

**TABLE 49**  
**FACTORS RESPONSIBLE FOR VIOLATION OF HUMAN RIGHTS**

Factors	Content Loading Factor
• Lack of awareness on Human Rights at Lower Level	- 86
• Political Pressure	- 63
• Excessive Workload	- 43
• Low wages and Use of Third Degree	- 37
• Offenders of Law	- 35

Research Question 6:

To what extent Human Rights are being violated in our country?

Response

The response of Police Officers is presented in Table 50 in percentages.

**TABLE 50**

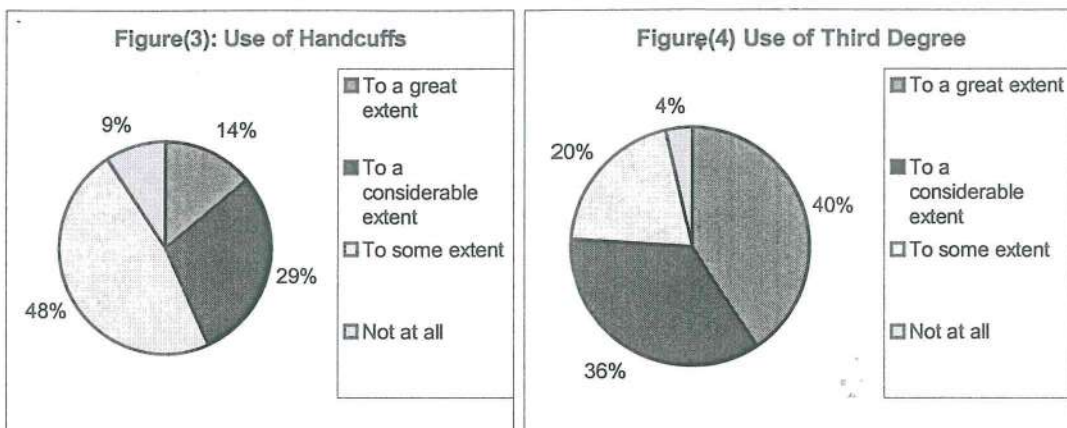
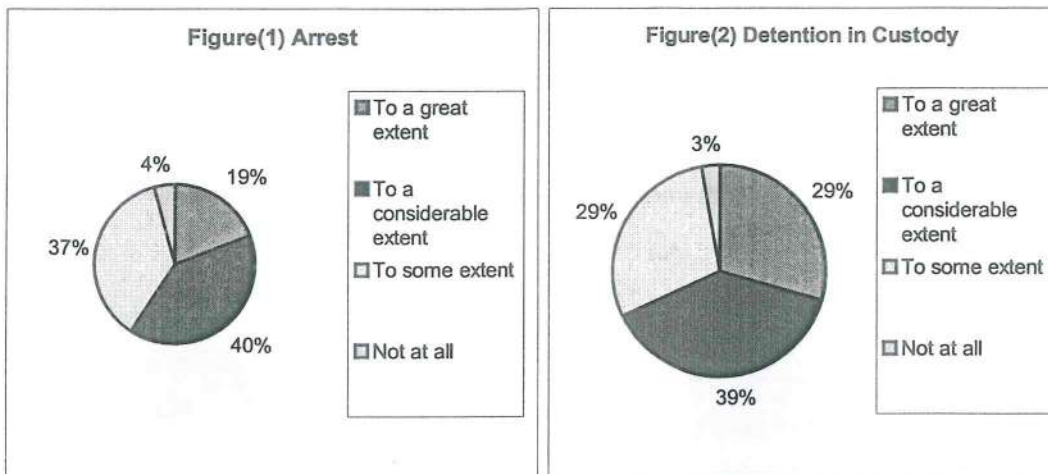
**EXTENT OF VIOLATION OF HUMAN RIGHTS BY POLICE (N=244)**

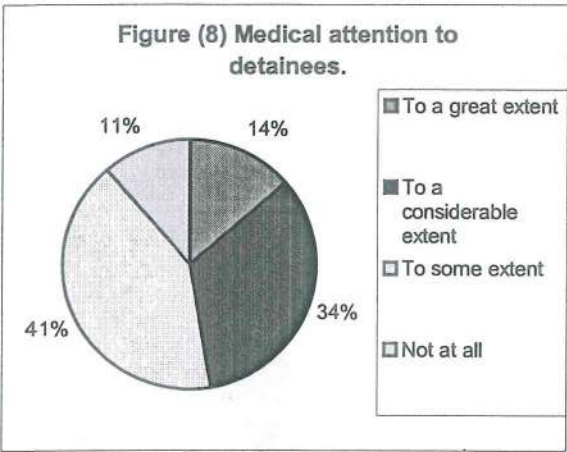
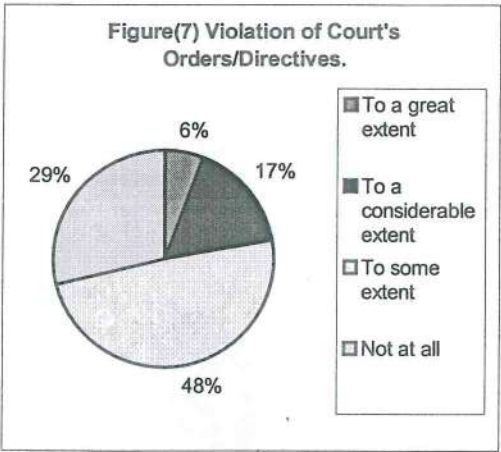
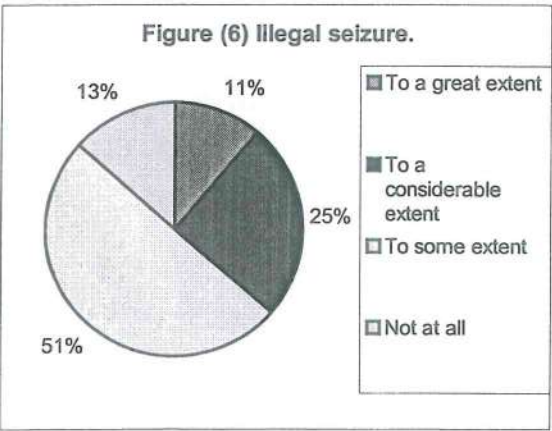
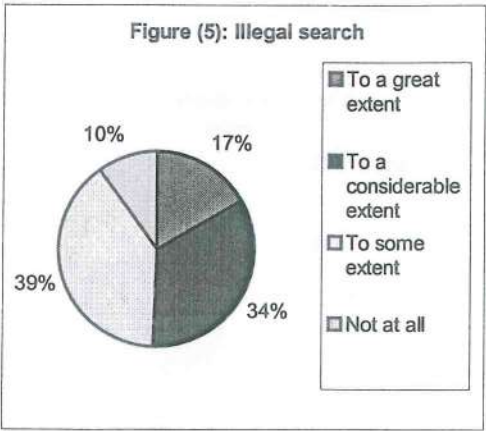
Domains	To a great extent	To a considerable extent	To some extent	Not at all
1. Arrest	19.27	39.76	36.88	4.09
2. Detention in custody	29.34	38.85	28.92	2.89
3. Use of handcuffs	13.87	29.42	47.47	9.24
4. Use of Third Degree	40.49	35.53	20.25	3.72
5. Illegal search	16.59	34.03	39.42	9.96
6. Illegal seizure	11.20	25.32	50.20	13.27
7. Violation of Court's orders/directives	5.78	16.53	48.76	28.93
8. Medical attention to detainees	13.50	33.76	41.35	11.39
9. Politicisation of Police Work	51.04	29.48	15.35	4.14
10. Treatment to ethnic minorities	9.66	18.06	55.46	16.82
11. Treatment to Scheduled Caste/Scheduled Tribes and downtrodden.	13.22	25.22	44.64	16.94
12. Coercion to compel one to become witness against one-self.	8.29	27.38	47.32	17.01

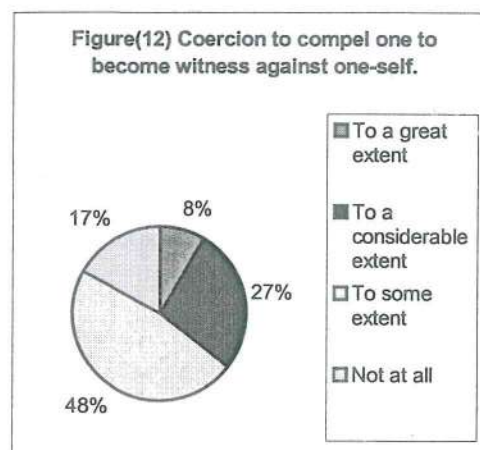
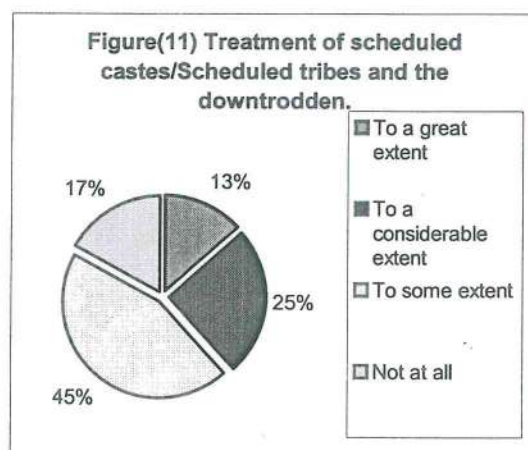
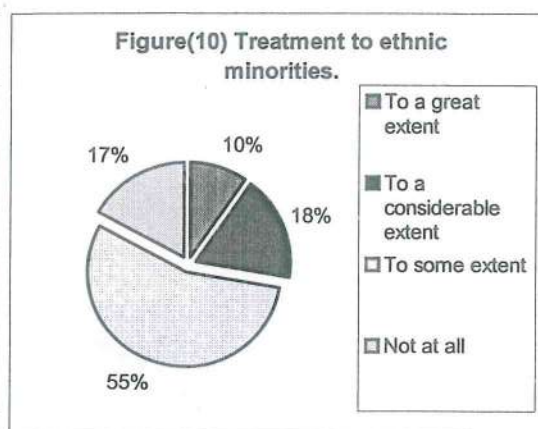
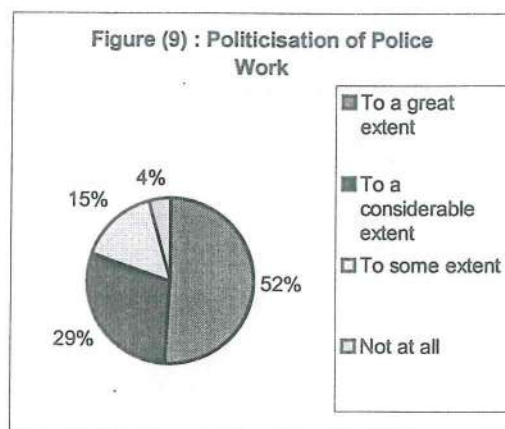


13. Lack of impartiality	18.75	39.18	36.66	5.41
14. Treatment of women	13.23	27.68	50.00	0.09
15. Treatment to minors	5.76	23.45	54.78	14.81

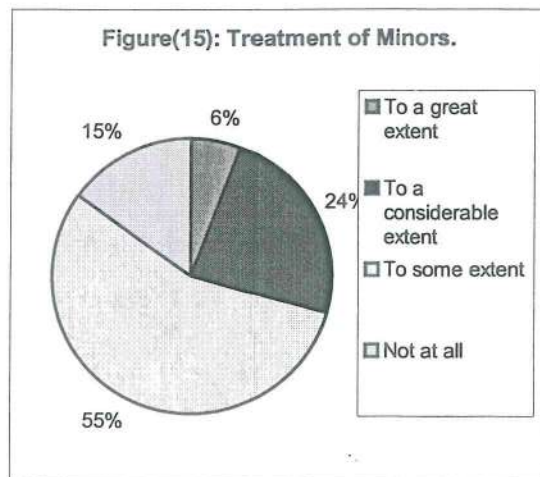
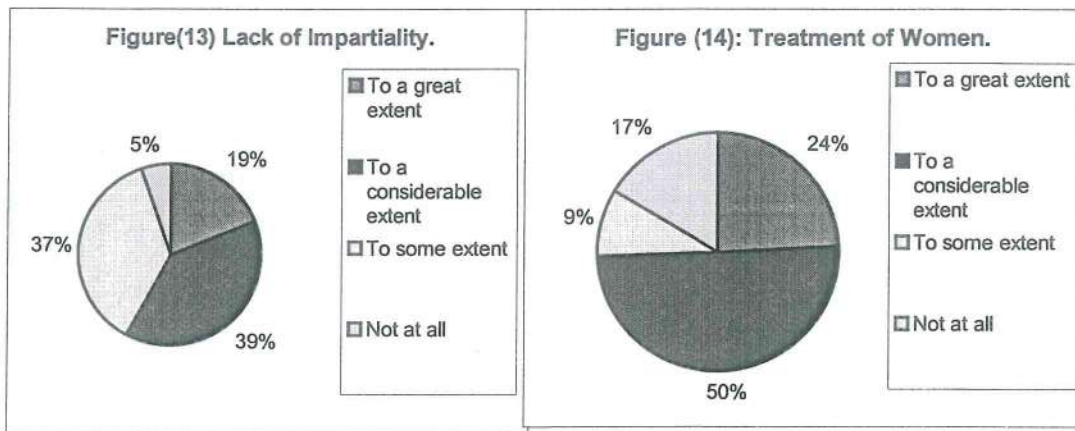
Pie charts for each of the above domains were constructed.











## DISCUSSION

From Table 50, it is evident that the following areas/domains are those in which Human Rights were being violated most in our country:-

- Politicisation of police work.
- Use of third degree.
- Detention in custody.
- Arrest.
- Lack of Impartiality.
- Illegal search
- Use of handcuffs.
- Medical attention to detainees.
- The treatment of women.
- Treatment of SC/STs and downtrodden.

### Research Question 7:

What role Police leadership may play in tackling the issue of Human Rights violation by Police in India?

### Response

Senior Police Officers identified the roles/responsibilities as presented in Table 51 for police leadership in tackling the issue of Human Rights violation by Police in India.

