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- Obscenity or Absurdity : The Unclear Laws In India
- Police Reforms in India: An Overview
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- Fair Investigation: Backbone of Criminal Justice system
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- Sleep disorders in policemen can lead to enhanced atherosclerosis
- Understanding Juvenile Delinquency: Causes And Concern
- Drug Addiction in Juvenile Delinquents - A Case Study
- Role of Police in Prevention and Treatment of Juvenile Delinquency

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The Haryana Police Journal is a leading police policy and practice document which aims to connect police leaders, researchers, analysts, and planners. It is a peer-reviewed journal having critical analysis and commentary on topics ranging from current law enforcement policies, police issues, police investigations, accountability, human rights, and related criminal justice issues. It draws on examples of good practice from Haryana and all of India, and examines current academic research, and its application to the improvement of policing in India.

We encourage policing practitioners, academic researchers, judicial officers, lawyers, students and citizens to submit articles for publication that focus on real policing issues such as cyber-crimes, investigation, police organizational management, crime prevention, crimes against women, and other police related issues. The Haryana police has faced the Covid-19 pandemic this year and won the hearts of the citizens with its innovative approaches and the care and love shown towards those who needed it the most. An article by one of the officers on ground reveals all about this unprecedented work of Haryana Police in this issue.

The Haryana Police launched the third edition of the Haryana Police Journal in December 2020. An important feature of this edition is the amazing variety of lenses through which these issues are examined. A student examines the unclear laws on obscenity and absurdity in India, while a professor of organizational behaviour examines juvenile delinquency. A political scientist examines the challenges and human face of the police amidst the Covid-19 pandemic and a global ambassador to UN sustainable development goals examines the role of the agencies involved in investigating corruption.

Sleep, or the lack of it among police personnel are examined by a medical doctor from AIIMS, New Delhi, while the impact of counseling on stress and psychological well-being among women police personnel is inspected by the head psychologist of the Centre for Mental Health, New Delhi. Other relevant topics are explored by students, academicians, and judicial officers. The criminal justice system is an integrated whole and a complete picture is obtained when all types of actors within the system and outside it expresses their views on it. This is the integrated vision with which the Haryana Police Journal continues its academic journey.

We continue to explore the criminal justice system through the writings of the best minds with a view to fix the justice system which many believe to be falling short of the expectations of most of us. Critical analysis such as through this academic venture may be the way to see the sunshine making its way through the dark clouds.

■ *Dr Hanif Qureshi, IPS*  
*Editor*

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# OBSCENITY OR ABSURDITY: THE UNCLEAR LAWS IN INDIA



The Haryana Police Journal  
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**Aashia Jindal**  
**Sanket Gupta**

## Abstract

*The term 'Obscene' is used to describe those things which are either disgusting to the senses or offensive to an individual in a sexual manner whereby they aim to incite lust in a person. The Constitution of India has on one hand provided the freedom of speech and expression to its citizens while at the same time IPC and other statutes discussed within the article have curtailed this freedom by penalizing those expressions which come within the ambit of the term 'Obscene'. However, despite having a dictionary meaning, the exact interpretation of the term 'obscene' is not clear and even in instances where this term has been tried to be interpreted, there have been several wrong interpretations of the word, so cumulatively this has led to a denial of freedom of speech and expression as guaranteed by Article 19(1)(a) of the Constitution of India in its true sense and at the same time led to misunderstanding of the penal provisions with respect to the term. This paper deals with the laws which relate to the legal status of obscenity in India and tries to understand the anomaly on the subject as well as discuss the same in other countries like UK and USA. The paper also tries to illustrate the cases and the incidents where the judiciary has been on the wrong foot and has confused art with nudity or reality with vulgarity. There is a need to reform the vague laws which govern obscenity in the country so as to balance the interests of the public at large and the creator or publisher of the content. Through this paper, the author has tried to throw light on the fact that in developing and democratic countries like India, everyone has the same fundamental rights; therefore, consequently, the fundamental right of one cannot supersede the same of another.*

**Key words:** Indecency, Freedom of expression, Obscene, Vulgar, Fundamental rights, Punishment, Offensive, Sexual, Provisions, Judicial system, Tendency, Exceptions, Qualifications, Constitutional remedies, alternative.

## Introduction

One of the basic fundamental rights that any human being will acquire on their birth is the Freedom of Speech and Expression. It is by virtue of this right that every person has the liberty to express themselves and to convey their thoughts, speech and feelings. The 1948 instrument known as Universal Declaration of Human Rights or UDHR for short proclaims that the right to freedom of speech, opinion and expression is available with all and includes within its ambit not only the freedom to hold personal opinions without any kind of influence or interference but also the freedom to ask for, to receive and to impart through any media any information or ideas. Thus, the spirit of this fundamental right, which has been guaranteed to us under Article 19 in Part III of the Constitution, is the ability to speak, think and express freely without any fear and to be able to obtain information from others through publications without the apprehension of having to face unreasonable punishment, control, limitation or penalty of any kind<sup>2</sup>.

Man, as a rational being has desires and in order to continue living in a civil society, these desires and wishes are put under limitations and restrictions. These constraints are important as they serve the interest of the public and are enforced for their welfare only. Thus, certain reasonable restrictions are specified under Article 19(2) of the Constitution which restrict the right to freedom of speech and expression and curtail it from being an absolute right<sup>3</sup>.

With the growing modern technologies and progress in the scientific sector, it has become easier to communicate and circulate information around the world; which has led to renewal of interest in the laws relating to obscenity in India. In order to strike a balance between individual liberty and public good, various steps are taken by the Indian government, at both the national and state level.

## **What is Obscenity?**

When we talk about obscenity under the Indian law, the definition can be summed up as follows:

- Anything having a primary appeal to lustful or voyeuristic tendencies.
- Any work; literary, artistic or otherwise, that offensively in a very clear way shows or outlines sexual conduct.

In legal terms, ‘obscenity’ can be defined as an indecent expression which could be displayed through words, actions or gestures. The concept of obscenity is usually considered synonymous with pornography and thus, the word ‘obscene’ is used interchangeably with the word ‘porn’. Pornography was derived from the Greek word ‘porne’ which meant harlot and ‘graphy’ which translates to writing. On the other hand, the current definition of ‘obscene’, however vague it is considered to be, is based on the Miller Test (explained later in this paper) and needs to fail all the three aspects mentioned in that test to be considered obscene<sup>4</sup>.