**TABLE 51**  
**POLICE LEADERSHIP ROLE**

Roles/Responsibilities	Content Factor Loading
• Should respect Human Rights	- 14
• Supervision of Investigation	- 14
• Insist working in accordance with law	- 13
• Should be responsive/impartial	- 11
• Improvement in wages & working conditions	- 11
• Improve police/public relations	- 12
• Do not set unrealistic performance standards for Police subordinates	- 07
• Monitor day to day functioning of police units.	- 05
• Check on unnecessary delay in investigation	- 04
• Frequent check of lock-up rooms	- 02
• Ensure implementation of NPC recommendation	- 02

201 respondents identified the following roles as most important which Police leadership may play in tackling the issue of Human Rights violation by Police in India:-

- Defaulters/police officials responsible for violation to be punished - 53
- Frequent briefing to subordinate staff - 45
- General awareness about citizen's rights - 29
- Educating personnel on Human values - 27
- Resist political/senior pressure - 25
- Inclusion of Human Rights as a subject in training programmes - 22



#### Research Question 8:

As per your perception, what roles may be played by the following for promoting observance of Human Rights by Police?

#### Response

The following 'expectation' role sets were derived as per the responses of the Senior Police Officers:

#### Government

Following are the expectations of Police Officers from the Government:-

- Ensure strict punishment to violators of Human Rights.
- Non interference of Government in Police work.
- Create awareness in Human Rights by educating the people.
- Resources/facilities to be provided to police for better investigation and interrogation.
- Training at all levels of police for teaching moral values.
- Improved working conditions to reduce frustration among lower ranks in Police.
- Provide modernization grants to Police for scientific investigation.

#### Media

From Media, the Senior Police Officers expected the following:

- Report fairly and do not exaggerate the issue.
- Expose violators by factual reporting.
- Educate Public/create awareness.
- Should be free, responsive and impartial.

- Encourage good work done by Police.
- Cooperate with Police.
- Help to seek Public opinion.

#### Judiciary

From Judiciary, the Senior Police Officers expect the following:

- Take strong action against violators of Law.
- Cases should be disposed of quickly.
- Justice should be according to the rule of law.
- Should be independent and impartial.
- Understand problems faced by Police.
- Should not interfere in police work areas.

#### Academia

The Senior Police Officers' expectations from the Academia include:

- Include Human Rights as a subject at school/college level.
- Educate people about Human Rights.
- Conduct Seminars/group discussions.
- Carry out research studies in Human Rights.
- Develop good educative material and initiate media campaigns on Human Rights.
- Protect Human Rights/Human Values.

#### Voluntary Organisations/NGOs.

The Senior Police Officers expected the following from the Voluntary Organisations/NGOs.

- Educate the masses/police/public.
- Rehabilitation of victims.

- Start awareness campaigns.
- Protest against excesses of police.
- Help in investigation and prevention of crime.
- Assist Police Organisations.
- Conduct seminars/conferences on Human Rights violations.

#### International Organisations

The Senior Police Officers expect the following from the International Organisations:

- Keep check on countries violating Human Rights.
- Conduct Seminars/Surveys to create awareness.
- Put pressure on Governments to observe Human Rights.
- Educate people to create awareness.
- Raise issues of Human Rights violations in International for a.

#### Legislature

From legislature, the Senior Police Officers have the following expectations:

- Bring about separate acts/regulations for Human Rights violators.
- Strict punishment to violators, including policemen.
- Change old laws whenever required.
- Minimise interference of politicians.
- Amend IPC/CrPC/IEA to effectively stop Human Rights violations.
- Protect rights of citizens.
- Create congenial atmosphere for respecting Human Rights norms.
- Protection of victimized groups.

To sum up, police leadership has a seminal role in promoting the observance of human rights, through the following interventions:-



- Promote an organizational culture for respecting human rights
- Promoting human rights awareness among the people and lower ranks of the departments.
- Promote professional skills requires for observance of human rights like interrogation centers and scientific aids to investigation.
- Frequent surprise inspections of Police Stations.
- Withstanding political pressures.
- Empathy with women, children, down-trodden sections of society and minorities.
- Due process of law in matters of arrest, handcuffing, police custody and medical care to the detainees and observance of codes/directives/legal and Constitutional provisions.
- Punish the guilty police personnel and rewarding others for due observance of human rights norms.
- Emphasis on Human Rights Education and Training.

In all the above areas, the Government, the Judiciary and the members of the society like media, academia and NGOs have also a contributory role besides international organizations and the legislature.

## **CHAPTER – 9**

# **NON TRAINING INTERVENTIONS FOR OBSERVANCE OF HUMAN RIGHTS BY POLICE**

## CHAPTER - 9

### NON TRAINING INTERVENTIONS FOR OBSERVANCE OF HUMAN RIGHTS BY POLICE

#### 9.1. INTRODUCTION

In this chapter, the investigator analyses the response of both public and police regarding using non-training interventions to address the issue of human rights observance by Police.

#### 9.2. SENIOR POLICE OFFICERS PERCEPTION ON NON-TRAINING INTERVENTIONS.

A questionnaire on Non-Training Interventions for Observance of Human Rights by the Police was developed for the senior police officers (Appendix 'D'). The questionnaire was administered on a randomly selected sample of 100 senior police officers in the rank of DIG/IG/ADG out of a total population of 1070 from all over the country to elicit their opinion regarding using non-training organizational interventions in police for ensuring observance of human rights by them.

The results are presented in Table 52.



TABLE 52

**RESPONSE OF SENIOR POLICE OFFICERS ON NON-TRAINING INTERVENTIONS AND  
OBSERVANCE OF HUMAN RIGHTS BY POLICE**

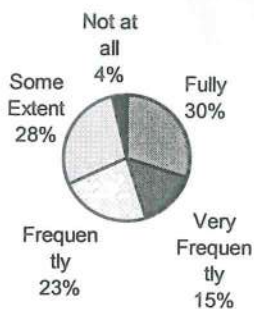
Sl. No	Statement	Response					Descriptive Statistics		X <sup>2</sup> df=4
		Fully	Very Frequently	Frequently	To some extent	Not at all	Mean	Mode	
1	Emphasis in employee appraisal system on human rights observance.	30 30 %	15 15%	23 23%	<u>28</u> <u>28%</u>	4 4%	3.36	5	22.6
2	Counseling of subordinates.	12 12%	24 24%	<u>47</u> <u>47%</u>	17 17%	-	3.31	3	28.7
3	Coaching for Human Rights observance.	18 18%	9 9%	<u>36</u> <u>36%</u>	35 35%	2 2%	3.06	3	46.5
4	Feedback through continuous interaction with the colleagues and subordinates.	13 13%	<u>30</u> <u>30%</u>	28 28%	29 29%	-	3.27	4	7.7
5	Conduct of meetings to discuss Human Right violations.	6 6%	19 19%	<u>46</u> <u>46%</u>	23 23%	6 6%	2.96	3	53.9
6	Appropriate placement of police personnel at sensitive places.	24 24%	<u>33</u> <u>33%</u>	26 26%	16 16%	1 1%	3.63	4	29.9
7	Inspections by the superiors.	14 14%	39 39%	<u>40</u> <u>40%</u>	7 7%	-	3.60	3	34.6
8	Joint action planning for checking Human Rights violations.	10 10%	8 8%	21 21%	<u>46</u> <u>46%</u>	15 15%	2.52	2	47.3

9.	Reprimanding erring policeman.	21 21%	26 26%	<u>35</u> <u>35%</u>	18 18%	-	3.50	3	6.6
10	Rewards, commendations, medals, cash awards for exemplary Human Rights observance.	21%	3 3%	7 7%	<u>48</u> <u>48%</u>	21 21%	2.55	2	62.2
11	Constructive criticism by the superiors for discouraging negative behavioural patterns.	28 28%	16 16%	<u>32</u> <u>32%</u>	19 19%	5 5%	3.43	3	22.5
12	Continuous inflow of Human Rights related written material to the police personnel on the job (important judgements, NHRC guidelines, recent directives, circulars, etc.)	22 22%	25 25%	21 21%	<u>32</u> <u>32%</u>	-	3.37	2	2.9
13	Commendation, announcement of names of police personnel in newsletters, citations and publications	13 13%	21 21%	6 6%	<u>44</u> <u>44%</u>	16 16%	2.71	2	41.9
14	Entertaining complaints on Human Rights violations by police personnel from public and other sources.	23 23%	14 14%	23 23%	<u>30</u> <u>30%</u>	10 10%	3.10	2	12.7

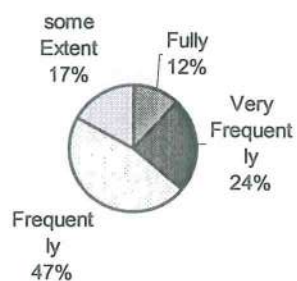
15	Technological upgradation for improving the effectiveness of police operations.	27 27%	8 8%	<u>42</u> <u>42%</u>	23 23%	-	3.39	3	23.4
16	Facilities and equipments for better interrogation.	31 31%	5 5%	10 10%	<u>48</u> <u>48%</u>	6 6%	3.07	2	71.3
17	Protecting the Human Rights of Policemen.	<u>43</u> <u>43%</u>	9 9%	30 30%	18 18%	-	3.77	5	26.16
18	Networking with other organizations for improvement of functional effectiveness.	<u>32</u> <u>32%</u>	9 9%	21 21%	26 26%	12 12%	3.23	5	18.3
19	Proper recruitment of police personnel.	<u>37</u> <u>37%</u>	12 12%	29 29%	22 22%	-	3.64	5	13.5
20	On-the-job training of police personnel on Human Rights issues.	20 20%	<u>33</u> <u>33%</u>	22 22%	25 25%	-	3.48	4	3.9
21	Checks on burking crimes.	<u>36</u> <u>36%</u>	21 21%	25 25%	13 13%	5 5%	3.70	5	27.8
22	Reducing the emphasis on statistical indicators of performance.	15 15%	22 22%	22 22%	<u>40</u> <u>40%</u>	1 1%	3.10	2	39.7



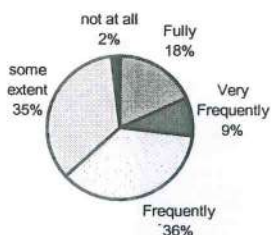
**Emphasis in employee appraisal system on hr observance.**



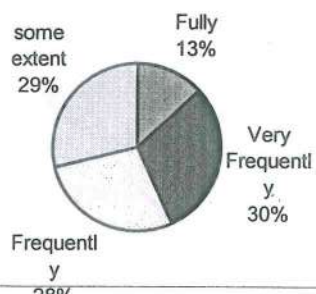
**Counseling of subordinates**



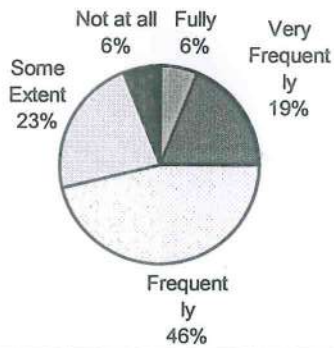
**Coaching for Human Rights observance**



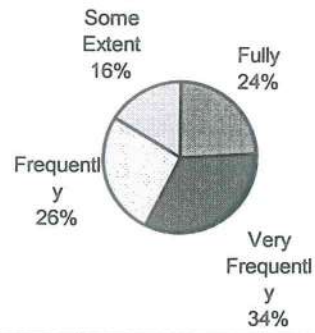
**Feedback through continuous interaction with the colleagues and subordinates**



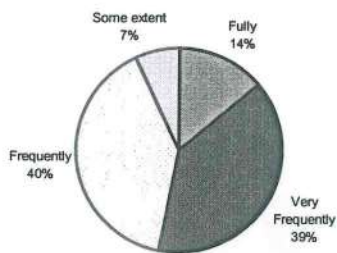
**Conduct of meetings to discuss Human Right violations.**



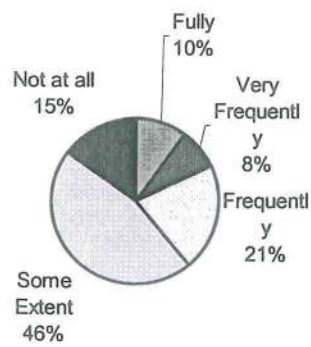
**Appropriate placement of police personnel at sensitive places.**



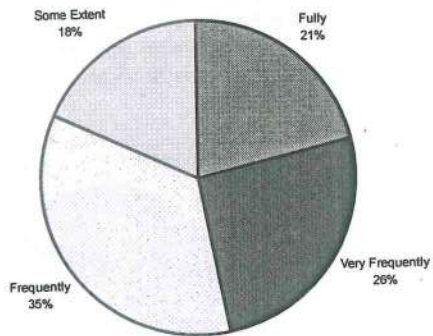
**Inspections by the superiros**



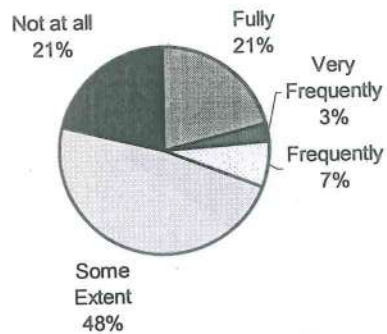
**Joint action planning for checking Human Rights violations.**



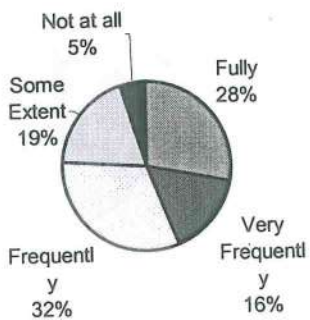
### Reprimanding erring policeman



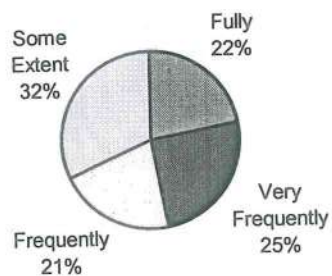
### Rewards, commendations, medals, cash awards for exemplary Human Right observance.



### Constructive criticism by the superiors for discouraging negative behavioural patterns.

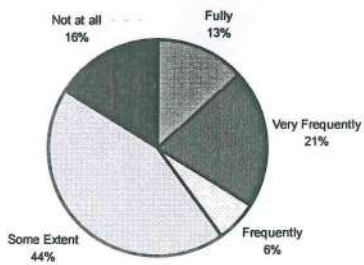


### Continuous inflow of HR related written material to the police personnel on the job.

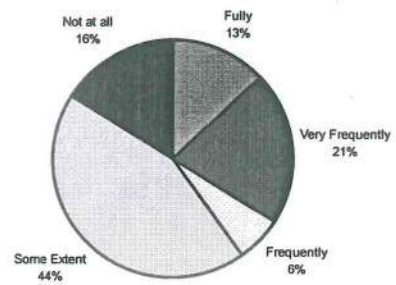




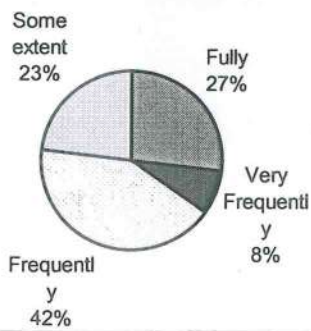
Commendation, announcement of names of police personnel in newsletters, citations and publications.



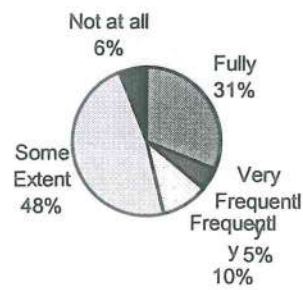
Entertaining complaints on Human Rights violations by police personnel from public and other sources.



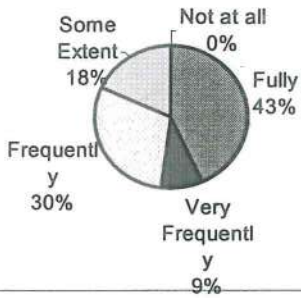
Technological upgradation for improving the effectiveness of police operations.



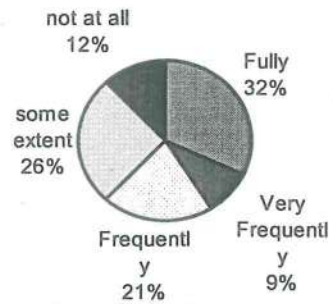
Facilities and equipments for better interrogation.



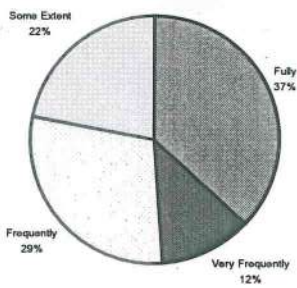
**Protecting the Human Rights of  
Policemen.**



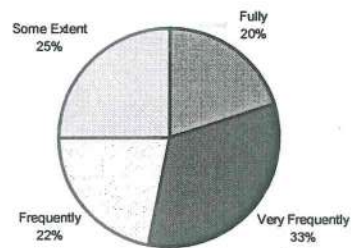
**Networking with other organisations  
for improvement of functional  
effectiveness.**



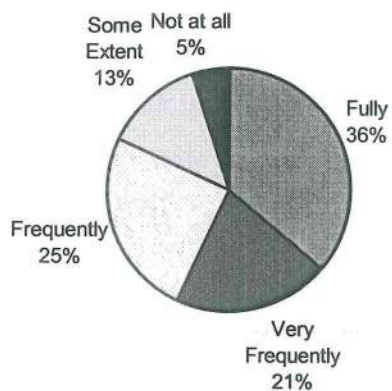
**Proper recruitment of police  
personnel**



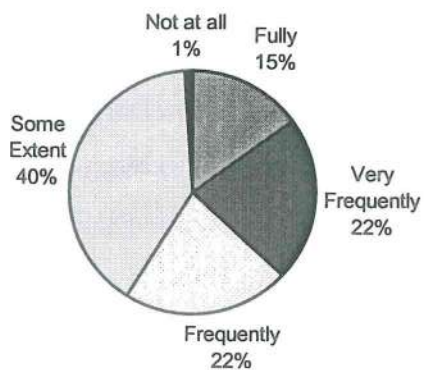
**On-the-job training of police  
personnel on Human Rights issues.**



Checks on burking crimes.



Reducing the emphasis on statistical indicators of performance.





From the Table 52, it is seen that the Senior Police officers had recommended the following non training interventions in order of priority as under:-

**Recommended for full implementation:**

- Protecting the Human Rights of Policemen (43%)
- Proper recruitment of police personnel (37%)
- Checking on burking crimes (36%).
- Networking with other organizations for improvement of functional effectiveness (32%).

**Recommended Implementation to a great extent**

- On-the-job training of police personnel on Human Rights issues (33%).
- Appropriate placement of police personnel at sensitive places (33%).
- Feedback through continuous interaction with the colleagues and subordinates. (30%).

**Recommended implementation to some extent.**

- Rewards, commendations, medals, cash awards for exemplary Human Rights observance (48%).
- Counselling of subordinates (47%).,
- Conduct of meetings to discuss Human Rights violations (46%).
- Joint action planning for checking Human Rights violations. (46%)
- Inspections by the superiors (40%).
- Reprimanding erring policeman (35%)
- Constructive criticism by the superiors for discouraging negative behavioural patterns (32%)

- Continuous inflow of human rights related written material to the police personnel on the job. (32%).
- Coaching for human rights observance (36%)
- Emphasis in employee appraisal system on human rights observance (28%).

### 9.3. PERCEPTION OF PUBLIC ON NON-TRAINING INTERVENTIONS.

A questionnaire on Non-Training Interventions was developed for the general public (Appendix 'E'). The questionnaire was administered on a randomly selected sample of 100 eminent members of the public consisting of Academicians / Lawyers / Judicial Officers and Representatives of NGOs dealing with Human Rights from all over the country to elicit their opinion regarding using non-training organizational interventions in police for ensuring observance of human rights by them.)

Table 53 shows the perception of general public on Non-Training Interventions for developing Police Personnel to adhere Human Rights Observance.

TABLE 53

**RESPONSE OF GENERAL PUBLIC ON NONTRAINING INTERVENTIONS  
AND OBSERVANCE OF HUMAN RIGHTS BY POLICE.**

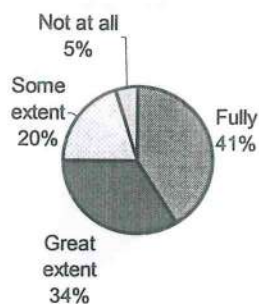
Sl.No	Statement	Fully (4)	To a great extent (3)	To some extent (2)	Not at all (1)	Mode	Mean	X <sup>2</sup> df=3
1	Emphasis in employee appraisal system on human rights observance.	<u>41</u> <u>41%</u>	34 34%	20 20%	5 5%	4	3.11	30.48 (S)
2	Counseling of subordinates.	<u>36</u> <u>36%</u>	34 34%	25 25%	5 5%	4	3.01	24.08 (S)
3	Coaching for Human Rights observance.	<u>46</u> <u>46%</u>	32 32%	14 14%	8 8%	4	3.16	36.00 (S)
4	Feedback through continuous interaction with the colleagues and subordinates.	33 33%	<u>35</u> <u>35%</u>	23 23%	9 9%	3	2.92	16.96 (S)
5	Conduct of meetings to discuss Human Right violations.	30 30%	24 24%	<u>36</u> <u>36%</u>	10 10%	2	2.74	14.88 (S)
6	Appropriate placement of police personnel at sensitive places.	<u>49</u> <u>49%</u>	34 34%	10 10%	7 7%	4	3.25	48.24 (S)
7	Inspections by the superiors.	28 28%	<u>36</u> <u>36%</u>	32 32%	4 4%	3	2.88	24.80 (S)
8	Joint action planning for checking Human Rights violations.	<u>36</u> <u>36%</u>	34 34%	19 19%	11 11%	4	2.94	17.28 (S)



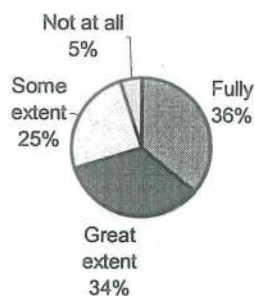
9.	Reprimanding erring policeman.	29 29%	25 25%	<u>36</u> <u>36%</u>	10 10%	2	2.73	14.48 (S)
10	Rewards, commendations, medals, cash awards for exemplary Human Rights observance.	30 30%	<u>34</u> <u>34%</u>	26 26%	10 10%	3	2.84	13.28 (S)
11	Constructive criticism by the superiors for discouraging negative behavioural patterns.	28 28%	<u>31</u> <u>31%</u>	29 29%	12 12%	3	2.75	9.2 (S)
12	Continuous inflow of Human Rights related written material to the police personnel on the job (important judgements, NHRC guidelines, recent directives etc).	25 25%	<u>34</u> <u>34%</u>	28 28%	13 13%	3	2.71	9.36 (S)
13	Commendation, announcement of names of police personnel in newsletters, citations and publications.	16 16%	<u>39</u> <u>39%</u>	29 29%	16 16%	3	2.55	14.96 (S)
14	Entertaining complaints on Human Rights violations by police personnel from public and other sources.	<u>47</u> <u>47%</u>	18 18%	25 25%	10 10%	2	3.02	30.32 (S)

15	Technological upgradation for improving the effectiveness of police operations.	<u>56</u> <u>56%</u>	21 21%	14 14%	9 9%	4	3.24	54.16 (S)
16	Facilities and equipments for better interrogation.	<u>35</u> <u>35%</u>	32 32%	25 25%	8 8%	4	2.94	17.52 (S)
17	Protecting the Human Rights of Policemen.	<u>37</u> <u>37%</u>	21 21%	28 28%	14 14%	4	2.81	11.6 (S)
18	Networking with other organizations for improvement of functional effectiveness.	28 28%	<u>49</u> <u>49%</u>	17 17%	6 6%	3	2.99	40.4 (S)
19	Proper recruitment of police personnel.	<u>48</u> <u>48%</u>	29 29%	15 15%	8 8%	4	3.17	37.36 (S)
20	On-the-job training of police personnel on Human Rights issues.	26 26%	<u>44</u> <u>44%</u>	24 24%	6 6%	3	2.90	28.96 (S)
21	Checks on burking crimes.	<u>37</u> <u>37%</u>	24 24%	33 33%	6 6%	4	2.92	22.80 (S)
22	Reducing the emphasis on statistical indicators of performance.	6 6%	26 26%	<u>46</u> <u>46%</u>	22 22%	3	2.16	32.48 (S)

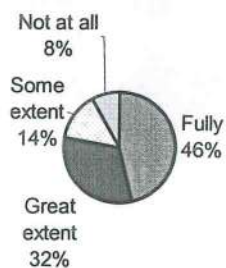
**Emphasis in employee appraisal system on hr observance.**



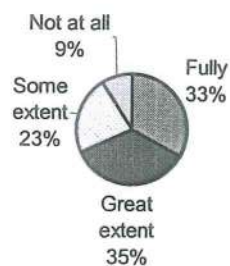
**Counseling of subordinates**



**Coaching for Human Rights observance**

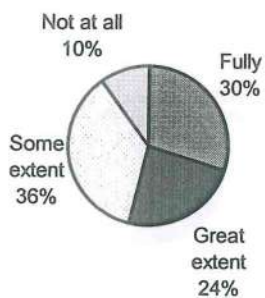


**Feedback through continuous interaction with the colleagues and subordinates**

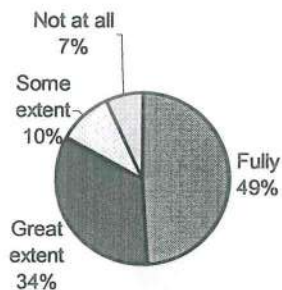




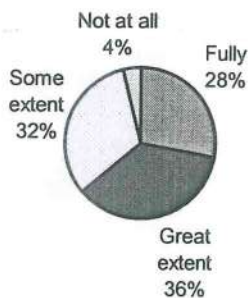
**Conduct of meetings to discuss Human Right violations.**



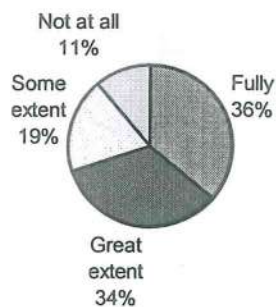
**Appropriate placement of police personnel at sensitive places.**

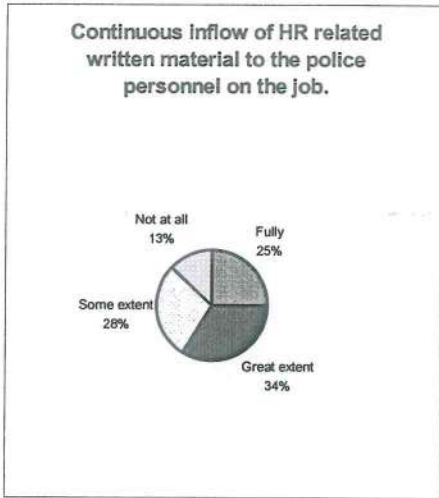
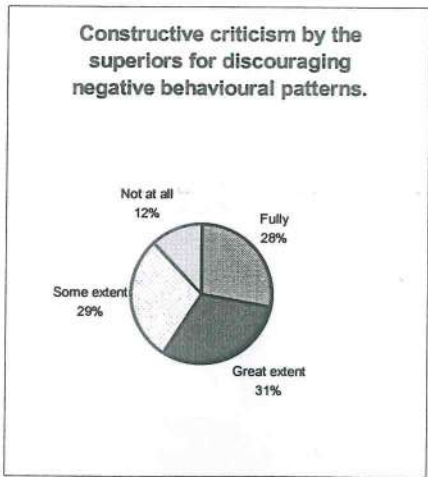
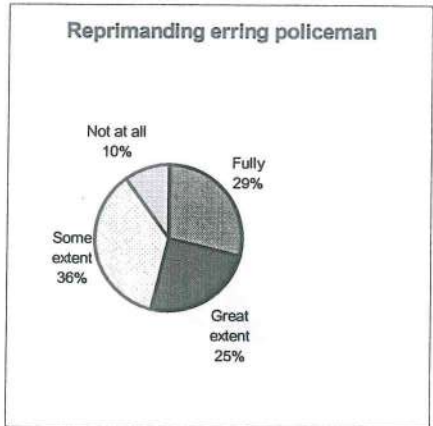


**Inspections by the superiros**

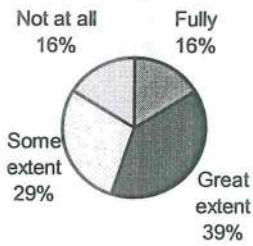


**Joint action planning for checking Human Rights violations.**

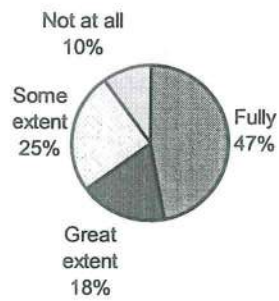




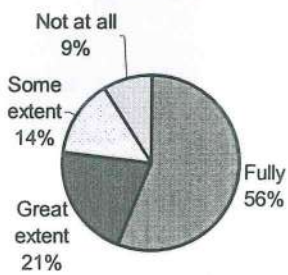
**Commendation, announcement of names of police personnel in newsletters, citations and publications.**



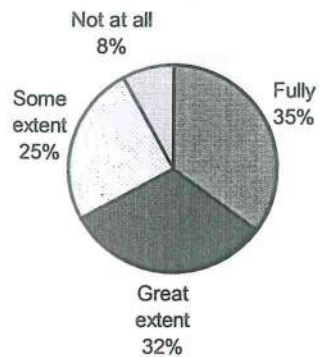
**Entertaining complaints on Human Rights violations by police personnel from public and other sources.**