In India, anything which is offensive to modesty or decency of a person; or is lewd, repulsive or filthy is covered under the term ‘Obscenity’. In Indian Law, the terms decency and morality are also connected and understood in relation to obscenity. Decency means ‘avoiding the use of obscene language and gestures’. However, the expression decency does not limit itself to sexual morality alone, but also makes sure that the actions are in accordance with the standards of the civil society. Decency can be understood as the accepted codes of maintenance of public and private decorum and morals. Indecent exposure and indecent publication are also treated as criminal offences under the common law. Even though words like vulgar and indecent are used as a substitute for obscene, these terms are different from one another.

### **1. Vulgarity and obscenity**

Vulgarity is said to arise a feeling of disgust, aversion and detestation in someone but does not deprave or degrade someone’s moral while obscenity is more inclined towards corrupting or contaminating the minds which are open to such immoral influence. Thus, a vulgar writing is not the same as obscene one in every case.

### **2. Indecency and obscenity**

As highlighted by the English court, both indecency and obscenity are offences against the set standards of civility, yet there is a difference of degree between these two. The term indecent is of

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<sup>3</sup>Universal Declaration of Human Rights, 1948

<sup>3</sup>Constitution of India, 1950

<sup>3</sup>Constitution of India, 1950

<sup>3</sup>Esmaili (2017), Legal Information Institute.

a smaller scale while obscenity is of a higher scale and thus, it can be safely said that anything obscene must necessarily be also indecent, however, the vice-versa does not hold true in every case. Indecent merely means something that is not in agreement with the standards of our society whereas obscene is something having a lewd behaviour<sup>5</sup>.

## **OBSCENITY, MEDIA AND THE FREEDOM OF EXPRESSION**

India is one of the world's largest democracies. The culture of mass media came to India in the first half of the 18th Century with print, movie screening and radio broadcasting making its entry in the 1780s. The media has always maintained its individuality post-independence, barring the time when emergency was imposed over India in 1975. However the difference in the opinions related to what is communicated, circulated or published by the media has existed since time immemorial. There have been circumstances where people form an opinion that some materials are against the cultural values of the society and then such materials are placed within the bracket of 'obscenity'. Events from the immediate past have shown how writers, actors and painters face prosecution on the charges of propagating the alleged obscene materials.

While according to some there is a need to shield our society from such obscene materials, the recent events suggest that there may be a possibility that the gaps in the laws related to obscenity in India have led to adoption of a series of actions that are of arbitrary nature and the satisfaction provided is of subjective nature. With the growth of mass media over the last few decades, it is of the utmost importance to have a clear vision of what forms a prohibited act. Situations have changed manifold with television and internet becoming another platform for artists to express their views along with literary work, paintings and films which has resulted in attempts to define, objectify and removal of what is obscene through various statutory provisions<sup>6</sup>.

## **STATUTORY PROVISIONS**

Under the Indian Penal Code, 1860, sections 292-294 prohibit publication and selling of obscene materials but at the same time indecent representation of women does not fall under the ambit of the said sections. Often women are portrayed in very derogatory, indecent and obscene light. They are reduced to merely becoming an object of lust and this leads to their victimization in the society and consequential corruption in the mind of viewers or others. Hence, was felt the need to introduce the **Indecent Representation of Women (Prohibition) Act, 1986** so as to outlaw the indecent, improper and scandalous depiction of women, through any kind of publications, writings, paintings, advertisements, etc. Under Section 2(c) of the Act, it not only elucidates what all comprises of the term indecent representation of women; it also prohibits and punishes publication of any kind whereby women are portrayed in an indecent way or they are indecently represented. This is done not only in books, circulars, posters etc but also in any kind of advertisements<sup>8</sup>.

**Cable Television Networks (Regulation) Act, 1995** tends to control the telecast of those programs which can cause an outrage in our society by offending the already set standards and outlines a punishment with imprisonment and fine. Rule 6(1)(o) of the Cable Television Networks Rules, 1994, which is read with Section 5 of this Act, restricts the carrying out of programs that seem unfit for "unrestricted public exhibition", which is specified under Section 5-A<sup>9</sup>.

**Cinematograph Act, 1952** specifies the provisions for regulation and certification for

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<sup>5</sup>Ray (2020), *The Indian Express*.

<sup>6</sup>Kulkarni (2020), *LEXLIFE India*.

<sup>7</sup>Indian Penal Code, 1860.

<sup>8</sup>*Indecent Representation of Women (Prohibition) Act, 1986*

showcase of cinematograph films. Section 4 of the Act states the rules for examination of films while Section 5-A address the issue of certification of films. Section 4 of the Act read with Section 5-A of Cable Television Networks Act details the provisions for examination and certification of cinematograph films by the Board of Film Certification (CFBC)<sup>10</sup>.

**The Young Persons (Harmful Publication) Act, 1956** restricts publication of such matter which might corrupt or adulterate a child or a young person's mind or incite them into committing crimes of violence, cruelty, etc. A punishment with imprisonment and fine is prescribed to anyone who does anything that is in contravention to the provisions of the said Act<sup>11</sup>.

**The Information Technology Act, 2000** prohibits both publication and transmission of those materials which are of lascivious nature or have an appeal of lewd interests if they are in electronic forms. Any publication or transmission that has an effect which leads to degradation or corruption of those who have read, seen or heard the said matter that is embodied or contained in it, is an offence punishable with imprisonment and fine<sup>12</sup>.

To control the telecast of advertisements on television, the **Advertising Standards Council of India** (ASCI) was established by the government in 1985. ASCI was formed to protect the interest of the consumers by self-regulating the advertisements. The main objective of the Act is to encourage responsible advertising so as to regain public's trust in advertising. One of the fundamental principles of this Self Regulating Code is to ensure that according to the generally accepted standards of public decency and propriety, the advertisements are not offensive. They don't contain anything indecent, vulgar or repulsive which is likely to cause any kind of grave or widespread offence.

### **OBSCENITY UNDER INDIAN PENAL CODE, 1860**

The Indian Penal Code, 1860 encodes all the offences punishable in India. Section 292 of the Code penalises the offence of Obscenity. It clearly states what is included in the term obscenity. Clause 1 of the section lays a list of materials which would be deemed as obscene if it strikes at the lascivious, voyeuristic, salacious or lustful interests of a person and consequently depraves or corrupts a person in sexual context. Further, Section 293 of the Code provides for punishment of imprisonment or fine for anyone who promotes, sells, possesses, hires, distributes, imports, exports, purchases or makes profit out of anything which can be categorised under the definition of obscene materials. Section 294 of the Indian Penal Code also penalises with regard to obscene songs and acts. However, at the same time it can be seen that certain works are removed from within the ambit of the definition of obscenity by the Code itself if they fall within the confines of public interest. The term public interest includes matters in the interest of literature, science, history or religion<sup>13</sup>.

Since the above laid offences against obscenity as defined under the Penal Code are curtailing an individual's freedom to express himself, hence they are said to be in clear conflict with the Article 19 of the Constitution of India as it is often misused and manipulated into restricting a citizen from exercising their right to freedom of expression. The cure such misuse and at the same time making sure it has been restrained from becoming a trouble to the public interest as well has been outlined under Article 19(2) of the Constitution which contains certain restrictions to the right to freedom of speech and expression<sup>14</sup>.

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<sup>10</sup>Cable Television Networks (Regulation) Act, 1995

<sup>11</sup>Cinematograph Act, 1952

<sup>12</sup>The Young Persons (Harmful Publication) Act, 1956

<sup>13</sup>The Information Technology Act, 2000

‘Obscenity’ is a complex and an intricate term which is hard to understand. In order to save and uphold democracy, the courts laid down principles which determine whether the said work comes under the ambit of section 292 or comes under the freedom provided by the fundamental rights, as there is a thin line between an individual expressing his own views and depraving or corrupting the minds of others.

## WHO DEFINES OBSCENITY IN INDIA?

While the Indian courts have tried their best to strike a balance between the reasonable restrictions imposed on the public and their right to express, their records are still found uneven and imbalanced. Cases have been filed on various occasions to limit reasonable expression in India. While advertisements like Amul Macho (2007) which starred actress/model Sana Khan, who was shown washing a man’s underwear while music playing in the background had lyrics which contained the words ‘ye tohbada toing hai’ which is used as a subliminal sexual innuendo; Tuff Shoes Footwear Print Ad (1995) which had Models Milind Soman and Madhu Sapre, who were posing nude with a python wrapped around them and Fastrack TV Commercial (2011) that showed Actress Genelia D’Souza and cricketer Virat Kohli making love in an airplane’s cockpit were deemed unfit for viewing as they were challenging conservative Indian sensibilities while at the same time another advertisement of Zatac talcum powder in which the woman was shown as getting aroused by a tailor taking her measurements was not deemed unfit and hence not banned<sup>15</sup>.

The problem with Indian judicial system is that it is inefficient and lacks jurisprudential consistency in such matters. Even though the right to freedom of speech and expression is guaranteed by our Constitution, it can be easily silenced due to the presence of over broad laws. India’s legal system remains overworked and overwhelmed, which leads to long and expensive delays. These delays discourage the innocent and the victims to fight for their own rights. There have been cases where the Indian government has failed to protect criminalizing of individuals, who are expressing their minority views. Such individuals are often targeted by local officials or attacked by extremist groups. Rather than focusing on the aforesaid issues, the government tends to focus more on banning certain books, films or works of art that offend certain groups of people. These unreasonable restrictions are then justified citing the importance of public order and under the shade of violent protests and communal violence<sup>16</sup>.

## CASES RELATED TO OBSCENITY

The Supreme Court has held that there can be no one uniform or standard test which can be applied to judge whether a particular content is obscene or not. Each case is to be dealt with according to the peculiar facts and circumstances of the case. Hence no straitjacket formula can be applied to find out what all is covered under obscenity and what not and the stance of Supreme Court on the matter has seen various interpretations.

In the case of **Ranjit.D.Udeshi Vs State of Maharashtra**<sup>17</sup>, the Supreme Court applied the English ‘Hicklin test’, which was laid down in R vs. Hicklin, to test the level of obscenity in the matter. In this case, the court upheld the conviction of the appellant, a book seller, who was prosecuted under Section 292 of Indian Penal Code, 1860, for selling and keeping the book, “The Lady Chatterley’s Lover” even though the bookseller contended that since he cannot read English, hence he was unaware that the book had indecent or vulgar material. As per the application of the

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<sup>15</sup>Indian Penal Code, 1860.

<sup>16</sup>The Constitution of India, 1950

<sup>17</sup>Ray (2020), The Indian Express.

<sup>18</sup>Dahiya (2015), Legal Era Online.

above named test the book was held to be obscene and the contentions of the accused were not headed upon.

In another matter of **K.A Abbas Vs the Union of India**<sup>19</sup>, a film was contended to be objectionable. The movie depicted the contrasting lives of the urban and the poor people. Some part of the film dealt with the life of the prostitutes of Bombay. The Censor Board rejected the petition of granting 'U' certificate to the movie. When the Petitioner approached the Central Government (Appellate Authority) for the same, it agreed to grant 'U' certificate subject to a condition that certain scenes, specifically the prostitution part to be removed. Thereafter, the Petitioner moved the Supreme Court under Article 32 for violation of his fundamental rights. The judgment given had many references to the American Jurisprudence on obscenity. It was observed by the court that the two terms of sex and obscenity are not always synonymous and it is wrong that merely the mention of the word sex is classified as essentially obscene or even indecent or immoral. It was further observed that the standard for judging obscenity must not be that of the least capable and most depraved one.

Another popular case is that of a well-known Bengali writer who was prosecuted under Section 292 of Indian Penal Code, 1860 in the case of **Samaresh Bose Vs Amal Mitra**<sup>20</sup>. He had written and published a novel in a Bengali journal under the title of 'Prajapati'. However, the Supreme Court had set aside the conviction on appeal. The court reasoned its decision by saying that when a question of obscenity arises, the Judge should firstly place himself in the position of the writer of the disputed content and understand his/her viewpoint. He must understand the literary and artistic value of the content and must try to make sense of what the writer wants to convey through his/her work. Then secondly, the Judge should understand the situation from the viewpoint of the readers of every age that has access to the content and should try to discern the influence that the content might have on the minds of the readers.