**Technological upgradation for improving the effectiveness of police operations.**

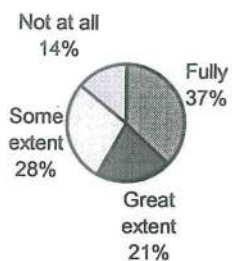


**Facilities and equipments for better interrogation.**

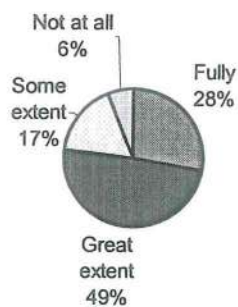




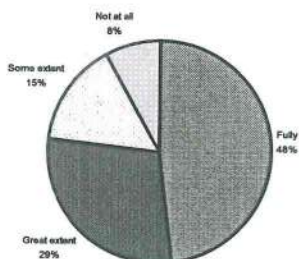
**Protecting the Human Rights of  
Policemen.**



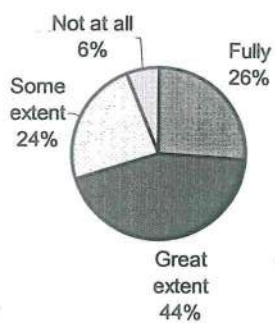
**Networking with other organisations  
for improvement of functional  
effectiveness.**

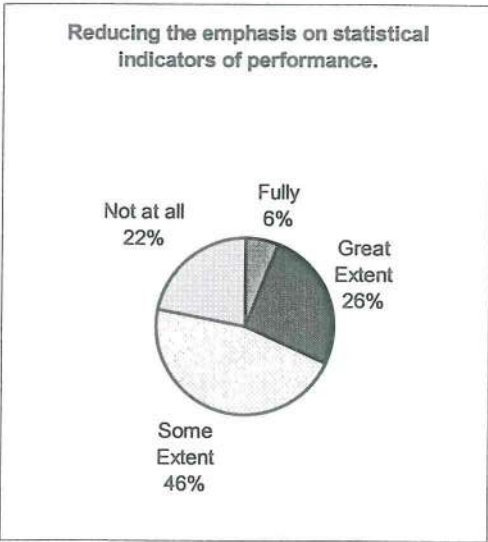
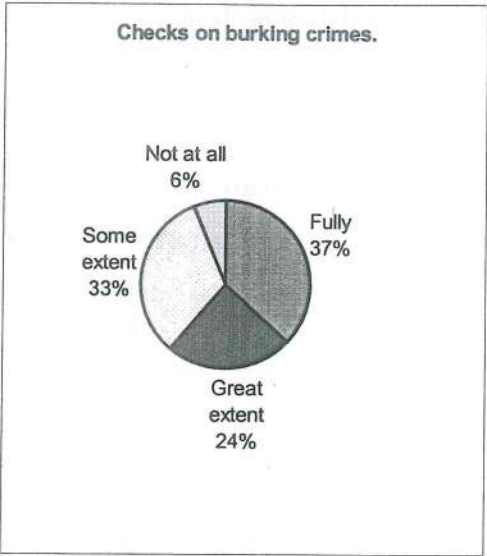


**Proper recruitment of police  
personnel**



**On-the-job training of police  
personnel on Human Rights issues.**





From the Table 53 it is observed that the general public recommended the following non-training interventions in order of priority as under:

**Recommended for full implementation.**

- Technological upgradation for improving the effectiveness of police operations (56%).
- Appropriate placement of police personnel at sensitive places (49%).
- Proper recruitment of police personnel. (48%)
- Entertaining complaints on Human Rights violations by police personnel from public and other sources. (47%).
- Coaching for Human Rights Observance (46%).
- Emphasis in employee appraisal system on human rights observance (41%).
- Protecting the Human Rights of Policemen (37%).
- Checks on burking crimes (37%).
- Joint action planning or checking human rights violations (36%)
- Counseling of subordinates. (36%).
- Facilities and equipments for better interrogation (35%).

**Recommended for implementation to a great extent in police.**

- Emphasis in employee appraisal system on human rights observance (41%).
- Networking with other organization for improvement of functional effectiveness (28%)
- On the job training for police personnel on Human Rights issues (26%).
- Commendation, announcements of names of police personnel in newsletters, citations and publications (16%).
- Inspections by superiors (28%).



- Feedback through continuous interaction with the colleagues and subordinates (33%).
- Rewards, commendations, medals, cash awards for exemplary Human Rights Observance. (34%)
- Constructive criticism by the superiors for discouraging negative behavioural patterns (28%).
- Protecting the Human Rights of Policemen (37%).
- Conduct of meetings to discuss Human Right violations (30%).
- Reprimanding erring policeman (29%).

**Recommended for implementation to some extent.**

- Continuous inflow of Human Rights related written material to the police personnel on the job (25%).
- Reducing the emphasis on statistical indicators of performance (6%).

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## **CHAPTER – 10**

### **MAIN FINDINGS,** **RECOMMENDATIONS AND** **SUGGESTED RESEARCH**

## CHAPTER - 10

### MAIN FINDINGS , RECOMMENDATIONS AND SUGGESTED RESEARCH

#### **10.1 FINDINGS RELATED TO HUMAN RIGHTS AWARENESS**

Following were the main findings:-

- Many executives had very little idea about the N.H.R.C. and its functions/powers.
- Knowledge of the provisions of the constitution as relating to the observance of Human Rights was found to be good.
- Knowledge regarding the provisions of the I.P.C. as related to the observance of Human Rights was not up to the mark, specially with regard to the duties of the police after arresting a person, and
- Knowledge about the various international covenants and standards on Human Rights left much to be desired.

#### **10.2 FINDINGS RELATED TO ATTITUDE OF POLICE EXECUTIVE TOWARDS OBSERVANCE OF HUMAN RIGHTS**

Following Negative Attitudes were found:

- Police should derive their power and authority from the posts they hold rather than from the law.
- The power of punishing the guilty citizen should rest with the police for controlling crime.
- Fundamental Rights should be denied to terrorists and insurgents.
- Under trials should be subjected to torture and third degree methods to facilitate revelation of 'truth'.
- Arbitrary arrests and detentions are necessary for controlling crime.



- Human Rights look good only on paper but in actual practice, police will have to overlook them.
- By informing the grounds of arrest to the families of the arrested person, police will invite unnecessary trouble.
- Courts should not order compensation in cases of unlawful detention.
- Medical facilities to a person in police custody should be delayed.
- Violation of Human Rights during pretrial detention cannot be stopped.
- Pressure by N.H.R.C. on Human Rights issues is making the police less effective, and
- Opinion was however divided on the issue of whether Human Rights agencies like Amnesty International are humiliating the police for alleged Human Rights Violations.

Following positive attitudes towards observance of Human Rights were found:-

- Every citizen should be presumed to be innocent of a crime unless and until it is proved in a court of law.
- Legal procedures and formalities should be fulfilled by the police both in letter and spirit.
- Police excesses should be liable for legal scrutiny.
- Any denial by the police of fundamental rights guaranteed under the constitution should be regarded as illegal.
- Disagree with the view that police are justified in liquidating terrorists and insurgents in fake encounters.
- Any arrested person should be produced before a magistrate within 24 hours.
- Disagree with the view that Police should ensure that bails are not frequently granted by the Magistrates.
- When an accused person is in custody pending trial, he is entitled to human dignity.

- Police excesses amount for violation of Human Rights more than judicial delays.
- The creation of N.H.R.C. was welcome as a positive step to ensure observance of Human Rights by the Police.
- Legal action should be taken against the guilty police personnel in respect of custodial deaths.
- Human Rights training for police personnel would enable them to be more sensitive to the rights of others.
- Steps should be taken to curb rapes of women in police custody.
- The Human Rights record of a country should be a major factor in deciding monetary assistance from UN and the developed countries.
- Human Rights should be as crucial an element of national policy as national security.
- Disagreement with the view that NGOs involved in Human Rights issues are unnecessarily interfering in police work.
- Any violation of Human Rights by police personnel should not be neglected by the senior officers.
- Disagreement with the view that police are justified in adopting extra legal methods in hostile situations, and
- The Government should be considerate to the Human Rights of police personnel.

### 10.3 FINDINGS REGARDING LEADERSHIP ROLE IN OBSERVANCE OF HUMAN RIGHTS.

Following were the findings:-

- Opinion was divided to the statement that police in India lacked the will to respect Human Rights.
- Police lacked the knowledge of Human Rights of the people.
- Police violated the norms of Human Rights observance, and

- Police lacked professional skills, most prominently use of scientific methods of investigation, interrogation and examination techniques, and practical training in human behaviour.

#### **10.4 FINDINGS RELATED TO FACTORS RESPONSIBLE FOR VIOLATION OF HUMAN RIGHTS.**

Following five factors are most responsible for violation of Human Rights observance by police :-

- lack of awareness on the subject at the lower level
- political pressure
- excessive workload
- low wages, and
- use of third degree

#### **10.5 FINDINGS RELATED TO VIOLATION OF HUMAN RIGHTS AREAS**

Areas of police activity where violations occur the most :-

- arrest/use of handcuffs
- police custody/denial of timely medical attention to detainees treatment of women
- biased use of discretion, and
- use of force out of proportion to the provocation

#### **10.6 FINDINGS RELATED TO THE ROLE OF SENIOR OFFICERS IN CURBING VIOLATION OF HUMAN RIGHTS**

Roles and responsibilities considered critical for senior police officers in tackling the violations of Human Rights by the Police:-



- punishing the guilty police personnel
- frequent briefing of subordinate staff
- spread awareness about citizen's rights
- educating the personnel about ethical values
- resistance to political and 'senior' pressure
- inclusion of Human Rights training in police training institutions.
- Improved infrastructure for better investigation and interrogation, and
- Better working conditions for subordinate staff to reduce frustration

#### 10.7 FINDINGS REGARDING EXPECTATIONS FROM VARIOUS AGENCIES.

Main findings are presented below :-

Media to be fair, responsive and cooperative in educating the public.

Judiciary to be quick in disposal of cases, take strong action against violators of law and understand the problems faced by the police.

Academia to include Human Rights training in the curricula at school and college level and encourage research studies in this area.

NGOs to look after victim rehabilitation, protest against police excesses and initiate awareness campaigns.

Legislators for minimal interference, changing the dated laws and creation of congenial atmosphere for all-round respect for Human Rights norms.

**10.8 RECOMMENDATIONS MADE BY SENIOR POLICE OFFICERS RELATED TO NON-TRAINING ORGANISATIONAL INTERVENTIONS FOR OBSERVANCE OF HUMAN RIGHTS BY POLICE.**

Senior Police Officers felt that the following non-training interventions were necessary in order of their priority:-

**Recommended for full implementation**

- Protecting the Human Rights of Policemen.
- Proper recruitment of police personnel.
- Checking on burking crimes.
- Networking with other organizations for improvement of functional effectiveness.

**Recommended Implementation to a great extent**

- On-the-job training of police personnel on Human Rights issues.
- Appropriate placement of police personnel at sensitive places.
- Feedback through continuous interaction with the colleagues and subordinates.

**Recommended implementation to some extent.**

- Rewards, commendations, medals, cash awards for exemplary Human Rights observance.
- Counselling of subordinates.
- Conduct of meetings to discuss Human Rights violations.
- Joint action planning for checking Human Rights violations.
- Inspections by the superiors.
- Reprimanding erring policeman.

- Constructive criticism by the superiors for discouraging negative behavioural patterns.
- Continuous inflow of human rights related written material to the police personnel on the job.
- Coaching for human rights observance.
- Emphasis in employee appraisal system on human rights observance.

#### 10.9 RECOMMENDATIONS MADE BY GENERAL PUBLIC RELATED TO NON-TRAINING ORGANISATIONAL INTERVENTIONS FOR OBSERVANCE OF HUMAN RIGHTS BY POLICE.

A cross-section of the eminent members of the public felt that the following non-training interventions are necessary for observance of human rights by police in India, in order of priority:-

##### Recommended for full implementation

- Technological upgradation for improving the effectiveness of police operations.
- Appropriate placement of police personnel at sensitive places.
- Proper recruitment of police personnel.
- Entertaining complaints on Human Rights violations by police personnel from public and other sources.
- Coaching for Human Rights Observance .
- Emphasis in employee appraisal system on human rights observance.
- Protecting the Human Rights of Policemen.
- Checks on burking crimes.
- Joint action planning or checking human rights violations .
- Counseling of subordinates.
- Facilities and equipments for better interrogation.



**Recommended for implementation to a great extent**

- Emphasis in employee appraisal system on human rights observance.
- Networking with other organization for improvement of functional effectiveness On the job training for police personnel on Human Rights issues.
- Commendation, announcements of names of police personnel in newsletters, citations and publications .
- Inspections by superiors.
- Feedback through continuous interaction with the colleagues and subordinates.
- Rewards, commendations, medals, cash awards for exemplary Human Rights Observance.
- Constructive criticism by the superiors for discouraging negative behavioural patterns .
- Protecting the Human Rights of Policemen.
- Conduct of meetings to discuss Human Right violations.
- Reprimanding erring policeman.

**Recommended for implementation to some extent.**

- Continuous inflow of Human Rights related written material to the police personnel on the job.
- Reducing the emphasis on statistical indicators of performance.

#### **10.10 TRAINING INTERVENTIONS (TRAINING MODULES)**

Based on the findings of the study, following training interventions/modules are recommended, which pertain to police officers (ASP/DySP/SP) serving in the district, through periodic in-service courses to reinforce the relevant inputs in basic training:-

Theme	Methodology	Training materials & Resources	Time Requirement	Evaluation Methodology
1. Interrogation Techniques.	1. Theoretical Presentations. 2. Role Playing 3. Simulation Exercises. 4. Film 5. Experience Sharing (Case Studies)	1. Handouts 2. Role Playing Exercises – Briefs. 3. Simulation Exercise – Briefs 4. Film on “Interrogation Techniques”	12 Hours	1. Performance unstructured Role Plays and Simulation. 2. Question – Answer Sessions.
2. Arrest	1. Theoretical Presentation (Legal provisions) 2. Case Studies 3. Experience Sharing.	1. Handouts/Precis 2. Case Studies	4 Hours	Performance during Case Studies discussion.
3. Victims of Crime, Abuse of Power and their Rights to compensation.	1. Theoretical Presentation and Discussion. 2. UN & NHRC Recommendations. 3. Victims Compensation. 4. Case Studies	Handouts/Case Studies.	4 hours	Question-Answer Session.



Theme	Methodology	Training Material & Resource	Time Requirement	Evaluation Methodology
9.Code of Conduct for Law Enforcement Officials.	Discussion with appropriate examples.	'Code of Conduct for Police Officers' – Handout.	3 Hours	Participation in discussion.
10.Scientific Methods of Investigation.	1.Capsule with Demo. 2.Visit to CFSL/SFSL.	1.Handouts & Precis. 2.Visit Outline.	3 days	Question-Answer Session.
11. 1.Behavioural Training Human Behaviour (Lecture) 2.Perception & Behaviour. 3.Personality Disorders & Behaviour. 4.Basics of 'Interpersonal Competence'.	Lecture + Exercises  Exercise  Presentation+ Discussion  Role Plays and Case Studies.	Handouts  Precis  Exercises Material  Role Play Briefs Case Studies.	12 days.	Question-Answer Session.  Performance during Role Plays & Case Studies.
12.Management of Human Resources at P.S. & District Level.	1. Lectures. 2.Experience-Sharing. 3.Group Discussion. 'Management of Human Rights at P.S. levels – Problems & Perspective. 4.Syndicate Work.	1.Handouts/ Precis 2.Case Study material. 3.Group Discussion outline.	5 Hours.	Performance in Syndicate Work.
13.Ethical Policing.	Interaction with Senior Police Officers.	Hand outs / Precis	2 Hours	--

Theme	Methodology	Training Material & Resources	Time Requirement	Evaluation Methodology
14. Stress Management.	1.Workshop for Identification of Stressers and their coping Mechanisms. 2.Relevation Training (Yoga/ Meditation/ Jogging/ Muscular Relax Exercise etc.	Training Material on 'Stress Management'	4 Hours  Throughout the Course in Morning.	Performance on various Relaxation Exercises.
15.Time Management.	Workshop on Time Wasters and 'Management of Time'	1.Workshop design format. 2.Exercises	4 Hours	Individual means
16.First Aid	Capsule Course + Demo + Individual Practice & Reviews.	Reading Material	6 Hours (1 day)	Performance during practice sessions.
17.Gender Sensitivity.	1.Discussion on UN & NHRC recommendations. 2.Legal Provisions and Case Laws - Lecture. 3.Case Studies.	Handouts / Case Studies	3 Hours	Participation in Case Studies discussion.

Theme	Methodology	Training Material & Resources	Time Requirement	Evaluation Methodology
18. Areas of police discretion under Law and steps to overcome bias in the exercise thereof.	Presentation followed by discussion. Case Studies.	Handouts / Case Studies	3 Hours	Participation in Case Studies discussion.
19. Minimum use of Force for Effective Public Order Management.	Case Studies.	Case Studies.	3 Hours	Participation in Case Studies discussion.
20. Police Morale including rewards and punishments.	- Presentation - Experience Sharing - Case Studies	1. Hand outs on the subject. 2. Experience sharing Planning format. 3. Case Studies.	3 Hours	Participation in Experience sharing session and Case Study discussion.
21. Welfare Measures.	- Presentations (NPC Recommendations) - Case Studies.	Case Studies.	3 Hours	----
22. Expectations of Media, Judiciary, NGO, elected representatives of the public from Police.	Panel Discussion	Panel Discussion guidelines.	3 Hours	----

\* At the end, 'Human Rights Awareness Test' and 'Attitude Towards Human Rights Test' developed in the investigation may be administered on the executives for ascertaining knowledge, skill and attitudinal changes.



#### 10.11 NON-TRAINING INTERVENTIONS FOR OBSERVANCE OF HUMAN RIGHTS BY POLICE – A PSYCHOLOGICAL PERSPECTIVE.

Members of the Police force are invariably involved in interaction with other members of the society, both directly and indirectly. In fact their interactions with people are much more complicated in conditions, expectations and consequences. Their interactions vary from those with a single person, with small groups and crowds. They have to act and interact, keeping in mind what happened earlier, what is happening now and what may happen in the future. Again in a country like ours, very often they have to play the role of relief workers. At the same time there are restrictive norms and the so- called rules etc. which limit the options or choices of acting. Their role has expanded more scrutinized both internally and externally, both legitimate and illegitimate. Given this complex situation, with all freedom for possible criminals and no freedom for the police, behavioural problems have surfaced. The situation if anything promises only to become more complicated. In addition to all these heavy job demands, "ability to face public criticism", often not just, has also become important. The problem is how we go about developing the police force in such a way that its members function as sensitive, responsible, responsive and strong both mentally and physically. This is a positive challenge for the society more particularly the police managers and policy makers.

The necessary facilitators and augmentors

We may now focus on the interventions that may be helpful in accomplishing this task from a psychological perspective. The term "support and augmenting activities" may be preferred in addition to "intervention" because the word intervention is rather narrow and specific. In making an attempt to highlight these activities/interventions, the following premises have been kept in view:-

1. The support activities that may be encouraged in the task of nursing and nurturing the police force are not in any way exclusively applicable only to the police force. They are also applicable to other categories of services in our society. The police is another agency of the society and not so very different from others. Hence support activities and interventions found helpful elsewhere can as well be applicable in the police context.
2. These activities which are of a general nature will have to be tailored and shaped to the job and role requirements at different levels of the police force and also keeping in mind different conditions and contexts. There are no formulae prescriptions.
3. These activities form a continuous and integrated package which can be sequenced, scheduled and rationalized depicting a number of factors. They have to be integrated with a convergent vision.
4. There is no stage when one can assume that a particular member of the force has been fully nurtured. In a changing society, there is always a need and a possibility for further development and betterment. There is a need for continuing development. This is all the more true, because the role of the police has been and will be continuously expanding and diversifying getting closer and closer to the civil society at large. This calls for innovativeness and flexibility in designing these programmes.
5. The approach should be multi-pronged and involve different levels but with a total perspective.

#### Supportive activities and facilitators

Supportive activities may be broadly considered under two categories, enabling activities and empowering activities. Enabling activities help the individual and aim at helping him to acquire the necessary knowledge, skills, attitudes and other behavioural inputs needed to perform his or her duties, with competence and up to expectations. Conventional training activities belong to this category. There is a job description and job expectation. Based on these, an analysis is made to identify the necessary inputs



that have to be transmitted to the person. It is assumed that with on the job experience, such learnings will be consolidated and that the individual will show improved performance. The accent here is on equipping the individual to perform adequately. Of course there are differences among the individuals and this has to be accepted. While one may aim at enabling all the persons concerned, at least to a required minimal level, it may not be either possible or desirable to expect all to be equally competent. More recently, it has been realized that job requirements keep changing in view of developments in science and technology and therefore one talks of refresher training or orientation programmes etc.

The accent is on making the trainee acquire normatively prescribed knowledge and skills. Almost all our educational and training activities belong to this category. The effort is to bring about changes necessary for minimal or average performance. Of course, this is not made explicit but eloquently implicit to most trainees. The target is a group or category of persons or employees though the medium and consequently the training, teaching and strategies are individualistic. It is assumed that if every police person is trained, they will all add up and give us at least an efficient if not effective police force. There is a hope of arithmetic addition which is assumed at two levels. The first level as already mentioned is that all trained individual policemen add to become a good police force. The second level is that if an individual is trained or educated on a number of isolated elements, all these will add up to produce a good policeman. The assumption is that the individual himself is passive and acquires and assimilates whatever is given and learns to successfully use these whenever called for. The formula seems to be attention – instruction – absorption – acquisition – assimilation – adoption and adaptation. This is faithfully based on the classical, psychological “image” of the human being as a passive receiver, acceptor, adopter and adapter. This approach to developing, planning, executing and supportive activities is still valid, in the initial stages of the professional or occupational preparations of the person and also where the situations, job demands and expectations remain static. Perhaps this approach will continue to be valid to some extent, in some situations and conditions for a long time to come.



However there can be certain unpleasant and unwholesome outcomes. If reliance is placed exclusively on only enabling strategies, the most common outcome is mechanization, stereotyping and routinisation, through repeated use and often irrespective of the feed back. The problem may disappear but may not have been solved. This in turn can lead to increasing gaps between what one does and the actual requirements of the job.

Such stereotyping or monotonisation does pave the way for the setting way in an insensitivity to differences in situational and contextual difference especially the finer nuances. Religiously adhering to learn rules of the game can lead to "psychological mental alienation" and makes the person insensitive to situational variations. Introspection and situational sensitivity are relegated to the back if not totally excluded. Anxiety sets in and along with its steps in irrationality which leads to brutality. This is not only true of the police but all categories of people. There is no difference between the actions of the civil servant and the alleged "uncivility" of the police. The lethargy, indifferent and callousness of the civil authorities are also violation of human rights.

Anxiety once sets in becomes the driving force and escape from anxiety becomes more primary than the actual and real goal. Hence the hurry, the hasty action and the keenness to get rid of the problem than to solve it.

Stereotyping, routinisation to complete the task, anxiety and aggression form a sequence which results in what may be called "a psychological isolation of the task" from the total job. Pressure and criticism, both from within the system and outside, makes the person only more anxious and more aggressive especially when the fear of being subject to unfair criticism and being "scapegoated" sets in. It may not be unfair to observe that a good share of "alleged police violation of human right" is a result of the criticism which is perceived as unfair and biased especially the criticism emerging from "self appointed good samaritans".

This does not mean that there is no violation of human rights or brutality by police. What is suggested is that while there is police insensitivity and excess, very often these are compounded by irresponsible criticism. One should keep in mind the settings and conditions under which the police function, including the constraints and pressures, both from outside and inside, which operate. Psychologically speaking, a totally and exclusive approach of criticism and fault finding makes the person feel helpless. The person ceases to think and feel and becomes the doer. This has been realized and that is why we have refresher training and sequenced training programmes. But one wonders how effective these are at the lower levels.

#### Empowering support

It is the realization of the psychological limitations and disadvantages of the enabling approach that led to the emergence of empowering strategy. The empowering strategy aims at making the person function as a master of the situation and not become a slave or prisoner of the situation. He is alert both intellectually and emotionally and responds more calmly, remembering what all he has been taught. Dependence on stereotyped action is minimized and there develops an awareness of the probability of a new solution to a new problem or even an apparently old problem. Such readiness to scan the situation and the ability to do it are developed. There is an increased faith and trust in oneself and this results in a readiness to search, try and find, look for support and resources every where, get them and use them. The job ceases to be a burden or a load to be unloaded and becomes a challenge. The aim becomes one of accomplishing a job rather than completing a task. The behavioural changes are based on certain basic assumptions and beliefs on which the person works. The empowered person compared to the enabled person looks at the world including himself in a different manner. A brief indication of this perception is attempted below:-



1. Essentially an empowered person tends to look at himself or herself not as an isolated individual but a person of a larger system whose objectives, goals and means he/she shares.
2. He or she sees oneself to be involved and active partner with others including his or her colleagues and others, with a common objective. The larger objective of making the society crime free is more important than just successfully dealing with a case by the easiest of means.
3. This implies that he sees each crime as part of a larger danger and also his or her own efforts as part of a larger effort. There is what we may call, a macro perspective and not a micro perspective.
4. The empowered person thus looks at each assignment as part of a larger
5. The empowered person is sensitive and responds to all possible signs and reality and himself or herself as a member of a responsible corrective force. signals that may be useful.
6. He or she is ready to explore different avenues and possibilities and is thus free from the crippling effects of stereotyping, looking for formula solution.
7. In other words, he or she looks at every new case as a challenge and an opportunity to learn, rather than as a task to be completed or finished.
8. The empowered individual looks at each assignment or task as an opportunity to learn, develop oneself and improve ones performance. He or she believes in developing ones own resources and competence.
9. While being disciplined, he or she is not guided by a mechanical spirit of conformity and following the procedure blindly. He or she is flexible and looks for the best way under the circumstances.
10. In short he or she learns to function as a logical, positively oriented person, utilizing all capacity and resource. He is proactive and long term goal oriented. The purpose in mentioning these assumptions is to highlight the paradigm shift in the base on which training and even other interventions rests. The empowered person has trust and faith in himself or herself and the system which he or she represents and more than that, the purpose for



which it stands. The person feels a sense of pride in belonging to the organization and also the work entrusted to him or her.

#### Education, Development, training and instruction

The above are some of the terms one frequently comes across when involved in personnel or people development activities. In a way, one may observe that historically speaking, the emphasis has been progressively shifting from instruction towards development and the other processes get subsumed under it. While the meanings of these terms may no doubt appear to be obvious to many, nevertheless there are some contextual and psychological nuances. In fact as we proceed from instruction towards development we find more and more complicated psychological processes coming into the picture, and often the very objective change. It may therefore, be of some interest to examine the characteristics of each of these.

#### Instruction

Instruction is perhaps the simplest, oldest and the easiest. Instruction as a method comes into operation mostly when the task involved is more of doing rather than understanding. The emphasis is not how to learn but to do and act like carrying out practical experiments in science subjects. Instruction is therefore employed when the task is concrete, relatively distinct and the accent is on carrying out.

Further, employment of the process of instruction involves an assumption that the person instructed has at his disposal the needed ability to do the job adequately. It is also assumed often that it is not necessary for the person to have a wider and deeper comprehension, if he or she is to take a decision on his or her own. The very hope in employing instruction is that the person being instructed will learn not to decide on his or her own, other than what he or she is told to do. Instruction aims at trying for uniformity, convergence and even stereotyping. "Do but do not think, is the moral".

One can now see how the culture of instruction and instructional pedagogy have taken possession of many organizations particularly the bureaucracy and also the police.

## Training

Training has assumed considerable importance as an instrument or strategy of man power or human capacity building. It is felt that along with the term HRD, the term TRAINING forms the most abused and misused word in the sphere of Personnel Management and Development. Training is more comprehensive than instruction. Training is more comprehensive and aims at making the individual competent to carry out certain cluster of activities which together constitute a job or a role. Training involves more than telling people, what to do and what not do and sometimes, why to do. It involves the imparting of information, knowledge, skill and also behavioural components like attitudes, values and judgmental skills. While training does aim at bringing about uniformity in actions among people, at the same time individual variations are not only tolerated but sometimes even welcome. Training therefore is more broad based and involves multiple processes, and activities like instructing, evaluating performance, feedback, situational role playing, peer group interaction, doing it oneself and many others. Of course, training programmes do vary in their duration, complexity, content and even objectives. Training certainly to a large extent is directed towards job performance but at the same time goes beyond it. It aims at making the person learn and understand, in addition to acquiring the ways of doing certain things. Training aims at improving not only performance but the abilities or competencies. While instruction focuses on doing training aims at performing.

Training has today developed not only as an 'ability facilitating strategy', but emerged as a field of specialization and technology.