The banning of the movie – '**Bandit Queen**' by the Delhi High Court in the case of **Bobby Art International v. Om Pal Singh Hoon**<sup>21</sup> is yet another example on the matter in issue. This judgement was challenged in the Supreme Court. An expert Tribunal, consisting of 3 female members rendered a decision giving 'A' certificate to the movie, clearly showing their opinion that women are not be degraded, insulted or shown as a medium to depict pornography. The movie was based on the life of a woman named Phoolan Devi, who was married to a man elder than her own father. The film centred on how she became a leader of a dangerous dacoit gang, killing 20 Thakurs in Madhya Pradesh for taking the revenge of her humiliation and plight that she had faced being married. She was made to strip naked and fetch water, while all the villagers watched her. This humiliation turned into revenge and rage, which made her a dangerous dacoit. The movie could not have done justice to the story without depicting nudity to enhance the humiliation faced by the protagonist. The nudity was not shown in the movie to arouse lust amongst the viewers, but to condemn the perpetrators who had done nothing to stop it from happening. However, the decision of the court is a proof of intolerance for even such bitter truths in our country.

Yet another case was the case of **Maqbool Fida Hussain Vs. Raj Kumar Pandey**<sup>22</sup> whereby several complaints were filed against a painting by M.F Hussain, which depicted a nude lady in grief. The painting was included as an item in a charity auction for the victims of Kashmir earthquake under the name 'Bharat Mata'. Even though M.F Hussain had no role in the auction, however, he still apologised for hurting the feelings of the people. The issue in this case was whether the said painting

<sup>19</sup> AIR (1965), pg- 881.

<sup>20</sup> Law Reporter, Vol-3, pg- 360

<sup>21</sup> AIR (1971), pg- 481.

<sup>22</sup> AIR (1986), SC, pg- 967

was obscene which meant that Mr. M.F Hussain was liable to be prosecuted under Section 292 of the Indian Penal Code, 1860 or not. The court held that prima facie there was nothing in the painting either to arouse sexual or prurient interest in the perverted people or to morally corrupt a person viewing it. The court said that just like sex alone cannot be said to be obscene, likewise nudity alone also cannot be said to be obscene. It was observed that the aesthetic touch of the painting overshadows its nudity. Hence, the judgment was in favour of M.F Hussain.

Another petition was filed in the case of **Ajay Goswami vs. Union of India**<sup>23</sup> to seek protection from the Court in cases to ensure that minors are not exposed to any kind of material which is sexually exploitative in nature irrespective of whether the same is obscene and prohibited by law or not. In this case the court held that wherever art and obscenity are related, the test must be such that it measures the artistic, literary or social merit against its obscenity and then makes a decision. The court also laid a common test for judging the obscenity in such work by viewing it from the viewpoint of an ordinary man. The court said that the material should be viewed as would be viewed by a man of ordinary prudence and common sense. Any person who is hyper-sensitive or not of ordinary prudence should not lay the bar of determining whether the material is obscene or not. Nothing can be viewed in isolation without having regard to the entire context in which it is used. If a publication is being judged, it must be judged as a whole. Any kind of fictitious imagination of any person, especially if that person is a minor, should not be agitated in a Court of law.

The recent case of **Aveek Sarkar vs. State of West Bengal**<sup>24</sup> was the landmark on the matter where the Supreme Court abandoned the age old ‘Hicklin test’ and adopted the ‘Community Standard test’ to determine obscenity. In this case, the material of which the obscenity was to be judged was a picture of a nude/semi-nude woman. It was held that the picture cannot by itself be held as obscene if it does not have within itself the tendency of arousing feelings or revealing any kind of overt sexual desire or designed to excite sexual passion in persons who see the picture or are likely to see it. Only such sexual materials will be held to be obscene if they have the capacity to of producing lascivious thoughts, however, the obscenity is to be judged from the point of view of an ordinary man of prudence. On the basis of ‘community standard test’, the Court held the breast of Barbara Fultus fully covered with the arm of Boris Becker, a photograph of course semi-nude had no tendency to deprave and corrupt the minds of people in whose hands the newspaper or magazine would fall.

From the above cases, it is clear that the judiciary has not taken a unanimous stand on the subject of defining obscenity. The position, therefore, remain unclear till today.

## COMPARISON WITH LAWS OF OTHER COUNTRIES

Talking about the **American Laws**, the U.S Supreme Court in the landmark case of *Miller vs. California* laid down the following guidelines for ‘the community standard test’:

1. A person, having contemporary community standard does not believe that the work appeals or pleases to the lustful or voyeuristic interest;
2. If the work is clearly and without any doubt offensive;
3. If there is no literary, scientific, artistic or political value in the work in its entirety.

This test is also known as the ‘Miller Test’. However, this test has now proven to be

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<sup>21</sup> *AIR (1996), SC, pg- 1846*  
<sup>22</sup> *Crl. Revision Petition No. 114/2007*  
<sup>23</sup> *AIR (2007), SC, pg- 493*  
<sup>24</sup> *SCC (2014), Vol 4, pg- 257*

inadequate as it fails to maintain its pace with the modern realities that come along with the present day technology.

Even under the **British Law**, The United Kingdom had enacted the Obscene Publications Act, 1857, which gave origin to the ‘Hicklin test’. This test was initially used both in U.K and U.S. However, in 1957, the U.S Supreme Court blatantly rejected the said test as being inadequate.

The ‘Hicklin test’ laid focus on the vulnerability of those who are exposed to the material under question. The method of testing obscenity under this is to see whether the tendency of the matter alleged to be obscene is to deprave and corrupt those people whose minds are open to such immoral influences.