Training which traditionally concentrated primarily on imparting theoretical and conventional knowledge and job related skills, has today gone far beyond, often more directed towards development and growth of not only individuals, but groups and



organizations. Today the emphasis particularly at the higher levels of man power development is more on behavioural training including communication, leadership, team building and other activities where the accent is on management of performance of the people, rather than performing alone, much less, on doing as told.

## Education

The term Education has been a strategy employed by every society, whatever be its level of development, to make an individual a self sufficient and competent person and also a socially useful and productive adult member of the society. In fact it is almost a part of one's living and growing up. Every society has had its own traditions and institutionalized ways of education, both formal and informal.

But used in the context of Personnel Management and Development, education is a relative new comer or late comer. It definitely is a new comer compared to training. The term education is certainly much more broad minded. While the process of instruction is task centered, training is job centered and perhaps even institution centered, education focuses not only on these but the need to provide a large frame of reference. It aims to provide knowledge, skills and attitude of knowledge-centeredness, all of which will make people think, analyse critically, examine both themselves and the outside world before doing anything other than what is purely routine. It is based on the belief that things can be improved and bettered if one cares and tries to reminisce, retrospect, introspect and prospect. In psychological terms, it aims at the expansion of the cognitive world and influence action, including performance. The focus is on making the individual alert, analytical appreciative and capable of anticipating future events.

Education tries to make people know how to approach and understand by providing valid knowledge. Equally important, that people should know that they do not know certain things and what they think, they know is not correct. In education, the emphasis is on building up the individual, his perceptions, emotions and activities



through knowledge, expand and extend the spatial and temporal spans of consideration and concern particularly, in as much as they influence and build up a mind set of avoiding impulsive actions and immediate judgements without adequate knowledge. While instruction does not provide any choice and while training helps to do what is apparently the best way of doing as decided by others, education helps you to become aware of identifying different choices available and then choose what is the best among them. Instruction tells you what to do, training tells you how best to do and education tells you to choose the best way of doing. This involves a participation in the decision making as well as accepting responsibility. This ability or capacity to analyse, exercise your choice and do the best has become necessary in view of increasing diversions and complexities in every sphere of action. Education is highly futuristic in orientation. Instruction tells you to do, training prepares you to perform and education helps you to choose the best way of performing and doing and continuing to do that and trying to do better.

It is perhaps in this context that the "police planners and managers" have a role to play. The police personnel today need to be educated and not just trained. One has to build not only the ability, but capabilities. The latter takes into account the need for change and switch in strategies and methods. It involves a managerial component. Today the police personnel are required to think before any act.

The police organization itself has grown in size, and more diversified. New challenges are thrown up and consequently the emphasis has shifted from doing to management. Education definitely tries to bring about a capability of transferring ones learning from previous experiences to a wider sphere.

The emergence of new forms of crimes as well as kinds of criminals makes it impossible to look for copy book solutions. Crimes and criminals are becoming more ingenious. The kinds of offenders are also increasing because every new legislation generates new crimes and criminals if nothing else. One should also keep in mind the fact that the police is subject to legitimate criticism by the public on one hand and

habitual witch-hunt by a few others and this includes the media. Continuous education therefore has become necessary. An ideal solution would be to employ non-training interventions to educational activities and training strategies together. This is definitely called for when one is dealing with personnel at the middle and higher levels. One may call these managerial and executive level personnel. As one goes higher in the hierarchy, the educational and developmental approaches become more and more significant. But these should also find a place while preparing the lower level personnel as well.

#### Non-training interventions

The very significant contribution of psychology and psychological insights into human nature and work behaviour, relates to what may be called non-training interventions. Most non-training interventions are developmental in nature. The human individual is not only a growing entity but a developing one. While growth is to a large extent quantitative development it also become qualitatively different. Development results from maturation and enfoldment on the one hand and also learning and experience on the other. An educated person not only has more knowledge but behaves differently. In today's complex world, in any walk of life, there is a greater need for mature ways of speaking, thinking and reacting in a responsible manner.

#### Development Strategies

Developmental strategies are of two types, Reparative and Enhancive. Reparative developmental interventions are useful in dealing with instances where we have a reason to believe that, in spite of having the potentialities for a higher level of performance evidenced by a number of other indicators, the individual is not performing as well as can be expected from an assessment of potentialities. In many instances, because of certain specific past experiences or series of experiences, people do not perform as well as they can be expected to do. There may be some "hang up" or



"kink" that may be holding the individual back. Typically speaking, the person may have high capabilities and abilities, but performance may not be up to the mark, less than expected high promise and poor performance. The performance may not be poor enough to suspect incompetence or incapability but very much discrepant from the promise. This is often an individualistic occurrence, though there may be several such individuals.

The other category may be described as Enhancement oriented. This category of activities, basically believe that the human system is an open system and is capable of continuous development. While physiological and bodily characteristics may impose certain restrictions in terms of speed of action or even amount of action, the psychological system is an open system and lends itself to continuous development and enhancement, resulting not only in better quantitative output but more importantly qualitative output. An example is that of motivation, other examples are self confidence, self esteem, divergent mode of thinking etc. at the level of an individual. More significant is the fact that psychological behaviour interventions can operate at the levels of groups, like work groups, task groups and more than this even at the levels of whole organizations and communities resulting in the synergic effect. In fact one may not be far off if an observation is made that today, the emphasis in all scenes of manpower development has shifted to this category of interventions. This being the case, such interventions should prove useful to the police organizations also.

#### Individual strategies

As already mentioned, training is predominantly individual oriented.

#### Counselling

One of the most widely used strategies is counseling. While one can talk of "group counseling", still the fact remains that counseling is largely individual oriented



both in spirit and practice. Counselling is a very versatile strategy and more than being just a practice, it has emerged as a very crucial branch of applied psychology.

### Personal Counselling

Essentially, counseling involves a series of continuous interactions between one person who receives the counseling – the counselee and another person who is a professionally trained person known as counselor. Counselling can be employed for reparative, corrective or enhancing purpose. It may so happen that out of several persons, working in a set up say the police force a few may act constantly or on a few occasions in an undesirable or unpleasant or unproductive manner. They may be very aggressive or coercive, or become highly suspicious or can become cynical. The problem here is that the person has always impressed others as a normal person and not found wanting in any other respect. It may be the case of an officer who is very intolerant of even minor acts of omission and commission on the part of those around him, though otherwise very capable, helpful and of high integrity. Some may be unable to get along with others or work as a team.

The assumption in employing counseling is that there may be some psychological hang up or fixation which disturbs the person and further that if this is brought to the notices of the person and he or she may develop an insight and the problem can be got over. The counsellors and the counselee explore for the possible reasons in an atmosphere of total trust, confidence and mutual respect.

### Career Counselling

Career planning and development is another context where counseling is employed as a support. One of the important features of modern life is that every occupation area or sphere of work is getting specialized and professionalised with the advent of continuous training and education on the one hand and also improvement in the levels of nutrition and health on the other. People, especially from the more

educated levels of the society tend to work even after formal superannuation. As a result of all these, the concept of job has been replaced by the concept of career. Job choices are made not merely on the basis of remuneration and compensation in financial and material terms at a particular point of time, but also the possibilities of growth, its importance and also meaningfulness of the work one is doing. Secondly competition has become the order of the day. Most organizations have career advancement and promotional schemes.

In view of the above trends, it has become necessary for every person including those in the police at all levels to plan their work life and equip and develop themselves so that they can grow and develop in their careers. This calls for careful planning and preparation. There are people who think in terms of jobs and short term promotions but end up as failures and frustrated persons. Career education and career counseling have therefore become an integral part of personnel development and management. Career education and development involves helping a person to understand his strengths and weaknesses and suggest ways and means of enhancing the former and getting over of the latter. Provision of career information, suggestions to improve oneself, helping an individual exercise his career options and develop himself, all these are dimensions of career education and counseling. It also happens that there are members in any organization including the police who have little information or wrong information about career possibilities and about themselves. More serious is the fact that many assumptions will always act. Career education and development should include not only career within the system but also possibilities outside particularly post-retirement career opportunities and possibilities. Acquisition of divergent but related competencies, skills and behavioural repertoire become necessary.

#### Performance Counselling

A very widely adopted application of the counseling strategy today is what is known as performance counseling. Performance counseling is based on the basic belief that every person is capable of performing better on his or her job and that there



is no end to the improvement that can be brought about. Performance counseling can be employed at the level of an individual, a group or an organization. It is not always necessary that only a person who performs below the expected normal level would benefit from performance counseling. Even those who are high performers or average performers can benefit from performance counseling. There are a number of factors that can restrict the maximum performance. Some of these factors are poor job description, wasteful and avoidable methods of work, low motivation, lack of a feedback and activities of performance etc. The draw backs may be at the level of an individual, within the system or both or even poor management systems.

Performance counseling include performance appraisal, performance audit and performance counseling. Here it should be pointed out that performance appraisal is not mere performance evaluation. It is not merely judgemental or evaluation. Performance appraisal examines whether all the resources are utilized effectively both by the individual and the system. The question would be whether the resources are wasted because of the inappropriate work methods and procedures. The next thing is to identify when things have gone wrong. Finally, there is performance education and counseling which will include a positively oriented feedback, suggestions for changes and alterations. Performance appraisal targets both individuals and organization. It is not just a mere mechanical way of managerial control. It is quite possible that a person's strong points are not utilized because of allocation of the wrong type of work resource, work mismatch, incompetent supervision, lack of constructive feedback, poor system of communication, lack of effective leadership and team spirit etc. Performance appraisal system should be implemented in an atmosphere of openness, and an assurance that the aim of appraisal is positive and constructive, meant to help the individual to improve himself and thereby benefit the organization also.

#### Experience based learning

While counseling as a strategy probably has been in use since a long time, perhaps even before psychology made its entry as a science of Personnel Management.



Over the past three or four decades a new category of strategies have emerged and today they are employed extensively. These strategies came into existence as a result of the convergence of the findings of three different channels of application of psychology. The first of these three channels is psychoanalysis which essentially dealt with problem behaviour. The second is group dynamics which is primarily concerned with the analysis of the behaviour of groups, what happens in groups, the effect of groups or an individual inter group and intra group processes, emergence of leadership etc. The third is cognitive psychology. Cognitive psychology is primarily concerned with cognitive processes including sensation, perception learning theory and other forms of behaviour which helps us to become aware to understand and interpret this around including oneself. Our responses and reactions, very much depend on how we phase and interpret with others, objects and situations, how we interpret them and observe meanings. As illustrations we may mention three of the following. Psychoanalysis brought out how factors of which we are not consciously aware (including past experiences) influence our behaviour, how unconscious factors affect our behaviour.

Group dynamics has shown that the groups of which we are members, either at work or even other contexts, very much influence our attitudes, judgements and that our relationships with others are important. Cognitive psychology has tried to understand how we come to understand and interpret people, events and objects including ourselves, what are the factors that influence our perceptions and also how our perceptions influence our behaviour. For example, if your boss at work, remarks that your work could have been better, how you feel about that depends on how you look at him and feel about him. If you look at him as an elderly well wisher then you may not feel very offended. On the other hand if you have an impression about him which may not be very positive, then your reaction will be different. The following are some experience based strategies.

### T-Group and sensitivity groups

This is also sometimes known as "laboratory" held under the guidance and supervision of a person specially trained. Essentially this is conducted in groups in a very free atmosphere without constraints or restraining rules of behaviour. There is lot of discussions and interactions about certain issues and is also lot about ones own behaviour and conduct. The person involved comes to know how others feel about him and gradually realizes his strong and weak points. He comes to know that others feel differently about him compared to how he feels about himself. The individual becomes sensitive about oneself and learns to correct himself or herself. He or she also learns to confront differences and conflicts with others and also how to resolve them in a constructive manner. This type of interaction is very useful in the case of those who have been doing the same job for long time, remained secluded and also have to deal with many people. Learning about ones strong points as well as weak points can go a long way in changing ones behaviour and becoming more effective.

### Personal Growth and Development Laboratories

An extension of the original sensitive and T-Group techniques is the emergence of techniques called personal growth laboratories. A brief reference was made earlier to the possibility of occurrence of two types of developmental problem. The first being arrested development and the second being not developing up to ones full potentialities for a number of reasons. The first type of developmental problem calls for remedial or reparative strategies while the second one calls for stimulative enhancement strategies. Developmental laboratory interventions are based again on the positive assumption that every individual born as a normal being has some potentialities and that experiences and opportunities have to be provided for these potentialities to be translated into real action and performance. There are specially developed intervention programmes like "self efficacy programmes", Personal Effectiveness Programmes, Leadership Development Programmes, Personal Growth Programmes, Programmes for Positive creative thinking etc. All these programmes are based on a few basic premises. The



first premise, as already mentioned, is that every individual, however high or low has certain potentiality. Very often the individual himself is not aware of these and those around also fail to notice. If discovered and identified 'there are strategies and programmes' which can stimulate the individual and he can be not only enabled but empowered to develop these potentialities. The individual himself should be made aware of these and the system should provide the support and opportunities that will help the person in this regard. Actualisation of one's potentialities has a positive lateral effect on the individual behaviour. The self esteem and confidence are enhanced and this in turn, leads the person to extent respect to others and respect their feelings and rights. It is the underdeveloped person who indulges in socially and morally unacceptable behaviour. While the conventional approach aimed at lateral horizontal development, development strategies aim at vertical development, the principle here is very simple – the higher you climb the longer and wider you can see. The only way is stopping disprovable behaviour is to see that people develop as normal human beings and achieve their potentialities and not just criticizing them.

#### Group and organizational level strategies

A major transformation in the nature of work today is that, in most instances work has become 'team work' or a 'group work'. Given the direction of the development of modern technology the work, in most contexts has come to be characterized by what we may call "Task Interdependence". Every job has become a group job and at the organization level, there is interdependence among different groups. The traditional concept of departments being mutually exclusive units is giving way to ideas like work groups and task groups. The nature of jobs has made it necessary to adopt decentralization, resulting in a need for integration at different levels down the ladder and not just at the apex levels. This has created the need for integration and interaction at various levels. The human unit of working has become a group or even the system or the organization as a whole. Free flow of communication and permeability of influences have become essential.



It is therefore not surprising that interventions at the levels of groups and organizations have emerged and are increasingly accepted. Terms like team spirit, participation, organizational climate, organizational culture, work culture have become household idioms. Though all these were first initiated in the corporate sector, government and other public service organizations have also found these very helpful not only for improving performance but also in promoting organizational health, attitudes to work, better interpersonal relations, better understanding of others and many other behavioural factors. One hears of horizontal integration and vertical integration. Hierarchical barriers are breaking down and free psychological movement is being promoted among different segments of the same work system or organization as units, which in turn will develop individual members. It is a developed organization that develops members and not the other way. Attitudes, values, relationship etc. have assumed more significance than mere knowledge and skills as thought of earlier. The aim here is that even if individuals are developed, they have to work in groups and organizations, and not as individuals. A well developed organization with a sound system of management of men, materials and work, itself generates a culture of understanding, learning, cooperation, sympathy, and all other positive and supportive forces to ensure better performance. Perhaps the approach now seems to be "from the top below" rather than from the "bottom to the top". If an organization treats its members in a humane and human manner, then there is no reason why the members will not learn to extend it to others. Isolation, restriction and compartmentalization results in alienation and insensitivity. It is said that officers in the police service refer to the constables not by their personal names but by their numbers. One does not expect humanism from people who are not treated as human beings.

#### Organisational level steps

Contemporary society is often referred to as a society of organizations and the term "organizational man" is often employed to describe the life style of an individual today. As already mentioned, the traditional approach of individual employee centered and individualistic approach to man power development has almost given way to what

has come to be known as the organizational approach to Man, Management and Employee Development. The result of this is that measures other than traditional training and education have been developed. It is being increasingly appreciated that the level and quality of performance of an individual member is to a large extent a reflection of the conditions in an organization.

Every organization has objectives and goals which very often have to be validated in the light of changing realities. The objective of the police in India today is different from what it was under the colonial rule. The police today deal with people who are more educated and conscious of their rights. The people today are more ambitious and consequently restless. Through the media, people are becoming more aware of whatever is happening around them.

Organisations engage themselves in frequent revision of their goals and objectives. Structural levels may have to be re-examined, so also functional responsibilities. Contemporary challenges require that there is greater decentralization, vesting of more authority as well as accountability at the lower levels. Leadership qualities and competency for decision making have become necessary even at the lower level. Similarly, rigid systems have to be gradually made more and more flexible. Organisations should employ all channels to get a feedback both from inside and outside, which will help organizational introspection and self examination, which, in turn, will lead to "re-energisation" or renewal and jobs may have to be redesigned. All these require that a culture of free communication is created and nurtured which will ensure that there is regular feed back. We are living in an age where nothing can be taken for granted. In fact, while technological changes are undoubtedly taking place at a very fast rate, the changes in human behaviour are also taking place at an equally fast rate and an organization like the police which primarily interacts with people day in and day out, cannot be insensitive to this. The demographic, social and cultural characters of the society are changing fast and it is necessary for service organizations not only to be aware of the effects of these changes in behaviour, but should be able to anticipate and be prepared. Proactiveness should take the place of reactiveness. The



police should be a very sensitive organization with sound antennae. Performance audit and behavioural audit are techniques which can be employed as self adopted aids for self examination and renewal and also help diagnose how prepared the organization is.

From a psychological perspective, one may say that developmental interventions for the police personnel should be personal system control and not just task or problem centered. Interventions should be planned keeping long term and all round development. The developmental activities should be planned with a long term perspective. Capabilities, abilities, knowledge and skill are important but all these have to operate through an individual, in a system or organization, which in turn is embedded in a society. The strategies adopted should be not only input based but experience based, experiences in the situation, experiences in the organization. Systems and procedures in the organization should be open, transparent and permeable. It should also be borne in mind that it is not just the individual who should be developed but the organization as such. The organization should grow with the person, so that whatever he learns becomes practical and real. In training programmes there is the gap between what is said and what happens. The possible gap or distance should be avoided.

#### Professionalism and professional values

The police force is a professional organization engaged in public service. It is not a voluntary organization or a loosely assembled service organization. A professional organization is characterized by certain attitudes and values. Professionalism among other things includes a respect and pride in ones work, and an urge to do things in such a way that there is value addition to the image of the profession, doing ones work in the best possible way, deriving satisfaction from ones achievement and above all, reinforced satisfaction resulting from feedback on ones performance. A professional does his work not only because he is paid to do it or has to do it but more because he enjoys doing it and learns to do it better so that the users of his service are also happy.



That there is lot of interface with the society at large does not mean that a policeman should be less professional. Similarly "task orientation" is not professionalism. One very often hears advice to the policeman that the police should function as friends of the people. While nobody can dispute the need for the police to be friendly, concerned and sympathetic, there is no need for them to function like the self-appointed "do gooders". It should be understood that it is not only the police but other service groups that have to be friendly. Professionalism does require maintenance of a distance and exclusiveness. Professionalism generates a sense of pride in ones work and consequently self respect and this in turn restrains people from doing what is unbecoming of them. The self-image of the police as a system and the individual members is an important factor. People do not engage in wrong actions, not just because others do not approve but they themselves do not like. Restriction should emerge from healthy pride and respect for ones job and not just because of rules and the so called popular expectations. The best way to make people law abiding is by making them civilized. Obedience to law does not ensure people are civilized, it may be out of fear. But on the other hand civility ensures obedience to law. A cultured and civil person needs no law to keep him on track. Professionalism goes a long way in ensuring this.

What has been attempted in the foregoing is to present a brief overview of the psychological approach to man power development in the police so that the police system functions as an effective system of the society and functions as a human agency.

What appears to be important is a well planned system of human and manpower development which has to comprehensively take care of the individual, the group, the organization as a whole and be constantly on vigil. Violation of human rights cannot be treated in a simplistic fashion. While discussing the question of violation of human rights by the police one should remember that police are also human and entitled to human rights. Secondly they are part of a larger system which is perverse where others

are conscious about their rights and silent about their obligations. When we talk of rights, it should be understood that there are also obligations. There cannot be a right without an obligation and a right cannot override other's rights.

### The Police and Stress

A very important factor is how the society looks at the police. There is no need to dwell at length how the police are generally portrayed. Invariably they are presented as incompetent, corrupt and even mischievous. In psychological literature, we talk of attribution and the effects of attribution. What has been found is that if bad qualities are attributed to an individual or a group, consistently and uniformly, then the individual or group run the risk of accepting these attributions and even living up to them. If the police have to be educated about the society, equally the society should also be educated about the police. If somebody expects the police to be humane, the police have equal right to expect the same from the society. Incompetence, corruption and misbehaviour are not exclusive to the police. A positive attitude from the society goes a long way in enabling the self respect and self image of the police. Social education about the police and the hazards faced by them is as necessary as educating the police. The police have also a role to educate the society.

### **10.12. POLICE LEADERSHIP – TASKS AHEAD.**

From the interviews the investigator had with some senior police officers and cross-section of members of public, the following suggestions are being made:-

- Observance of Human Rights Day (10th DECEMBER) by all Police Stations/Offices in a befitting manner in the States as well as Central Police Organizations.
- Installation of Close Circuit Television Cameras in the lock-ups in all Police Stations.
- Setting up of interrogation centers at all Sub Divisional headquarters.



- Setting up of field units of Forensic Science Laboratory in all districts and opening of regional forensic science laboratory in each State.
- There should be a reference to observance of Human Rights standards in the employee appraisal format.
- Surprise Inspections of Police Stations by Senior Officers will deter custodial violence.
- Complaints of Human Rights violations be enquired into expeditiously.
- Human Rights awareness campaign on a continuous basis to educate the members of the public and subordinate staff.
- Emphasis should not be laid on crime statistics for evaluating the performance of an SHO, and
- Organizational culture must promote Human Rights Observance.

#### **10.13. SUGGESTIONS FOR FURTHER RESEARCH**

1. Construction of valid tools for Police Personnel in the following areas:-
  - Human Rights awareness,
  - Attitude towards Human Rights,
  - Human Rights skills audit, and
  - Public perception of Police on Human Rights observance.

This battery of tests will help police leaders to continuously assess their subordinate ranks for remedial measures.
2. Validation of rank specific training programmes on Human Rights for police personnel.
3. Strategy formulation for Human Rights education and training of police personnel.
4. Evolving of suitable Non-Training / Organizational Development Interventions for furthering the cause of Human Rights training and education of police personnel.
5. Post-training evaluation, strategy formulation, implementation and evaluation of Human Rights training programmes.



6. Strategy for Leadership Training with respect to Human Rights education and training for coaching and development in Human Rights concerns.
7. Public expectations survey ( Audit by society) for Human Rights observance by police in India.
8. Closer examination of the existing Law to evolve better enforcement strategies and propose any amendments.
9. Case studies on Human Rights observance / violations, and
10. Training material production and standardization.



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### ATTITUDE TOWARDS OBSERVANCE OF HUMAN RIGHTS BY POLICE SCALE

Please read each statement carefully and express your opinion by considering the following 5 post scale:

	5	-	Strongly Agree		
	4	-	Agree		
	3	-	Undecided		
	2	-	Disagree		
	1	-	Strongly Disagree		
5	4	3	2	1	1. Policemen should derive their power from the posts they hold rather than from Law.
5	4	3	2	1	2. Every citizen should be presumed to be innocent of a crime unless and until it is proved by a court of law.
5	4	3	2	1	3. Power of punishing the citizen should rest with the police for controlling crime.
5	4	3	2	1	4. Legal procedures and formalities should complied both in letter and spirit by Police.
5	4	3	2	1	5. Police excesses should be liable for legal scrutiny.
5	4	3	2	1	6. The Indian Constitution guarantees Fundamental Rights to the citizen and denial of the same by police should be regarded as illegal.
5	4	3	2	1	7. The Fundamental Rights should be denied by the Government for terrorists and insurgents.
5	4	3	2	1	8. Under Trials should be subjected to torture and third degree methods to facilitate revelation of truth.
5	4	3	2	1	9. Police should not allow people, who are against the Government, to express their opinions.



5	4	3	2	1	10.	Arbitrary arrests and detentions are necessary for controlling crime in our country.
5	4	3	2	1	11.	Police are justified for liquidating terrorists/insurgents in fake encounters.
5	4	3	2	1	12.	Human Rights look good only on paper, in actual practice police will have to overlook them.
5	4	3	2	1	13.	By informing the grounds of arrest to the families of arrested persons, police will unnecessarily invite trouble.
5	4	3	2	1	14.	The arrested persons should be produced before a Magistrate within 24 hours.
5	4	3	2	1	15.	The Courts should not order for compensation for unlawful detentions.
5	4	3	2	1	16.	Police should see that bails are not granted frequently by the Magistrates.
5	4	3	2	1	17.	When accused person is in custody pending trial for any reason, human dignity should be accorded to him.
5	4	3	2	1	18.	Medical facilities to the persons in police custody should be delayed.
5	4	3	2	1	19.	Violation of Human Rights during pre-trial detention cannot be stopped.
5	4	3	2	1	20.	Judicial delays account for more violation of human rights than police excesses.
5	4	3	2	1	21.	Human Rights Awareness programme for police will make them more sensitive to the rights of others.
5	4	3	2	1	22.	Creation of National Human Rights Commission by the Government of India is a positive step to make police conform to Human Rights stipulations.
5	4	3	2	1	23.	If someone dies in police custody, legal action should be initiated against the police.
5	4	3	2	1	24.	Steps should be taken by the police for stopping rape of women in police custody.

5	4	3	2	1	25.	The Human Rights record of a country should be a major factor in deciding monetary assistance from U.N.O. and the developed countries.
5	4	3	2	1	26.	Human Rights should be as crucial an element of National Policy as National Security.
5	4	3	2	1	27.	Human Rights agencies like Amnesty International are humiliating the Indian Police for alleged Human Rights Violations.
5	4	3	2	1	28.	The pressure by NHRC on Human Rights issues is making the police less effective.
5	4	3	2	1	29.	Non Governmental Organisations (NGOs) involved in Human Rights issues are unnecessarily interfering in police work.
5	4	3	2	1	30.	Any violation of Human Rights by police personnel should not be neglected by the senior Officers.
5	4	3	2	1	31.	In hostile situations the police are justified in adopting extra legal methods.
5	4	3	2	1	32.	The Government should also be considerate to Human Rights of Police personnel.

**HUMAN RIGHTS AWARENESS TEST**

TIME : 45 MINUTES

**PART -I**

**Please fill in the blanks.**

1. What is the full form of 'N.H.R.C.'?
2. In which year 'The Protection of Human Rights Act' was enacted?
3. Who is the Chairperson of NHRC in India?
4. Please specify two functions of NHRC?
  - i)
  - ii)
- 4A. Please specify two powers of NHRC.
5. On Jan. 26, 1950 India became a Sovereign Socialist Republic to secure to all its citizens JUSTICE, LIBERTY, .....,and .....



## PART – II

Please match the following items.

### PART A

### PART B

- |                           |                                                                                   |
|---------------------------|-----------------------------------------------------------------------------------|
| _____ 1. Article 22(1)    | A. Equality before laws.                                                          |
| _____ 2. Article 21       | B. Right to know the grounds of arrest and to consult any legal practitioner.     |
| _____ 3. Article 14       | C. Prohibition of discrimination on grounds of religion, race, caste, sex etc.    |
| _____ 4. Article 20(3)    | D. Person accused of offence cannot be compelled to be a witness against himself. |
| _____ 5. Article 19(1)(a) | E. Protection of Human dignity and personal liberty.                              |
| _____ 6. Article 15(1)    | F. Right to freedom of speech and expression.                                     |

## PART – III

Please elaborate on the following :-

1. Section 330 of IPC.
2. Section 331 of IPC.
3. Section 302 of IPC.

4. Recommendations of National Police Commission on stopping Custodial Violence.

#### **PART – IV**

**Please answer the following questions :-**

1. A person can be prosecuted for the offence for which he is acquitted by court of law?  
Yes/No
2. The accused can be subjected to psychological torture during interrogation in police custody?  
Yes/No
3. Can a Policeman use handcuffs for all arrested accused persons in a routine manner?  
Yes/No
4. The accused has the right to consult a lawyer while in police custody?  
Yes/No
5. Can Police summon a female witness to come to P.S. for interrogation in connection with a criminal case?  
Yes/No
6. Are the rights to life, liberty, equality and dignity of the individual as guaranteed by Constitution of India construed as Human Rights?  
Yes/No
7. Can the victim of a rape be detained in jail for her medical examination?  
Yes/No
8. Can a girl aged 17 years be detained in jail for recording her statement in connection with her abduction?  
Yes/No
9. Can a boy aged 15 years arrested in connection with a theft case be sent to jail after refusal of bail by court?  
Yes/No
10. Can a mentally ill person found wandering in a locality be detained in jail?  
Yes/No

## PART – V

Please tick the correct answer :-

1. What are the pre-conditions of using handcuffs by Police?
  - a) Recording of reasons and furnishing the same to court.
  - b) Taking permission of court before use of handcuffs.
  - c) No intimation is to be given to court.
2. What is the duty of police after arrest of the accused?
  - a) To inform him about the grounds of arrest.
  - b) To put him under handcuffs, so that he may not escape.
  - c) To keep him in lock up, so that he may not consult his relative or lawyer.
3. What is the time limit for production of arrested accused before the court of a magistrate?
  - a) 24 hours from the time of arrest.
  - b) 24 hours from the time of arrest excluding time required for journey.
  - c) 24 hours from time of arrest including time required for journey from place of arrest to court of magistrate.
4. What is the duty of police after arresting a person on the allegation of causing death by rash and negligent driving of a car?
  - a) To detain him in custody.
  - b) To offer him bail.
  - c) To produce him before the court.
5. What is the right of a person whose premises are searched and things are seized by police?