The **murder of Jane Longhurst**<sup>27</sup> by Graham Coutts led to the changes in the U.K Obscenity laws. The jury had held that Coutts strangled Jane for his own sexual satisfaction. During the trial it was found out that before and after killing Jane, Coutts had spent hours watching violent videos of nude women being strangled, suffocated, hanged and drowned. Therefore, everyone targeted the websites for showing such violent pornography and made them responsible. However the case drew up a lot of attention and all the menace led up to the adoption of Criminal Justice and Immigration Act, 2008. This new Act differs from the previous act of 1857 on two grounds. Firstly, the new Act has shifted the focus and blame from the production and publication of obscene materials to the individual who is in possession of such material, thereby, making it an offence of against individual person who in possession of extreme pornographic materials. Secondly, the new Act extensively defines the meaning of “extreme pornographic materials”, and hence clears the ambiguity of the Act of 1857. In short, it defines “extreme pornographic materials” as such which has been made only for the purpose of arousing the sexual feelings of a person.

## CONCLUSION

As per the analysis done through this paper, it is seen that the Hicklin Test has been watered down by the Supreme Court by introducing new qualifications and exceptions to it. However, the laws related to obscenity are still overbroad, vague and ambiguous leaving enough gaps for the judges to bring in their own personal convictions while judging what is obscene and what is not. The dangers attached to having such wide discretions can be seen through the cases discussed and their judgements, which were a reflection of political agendas and personal convictions. The words ‘in the interest of public order’ used in Article 19 of the Constitution include things that can lead to disorder as well as things that have the tendency to cause disorder, where the word ‘tendency’ creates uncertainty in relation to the nature of the matter being judged. With so much emphasis being put on protecting the minds of the readers, no importance is given to the creator of the material in question. Even though the ‘Hicklin test’ and the ‘Miller test’ have survived the passage of time, it is imperative that the Indian Judiciary finds better and fixed alternatives, in order to provide justice to the citizens of India.



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<sup>27</sup>U.S.R. (1973), Vol- 15, Pg- 175

<sup>28</sup>Obscene Publications Act, 1857

<sup>29</sup>EWCA Cr(2005), pg- 52.

<sup>30</sup>Criminal Justice and Immigration Act, 2008.

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# POLICE REFORMS IN INDIA AN OVERVIEW



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## Abstract

*Police is an important organ of Justice System of State. The term 'police' refer primarily to agents of the State whose function is the maintenance of law and order especially the enforcement of the regular criminal Code. Police in modern days not only does the task of prevention of crimes and detection of criminals but also other welfare works like helping in the observance of traffic rules, control of crowds in public meetings and fairs, help the fire brigade and flood rescue parties, and help public in settling the minor disputes. The scope of this paper, is, however, not confined to only the definitional aspect of police. As the title indicates, this paper is going to present an overview regarding police reforms in India. Which challenges the Indian police system is facing? What ways are supposed to be followed to deal with these challenges? What is the stand of law in this regard—these are going to be the focal point in this research paper in its succeeding parts.*

**Key words:** Police System, police reforms, Indian Perspective

## Introduction

Police is an important organ of Justice System of State. The term 'police' refer primarily to agents of the State whose function is the maintenance of law and order especially the enforcement of the regular criminal Code. According to the Royal Commission on the Police Powers and Procedures 1929, a policeman is a person paid to perform, as a matter of duty, acts which, if he were so minded, he might have done voluntarily. The term police today is designated to the executive civil force of a state which is entrusted the duty of maintaining public order and enforcing regulations for the prevention and detention of crime.

Police in modern days not only does the task of prevention of crimes and detection of criminals but also other welfare works like helping in the observance of traffic rules, control of crowds in public meetings and fairs, help the fire brigade and flood rescue parties, and help public in settling the minor disputes.

The scope of this paper, is, however, not confined to only the definitional aspect of police. As the title indicates, this paper is going to present an overview regarding police reforms in India. Which challenges the Indian police system is facing? What ways are supposed to be followed to deal with these challenges? What is the stand of law in this regard—these are going to be the focal point in this research paper in its succeeding parts. However, before entering into the main part of the discussion, an overview discussion has been done regarding the police system in India and its historical background to make the entire discussion systematic.

## Police System in India—A Brief History:

<sup>29</sup> See: M.S. Begum, "District Police Administration", Anmol Publication Pvt.Ltd., New Delhi, 1996, p.2.  
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Origin of police can be traced to the early Vedic period as the Rig and the Atharva Veda mentions certain kinds of crimes known to the Vedic people. In fact, evidence indicates the existence of security forces even in the Harappan period. The Mauryan period reveals significant features of the criminal justice organization even though the thorough reference of the same during the Vedic period is unavailable. Kautilya's Arthashastra (310 BC) is a treatise on the criminal justice system. It reads like a manual for police in modern times. There is a reference to DANVARIKA, ANTEVANSIKA, PRADESIKAS, MAHAMATRAS, RAJJUKAS, and so on. There were 3 types of police—dandpal, durgapal, and antpal.

History of Indian police on modern lines dates back to the dawn of the 19th century. The idea of a separate regular police force as it exists today was never in consideration prior to the British period and for a considerable time even after the commencement of the rule. It was only in 1774 that Warren Hastings introduced for the first time under the Company's rule several measures for police reforms, which later culminated in the Police Act of 1861 on which the current police system is also based.

The Indian Police system and structure<sup>32</sup> as currently organized are fundamentally based on an Act 159 years old, the Police Act of 1861. The working of the police has been analysed twice at an All India level within a period of 120 years. First was the Indian Commission of 1902-03 during the British regime and second was in 1977 by the National Police Commission. They found police far from efficient, defective in training and organization, lacking in public relations, welfare measures, machinery for redressal of grievances, etc. and that it was commonly observed as corrupt and oppressive. Even after independence, we were lacking a better police administration system. There is still a requirement for a reorientation of attitude and approach on the part of the police.

### **Emerging Challenges:**

As of now the discussion in this research work has covered mainly the history and development of police system in India. However, as the title of this research work indicates, the main focus of this research work is upon the police reforms in India. Here a question is getting raised spontaneously that why such reform is required. In answer, it can be pointed out that the main function of police is to maintain law and order situation under control but in spite of that police has failed to achieve its objectives fully on many occasion due to enormous factors in so far as the Indian perspective is concerned and in this way various exigencies have emerged. Certain main factors in this regard are stated as under:-

### **Misuse of Power:**

Police faces very critical position in its every day working. It has to face with the cruel and hardened criminals, smugglers, murderers and other anti-social elements. The variety of works and responsibilities entrusted upon police in modern days has increased its powers at a wide scale. Government has given wide discretionary powers to police to meet with any situation or contingency like arrest without warrant, taking search of a house or place, trapping and causing physical injury up to the extent of causing death on the band of robbers, dacoits and other criminals in encounter. Police must, as a rule exercise its discretionary and other powers with prudence and judicious mind but that rarely happens. The poor and innocent persons are physically and mentally tortured by police

<sup>32</sup>See Generally: Sharma, A., 2004. *Police in ancient India. The Indian Journal of Political Science*, Pp.101-110. <sup>33</sup>After the revolt of 1857, the British realized the threat of losing power and were determined to ensure complete suzerainty and suppression of all challenges to their power. Thus, a Police Commission was appointed in 1860, to make police an efficient instrument for the prevention and detection of crime. However, the system so

exercising those powers sometimes with ill feeling on to fulfil their own interests. Such tendency creates dissatisfaction, hatred and fear in the mind of people against police as a whole.

### **Oppressive Policy:**

Amongst many other factors, police brutality is one more factor which has emerged to be a challenge for police system in India. Police is meant not only for the maintenance of law and order in the society but also to help the common people. In contrary to it, hard and oppressive attitude is adopted by police in tackling the cases. In addition, prisoners are getting tortured in its custody.

Use of torture on prisoners and under-trials has become an ordinary phenomenon in the police custody in India. The 'Police' which is the civil force of a state use torture to obtain information or confessions from the prisoners or under-trials. The use of torture has been strictly prohibited under the International Instruments and national laws of most of the countries. However, in India, no specific provision has been expressed to safeguard the rights of individuals against torture. It is a matter of great sadness on the legislature of India, that even after more than two decades of India signing the 'Convention against Torture', still no specific legislation or enactment has been enacted to ratify the convention. Nothing has been done by the legislature till now to enact the prohibition of torture laws. Moreover, under the National legislations, "Indian penal code 1890", under "Sections 330 & 348", makes the act considered as torture as penal, with 7 and 3 years of imprisonment, but when this offence is committed by a police officer on duty, it is not applied. Therefore, these provisions falls short of covering all the prospects of torture as defined in the Convention against torture.

The other instances of oppressive attitude of police are unwarranted Lathi Charge, firing on mob and undue arrest out of common mass.

### **Corruption:**

One more important reason which has given stable land to the argument of police reforms in India is corruption. It is an open secret that tendency of earning money illegally or accepting gratification is on the peak in the police department. There are three forms of corruption. One form of corruption is that in which only a few isolated policemen accept bribes. The second form is that in which a large number of officers (lower as well as higher ranks) take bribes but they are not joined together to form networks of corruption. The third form of corruption is pervasive organised corruption. In this type, corruption is organised in a hierarchical authoritarian fashion. In fact, this variety of corruption extends beyond the police department to the high criminal justice and political officials and revolves around the vice operations of a local crime syndicate. Precisely, tendency of earning money illegally or accepting gratification is developing at a faster rate over the Government departments but it is on the peak in the police department. Police makes use of its discretionary powers to such an extent that an aggrieved person has to pay money even for lodging its First Information Report (hereinafter referred as FIR) at some police station, in case there is happening of anything wrong with him/her.

However, the noteworthy point is it is not a new thing in the Indian scenario. The First Police Commission of free India (1977-1981) headed by late Dharma Vira also found rampant corruption in the police and commented "in the perception of the people, the egregious features of the police are

politically oriented partisan performance of duties, partiality, corruption and inefficiency, degrees of which vary from place to place and person to person ... What the Police Commission said in 1903 appears more or less equally applicable to the conditions obtaining in the police today”<sup>33</sup>.

The irony is that the situation has not been remarkably improved even after passing four decades since the submission of the report by the Police Commission. It does not mean that every police officer is dishonest and corrupt but even the minority engaged in these activities defame the whole department.

### **Qualifications and training:**

The policemen are generally either uneducated or less educated. That is why, the sense of regard for others, sincerity and good behaviour lack in them. It is a common phenomenon that police personals are using very rough and abusive language. Their attitude towards public generally remains harassing. They often forget that at the end of the day they are public servant and the end result is the development of a detaching tendency amongst public at large from the police personals. Lack of proper training is one of the most important factors behind the same. During their training they are taught basic lessons of the Indian Penal Code, Police Act and the Code of Criminal Procedure but probably not taught to keep good and sympathetic behaviour with public. Perhaps, they are not advised during their training that they are public servants and meant for the help and service of common-mass. The result is that after training when police-men are posted on their duties, they act like administrators. Such feeling creates obvious obstructions in keeping amicable relations between police and public.

### **Shortage of Staff and Political Interference:**

Police has been entrusted with the variety of jobs and responsibilities but its strength is not such as it required for efficient performance of all such duties. There is a huge manpower shortage in the police department. The result is that despite shortage of them, it is employed on different works. The General Police maintains law and order in the society. It arrests criminals, investigates crimes, takes search of the place as per search warrant, prepares ‘Panchnama’ in case of murder and arranges post mortem of the body of deceased, collects evidence against accused and produces before Court, makes security from fire, flood, controls heavy crowd of people in the fairs and so on. It also provides security to government officials, factories, industrial establishments from damages and destruction from anti-social persons. In addition, police also has to comply with the everyday orders and instructions of the Court. It is, therefore, natural that too much police staff is required for proper functioning of these jobs. Unfortunately, the limited police staffs have to do all these duties. The police-population ratio, currently 192 policemen per lakh population, is less than what is recommended by UN i.e. 222 policemen per lakh population. Such overburdening of work not only reduces the effectiveness and efficiency of the police personnel but also leads to psychological distress which contributes to various crimes committed by the policemen. Moreover, political interference in the affairs of police is also one of the reasons of its failure. It is a well-known fact that when a person belonging to a particular group is arrested, the police station is besieged within a few minutes by numerous persons of such group. For instance, when any teacher, lawyer or sweeper is arrested, such crowd besieged the whole police station. The work of police becomes more difficult when political forces appear on the scene to exploit the situation for their own ends.