- a) To have a copy of seizure memo.
  - b) To obstruct the police from making search without search warrant from court.
  - c) To invite people of locality to observe the search.
6. Under which Act the National Human Rights Commission was constituted?
- a) The National Human Rights Act.
  - b) The National Rights of Humanity Act.
  - c) The Protection of Human Right Act.
7. Which body can investigate and examine all matters relating to safeguards provided for women under the constitution and other laws?
- a) National Women's Cell.
  - b) Women's Commission of India.
  - c) National Commission for women.
8. Under which statute "Juvenile Homes", "Special Homes" and "Observation Homes" are established?
- a) Children Act.
  - b) Juvenile Justice Act.
  - c) Child Protection Act.
9. Everyone charged with criminal offence shall have the right to be presumed innocent until proved guilty according to law. Which International Treaty contains the above Human Rights?
- a) International Covenant on Civil and Political Rights.
  - b) African Convention on Human Rights.
  - c) Economic, Social and Cultural Rights.
10. Anyone who has been the victim of lawful arrest or detention shall have an enforceable right to compensation. Which International Covenant contains this right?
- a) Universal Declaration of Human Rights.
  - b) African Charter on Human Rights and People's Rights.
  - c) International Covenant on Civil and Political Rights.

**POLICE LEADERSHIP ROLE IN OBSERVANCE OF HUMAN RIGHTS  
QUESTIONNAIRE (PLRHR)**

**Please answer the following Questions:-**

1. Do you feel that Police in India lack the will to respect Human Rights?  
Yes / No
2. Do you feel that police in India lack in knowledge of the Human Rights of People?  
Yes / No
3. Do Police in India violate the norms of Human Rights observance?  
Yes/No
4. a) Do you feel that the Police in India lack the professional skills for effective observance of Human Rights?  
Yes / No  
  
b) If yes, then which professional skills are to be developed in them
  - i)
  - ii)
  - iii)
  - iv)
  - v)
  - vi)
  - vii)
5. Please identify 5 factors, which according to you, are responsible for violation of Human Rights by Police in India.
  - i)
  - ii)
  - iii)
  - iv)
  - v)

6. To what extent the Human Rights are being violated in our country in the following areas:-

SCALE				AREAS
To a great Extent	To a considerable Extent.	To some extent	Not at all	
3	2	1	0	(1) Arrest.
3	2	1	0	(2) Detention in custody.
3	2	1	0	(3) Use of handcuffs.
3	2	1	0	(4) Use of Third Degree
3	2	1	0	(5) Illegal search.
3	2	1	0	(6) Illegal seizure.
3	2	1	0	(7) Violation of Court's Orders/ directives.
3	2	1	0	(8) Medical attention to detainees.
3	2	1	0	(9) Politicisation of Police Work.
3	2	1	0	(10) Treatment to ethnic minorities.
3	2	1	0	(11) Treatment to Scheduled Caste/Scheduled tribes and Downtrodden.
3	2	1	0	(12) Coercion to compel one to become witness against oneself.
3	2	1	0	(13) Lack of impartiality.
3	2	1	0	(14) Treatment to women.
3	2	1	0	(15) Treatment to minors.



7. What role Police leadership may play in tackling the issue of Human Rights violation by Police in India?

8. As per your perception what roles may be played by the following for promoting observant of Human Rights by Police?

Government

Media

Judiciary

Academic

Voluntary Organisations/NGOs.

International Organisations.

Legislature.

For Research

QUESTIONNAIRE ON  
NON TRAINING POLICE ORGANISATIONAL INTERVENTIONS FOR HUMAN  
RIGHTS OBSERVANCE

Name of Respondent : \_\_\_\_\_ Designation: \_\_\_\_\_

Experience: \_\_\_\_\_ Place of Posting: : \_\_\_\_\_

*Besides training, to what extent the following non-training police organizational interventions are used by you for developing police personnel so that they may strictly adhere to Human Rights Observance in their day to day interactions with public. You may narrate some of your experiences in using these non-training interventions in the blank spaces provided after each listed intervention.*

Scale

- 5 Fully
- 4 Very Frequently
- 3 Frequently
- 2 To some extent
- 1 Not at all

1. Emphasis in Employee Appraisal System on Human Rights Observance.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5 4 3 2 1

Comments:

2. Counselling of Subordinates

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5 4 3 2 1

Comments:

3. Coaching for Human Rights Observance.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

4. Feedback through continuous interaction with the colleagues and subordinates.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

5. Conduct of Meetings to discuss Human Rights violations.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

6. Appropriate placement of police personnel at sensitive places.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

7. Inspections by the superiors.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:



8. Joint action planning for checking, Human Rights violations.  
*Fully /Very Frequently/Frequently/To some extent/Not at all.*  
5                      4                      3                      2                      1

Comments:

9. Reprimanding erring policeman.  
*Fully /Very Frequently/Frequently/To some extent/Not at all.*  
5                      4                      3                      2                      1

Comments:

10. Rewards, Commendations, Medals, Cash Awards for exemplary Human Rights Observance.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*  
5                      4                      3                      2                      1

Comments:

11. Constructive criticism by the superiors for discouraging negative behavioural patterns.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*  
5                      4                      3                      2                      1

Comments:

12. Continuous inflow of Human Rights related written material to the police personnel on the job (important judgements, NHRC guidelines, recent directives, circulars etc).

*Fully /Very Frequently/Frequently/To some extent/Not at all.*  
5                      4                      3                      2                      1

Comments:

13. Commendation, Announcement of names of Police Personnel in news letters, citations and publications.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

14. Entertaining complaints on Human Rights violations by police personnel from public and other sources.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

15. Technological upgradation for improving the effectiveness of police operations.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

16. Facilities and equipments for better interrogation.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

17. Protecting the Human Rights of Policemen.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

18. Networking with other organizations for improvement of functional effectiveness for e.g. F.Sc.labs, Judiciary, Media, Magistracy etc.  
*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

19. Proper recruitment of police personnel.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

20. On-the-job training of police personnel on Human Rights issues.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

21. Checks on burking crimes.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:

22. Reducing the emphasis on statistical indicators of performance.

*Fully /Very Frequently/Frequently/To some extent/Not at all.*

5                      4                      3                      2                      1

Comments:



For Research

QUESTIONNAIRE ON  
NON TRAINING ORGANISATIONAL INTERVENTIONS FOR HUMAN RIGHTS  
OBSERVANCE

Name of Respondent : \_\_\_\_\_ Designation: \_\_\_\_\_

Experience: \_\_\_\_\_ Place of Posting: : \_\_\_\_\_

*1. Besides training, to what extent the following non-training organizational interventions may be useful for developing police personnel so that they may strictly adhere to Human Rights Observance in their day to day interactions with public.*

Scale				Non- Training Interventions
<i>Fully</i>	<i>To a great extent</i>	<i>To some extent</i>	<i>Not at all</i>	
<i>4</i>	<i>3</i>	<i>2</i>	<i>1</i>	
4	3	2	1	i. Emphasis in Employee Appraisal System on Human Rights observance.
4	3	2	1	ii. Counseling of subordinates.
4	3	2	1	iii. Coaching for Human Rights observance
4	3	2	1	iv. Feedback through continuous interaction with the colleagues and subordinates.
4	3	2	1	v. Conduct of meetings to discuss Human Rights violations.
4	3	2	1	vi. Appropriate placement of police personnel at sensitive places.
4	3	2	1	vii. Inspections by the superiors.
4	3	2	1	viii. Joint action planning for checking, Human Rights violations.

4      3      2      1      ix. Reprimanding erring policeman.

Scale				Non- Training Interventions
<i>Fully</i>	<i>To a great extent</i>	<i>To some extent</i>	<i>Not at all</i>	
<i>4</i>	<i>3</i>	<i>2</i>	<i>1</i>	
4	3	2	1	x. Rewards, commendations, medals, cash awards for exemplary Human Rights observance.
4	3	2	1	xi. Constructive criticism by the superiors for discouraging negative behavioural patterns.
4	3	2	1	xii. Continuous inflow of Human Rights related written material to the police personnel on the job (important judgements, NHRC guidelines, recent directives, circulars etc.)
4	3	2	1	xiii. Commendation, announcement of names of police personnel in newsletters, citations and publications.
4	3	2	1	xiv. Entertaining complaints on Human Rights violations by police personnel from public and other sources.
4	3	2	1	xv. Technological upgradation for improving the effectiveness of police operations.
4	3	2	1	xvi. Facilities and equipments for better interrogation.
4	3	2	1	xvii. Protecting the Human Rights of Policemen.
4	3	2	1	xviii. Networking with other organizations for improvement of functional effectiveness for eg F.Sc Labs, Judiciary, Media, Magistracy etc.
4	3	2	1	xix. Proper recruitment of police personnel.
4	3	2	1	xx. On-the-job training of police personnel on Human Rights issues.
4	3	2	1	xxi. Checks on burking crimes.
4	3	2	1	xxii. Reducing the emphasis on statistical indicators of performance.

2. Comments, if any.

## STATEMENT OF CORRECTIONS

### Point – 1

**The dimension of the attitude scale were not properly defined and delineated on the basis of given definition of HR and HRE (Page 143)**

The various ingredients of HR and HRE have been duly incorporated in the attitude scale and indicated at page 150-151, as extracted below :-

“The attitude scale has been constructed to measure holistically the attitude of police personnel towards observance of human rights. Every care has been taken by the investigator to incorporate as below the various ingredients of Human Rights (HR) and Human Rights Education (HRE) as defined at page 143:-

<u>Ingredients of HR &amp; HRE</u>	<u>Attitude Scale Item</u>
Life	8, 11, 32
Liberty	3, 10, 13
Equality and Dignity of individuals	2, 17, 20
Tolerance	21
Gender Equality	24
Facilitating effective participation in Free society.	28, 29
Indian Laws and International Covenants Relating to Human Rights	1, 4, 5, 14, 15, 16, 18, 19, 23, 30, 31.”

(In the thesis the above-cited correction has been incorporated at pages 150-151)



**Point – 2**

**The term awareness is not operationally defined.**

The definition has been included at page 144, as extracted below :-

**“Awareness :** For the purpose of this study, the term awareness is defined as-

- awareness of police personnel regarding National Human Rights Commission and its role and functions
- awareness of relevant provisions of law regarding human rights
- awareness of various committees and commissions for checking custodial violence
- awareness of various laws and regulations related to arrest/detention, treatment to arrestees/detainees, their medical treatment etc., and,
- awareness of the role and functions of various Governmental/ Non-Governmental and International Organisations working for the cause of Human Rights in India.”

**Point – 3**

**The designed and developed modules are very fine and relevant but the relationship on association of these modules with higher and lower police executives were not distinctly demarked.**

The fact that these modules pertain only to higher police executives serving in the district (ASP/DySP/SP) has been highlighted at page 256, as extracted below:-

“Based on the findings of the study, following training interventions/modules are recommended, which pertain to police officers (ASP/DySP/SP) serving in the district, through periodic in-service courses to reinforce the relevant inputs in basic training”

At the time of Viva-Voce examination following questions may be asked as indicated by the examiner. However, the response to each question has been given. At the time of via-voce examination further elaboration will be given by the Investigator:-

**Question – 1**

**How did the investigator calculate the reliability and validity of knowledge and attitude test ?**

The tests used for ascertaining the reliability and validity of Human Rights awareness test were indicated at page 152, as extracted below :-

“Following tests were used for ascertaining the reliability and validity of Human Rights Awareness Test :-

- 1) Content Validity
- 2) Discriminant Validity of multiple choice items.
- 3) Internal consistency through KR 22 formula, which was found to be 473.”



**Question – 2**

**For which category of police personnel the training modules developed by him will be useful?**

The training modules developed will be useful to police officers serving in the district (ASP/DySP/SP) and this fact has been highlighted at page 256, as extracted below:-

“Based on the findings of the study, following training interventions/modules are recommended, which pertain to police officers (ASP/DySP/SP) serving in the district, through periodic in-service courses to reinforce the relevant inputs in basic training.”

**Question – 3**

**How can National Human Rights Commission/State Human Rights Commissions use findings of the study?**

“National Human Rights Commission can liaise with Bureau of Police Research and Development for adoption of suggested training modules in in-service training programmes at SVP National Police Academy, to reinforce relevant training inputs in the basic training of I.P.S. Probationers.

Similarly, State Human Rights Commissions can liaise with Directorates of Police Training in various States for adoption of suggested training modules in in-service training programmes at State Police Academies/State Police Training Colleges to reinforce relevant training inputs in the police officers.

Suggested Non-training OD interventions for Human Rights observance can be circulated by NHRC/SHRCs to all DGPs in charge of States for their consideration and follow up action.”

#### Question – 4

**What further research should be undertaken in this area?**

Areas of further research in this area have been delineated at page 284-285 of the thesis, as extracted below :-

#### **“SUGGESTIONS FOR FURTHER RESEARCH**

1. Construction of valid tools for Police Personnel in the following areas:-

- Human Rights awareness,
- Attitude towards Human Rights,
- Human Rights skills audit, and
- Public perception of Police on Human Rights observance.

This battery of tests will help police leaders to continuously assess their subordinate ranks for remedial measures.

2. Validation of rank specific training programmes on Human Rights for police personnel.
3. Strategy formulation for Human Rights education and training of police personnel.
4. Evolving of suitable Non-Training / Organizational Development Interventions for furthering the cause of Human Rights training and education of police personnel.
5. Post-training evaluation, strategy formulation, implementation and evaluation of Human Rights training programmes.
6. Strategy for Leadership Training with respect to Human Rights education and training for coaching and development in Human Rights concerns.
7. Public expectations survey ( Audit by society) for Human Rights observance by police in India.
8. Closer examination of the existing Law to evolve better enforcement strategies and propose any amendments.



9. Case studies on Human Rights observance / violations, and
10. Training material production and standardization.”

(P.S.V. PRASAD)  
INVESTIGATOR.

(DR. A.K. SAXENA)