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*Faujdar, and Kotwal. The Act imposed in the whole country a uniform police system. It relieved the District Magistrate of his duty to keep a check over the local police and made it more professional, organized, and disciplined in nature. The system of policing instituted by the Act is still in force and brought uniformity in administration. However, the general conditions of crime control remained unsatisfactory probably due to poverty,* 16

## Measures Taken to Improve Police System in India:

The narration (as stated above) regarding the exigencies that police system is facing in India presently has necessitated police reforms in our country. However, it does not mean that the aspect of police reforms has not been given any attention in India earlier. Both before and after the independence, several committees and commissions have been appointed and have pondered on innumerable aspects of restructuring the effectiveness of police governance in the country. It all commenced with the 1st Police Commission which was set up soon after the 1857 Mutiny to deliberate upon the regulatory framework for police in the country.

Set up in 1860, the recommendations of this Commission resulted in the enactment of the Police Act of 1861-a law that still governs police. A review of the issues arising from the implementation of the Police Act of 1861 was done in 1902, through the setting up of the 2nd Police Commission. The Commission came out with a detailed report covering various aspects relating to the organization of police force, adequacy of training, strength, pay, the sufficiency of procedure for reporting crime, investigating offences, adequacy of supervision exercised by the Magistracy over the police, the control of the superior officers over the investigation of crime, relation between railway police and district police etc.

What is intriguing to note is that even path in those days, it found the police a long way from proficient, faulty in preparing and association, and one which was commonly viewed as “degenerate and abusive.” Post-freedom with evolving socio-economic and political set up in the nation, the need for giving a fresh look to the police administration was felt a few times.

As far as the post-independence era is concerned; the first Police Reforms Committee was set up by Kerala in 1959. This was followed by a succession of Police Commissions appointed by different State Governments mainly during sixties and seventies (West Bengal in 1960-61, Punjab in 1961-62, Delhi in 1968, Tamil Nadu in 1971 to name a few). At the Central Government level, a Working Group on Police by the Administrative Reforms Commission was set up in 1966. This was followed by the setting up of the Gore Committee on Police Training in 1971 and subsequently the National Police Commission (hereinafter referred as NPC) which, between 1977-1981, submitted 8 reports suggesting wide ranging reforms in the existing police set-up and also a Model Police Act. None of the major recommendations by the National Police Commission were adopted by any government.

This influenced two former Director Generals of Police (DGPs) in 1996 to file a Public Interest Litigation (PIL) in the Supreme Court (Prakash Singh vs. Union of India) asking the Court to direct governments to implement the NPC recommendations. In the course of the 10 year long case, in 1998 the Court set up the Ribeiro Committee to review action taken to implement the recommendations of the. While the matter was underway in the SC, in 2000, the Ministry of Home Affairs set up the Padmanabhaiah Committee to examine the requirements of policing in the new millennium. Subsequently, the Malimath Committee on reforms of Criminal Justice System in India was set up in 2003. Finally, it was the landmark judgment delivered by the Supreme Court of India in Prakash Singh v/s. Union of India in 2006 by which the issue of police reforms has got a new motion in India which is stated as under:-

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*famine, and other adverse conditions like shortage of force. The second All India Police Commission was formed in 1902 to conduct a comprehensive inquiry and recommend improvement in various aspects of the organization. But nothing concrete was done according to the recommendations to improve the forces till independence. After 1920, the imperial forces were open for the Indians through entrance examinations.*

## Judicial Intervention in Prakash Singh v/s Union of India-- A New Dimension:

In 2006, the Hon'ble Supreme Court gave a landmark judgement in the Prakash Singh case with seven directions (six for the state government and one for the Union) for setting up of state Security Commission to lay down broad policies and give directions for preventive tasks and service and constituted the Soli Sorabjee Committee which suggested a Model Police Act. The seven directions are stated below:-

*[S]tate Security Commission: The State Governments are directed to constitute a State Security Commission in every State to ensure that the State Government does not exercise unwarranted influence or pressure on the State police and for laying down the broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country. This watchdog body shall be headed by the Chief Minister or Home Minister as Chairman and have the DGP of the State as its ex-officio Secretary. The other members of the Commission shall be chosen in such a manner that it is able to function independent of Government control<sup>34</sup>.*

*The recommendations of this Commission shall be binding on the State Government<sup>35</sup>.*

*It is also mentioned in the judgment that for the above stat purpose, concerned State/States is/are free to choose any of the models as recommended by the National Human Rights Commission, the Ribeiro Committee or the Sorabjee Committee<sup>36</sup>.*

*[S]election and Minimum Tenure of DGP: The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.*

*Minimum Tenure of I.G. of Police & other officers: Police Officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge district and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities. This would be subject to promotion and retirement of the officer.*

*Separation of Investigation: The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full coordination between the two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more, and gradually extended to smaller towns/urban areas also.*

*Police Establishment Board: There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director General of Police and four other senior officers of the Department. The State Government may interfere with decision of the Board in exceptional cases only after recording its reasons for doing so. The Board shall also be authorized to make appropriate recommendations to the State Government regarding the posting and transfers of officers of and above the rank of Superintendent of Police, and the Government is expected to give due weight to these recommendations and shall normally accept it. It shall also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotion/transfer/disciplinary proceedings or their being subjected to illegal or irregular orders and generally reviewing the functioning of the police in the State.*

*Police Complaints Authority: There shall be a Police Complaints Authority at the district level to look into*

Indianisation of the services remained very slow despite pronouncements and recommendations. Due to the unavailability of Europeans, more Indians started getting appointed to the services later. After independence, India adopted the 1861 system unaltered in any basic respect. See Generally: Das, D.K. and Verma, A., 1998. The armed police in the British colonial tradition: the Indian perspective. Policing (Bradford), 21(2), p.354.

*complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district level Authority may be headed by a retired District Judge while the State level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. These Authorities may be assisted by three to five members depending upon the volume of complaints in different States/districts, and they shall be selected by the State Government from a panel prepared by the State Human Rights Commission/LokAyukta/State Public Service Commission. The panel may include members from amongst retired civil servants, police officers or officers from any other department, or from the civil society. They would work whole time for the Authority and would have to be suitably remunerated for the services rendered by them. The Authority may also need the services of regular staff to conduct field inquiries. For this purpose, they may utilize the services of retired investigators from the CID, Intelligence, Vigilance or any other organization. The State level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district level Complaints Authority would, apart from above cases, may also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority.*

*National Security Commission: The Central Government shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPO), who should also be given a minimum tenure of two years. The Commission would also review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilized for the purposes they were raised and make recommendations in that behalf. The National Security Commission could be headed by the Union Home Minister and comprise heads of the CPOs and a couple of security experts as members with the Union Home Secretary as its Secretary<sup>37</sup>.*

It has also been mentioned in the judgment that the implementation of the stated directives shall be accomplished by the Central Government, State Governments or Union Territories, as the case may be, on or before 31st December, 2006 so that the bodies afore-noted became effective on the onset of the new year. The Cabinet Secretary, Government of India and the Chief Secretaries of State Governments/Union Territories were directed to file affidavits of compliance by 3rd January, 2007<sup>38</sup>. This is, how, a new door got opened in the journey of police reforms in India through the Prakash Singh v/s Union of India case.

### **Drafting of the Model Police Act, 2006—A Forward Step:**

One more landmark step in the journey of police reforms in India is the drafting of Model Police Act, 2006. The central government set up the Police Act Drafting Committee (Chair: Soli Sorabjee) in 2005 to draft a new model police law that could replace the Police Act, 1861. The committee submitted the Model Police Act in 2006, which was circulated to all the states in 2006. 17 states (Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand) passed new laws or amended their existing laws in light of this new model law<sup>39</sup>. Key features of the Model Police Act, 2006 include:

- Organisation and recruitment: Each state will have one police service, which shall be

headed by the DGP. Direct recruitments to subordinate ranks (i.e. below Deputy SP) will be made through a state level Police Recruitment Board. Recruitment to officers' ranks will be through the Union Public Service Commission or State Public Service Commission.

- **Responsibilities:** The responsibilities of the police serve will include: (i) enforcing the law impartially, and protecting life, liberty and human rights, (ii) preserving public order, and preventing terrorist, militant and other activities affecting internal security, (iii) protecting public properties, (iv) preventing and investigating crimes, (v) providing help in natural or man-made disasters, (vi) collecting intelligence, etc. In police stations in urban areas and crime prone rural areas, investigation of heinous and economic crimes (e.g., murder, serious cases of cheating) will be carried out by a Special Crime Investigation Unit, headed by an officer at least of the rank of a Sub-Inspector. Officers of these units will generally not be diverted for any other duty.
- **Accountability:** The state government will exercise superintendence over the police service. This will include laying down policies and guidelines, setting standards for quality policing, and ensuring that the police perform their duties in a professional manner. State Police Boards will be constituted in each state to frame guidelines, select officers who are qualified to be promoted to rank of DGP, and evaluate police performance. Police Accountability Commissions will also be set up by states to address complaints of police misconduct. However key police functionaries (e.g., DGP and police station in charge) will have a minimum tenure of two years unless they have been convicted by a court, or suspended from service, etc.
- **Service Conditions:** The state government will ensure that the average hours of duty of a police officer do not exceed 8 hours (in exceptional situations, 12 hours). Adequate insurance coverage will also be provided to personnel against any injury disability or death caused in line of duty. A Police Welfare Board must also be set up to administer and monitor welfare measures for police, including medical assistance, group housing, and legal aid for officers facing court proceedings<sup>40</sup>.

Thus, it gets clear that attempts are being taken to improve the police system in our country. Even in recent past bringing the Model Police Bill 2015<sup>41</sup> is also a forward step in this regard.

### **Implementation of the Prakash Singh Judgment:-**

As already explained, a landmark attempt has been taken in the direction of police system in our country by means of the Prakash Singh judgment. However, the reflections of these steps are not that bright as it was supposed to be. Explaining the same, it can be mentioned that the Court directed the Union and the States to implement its orders by the end of 2006. This deadline was subsequently extended till March 31, 2007.

The Court opined that its directions would be operational till a model Police Act is prepared by the Central Government and / or the State Government pass the requisite legislations. Initially, the Court itself monitored compliance of all States and Union Territories.

However, in 2008 it set up a three member Monitoring Committee with a two year mandate to examine compliance state by state and report back to it periodically. The Supreme Court also appointed the Justice Thomas Committee which submitted a report in 2010. It expressed disappointment over the total indifference to the issue of reforms in the functioning of Police being exhibited by the States<sup>42</sup>.

Another committee constituted under Justice Verma to examine Amendments to Criminal Law in the context of a gang rape incident in 2012 denounced the lack of implementation of the Court's seven directions in the Prakash Singh case<sup>43</sup>. Moreover, the Model Police Act 2006 is yet to be enforced.

This is, how, the reformation in the police system is still in a hanki-dori situation in India.

### **Conclusion:**

At the end, this conclusion can be drawn that police reforms in India is the need of the hour. As India makes rapid advances towards becoming an economic and political superpower, our police cannot continue to remain frozen in the frame of a past era. The transformative reforms in the Indian Police is possible through appropriate interventions in skill building and attitudinal training, through reforms that are both bold and practical, and through collective action of all stakeholders to drive a nationwide campaign for change, keeping in mind, the difficult conditions under which our police functions. It is imperative that more needs to be done than simple underlying changes inside the framework.. It is essential to give a fresh look at the police as a service organization meeting those needs of the society that are essential for safety, security, quality of life and peace. Network inclusion, issue situated policing and proactive policing techniques should be embraced in the changing condition of society.

<sup>32</sup>As per the Constitution of India, the police force is a state subject. States are the authority to draw rules, regulations and guidelines for the police in the state police manual. The organization structure of police forces in India is fairly uniform in all the states throughout the country. The head of the police force in a state is called the Director-General of Police (DGP). A state is further divided into several zones, ranges, and districts. The district force is headed by an officer of the rank of Superintendent of Police (SP). Group of districts forms a range which is headed by an officer of the rank Deputy Inspector General of Police (DIG). Zones are composed of two or more ranges headed by an officer of the rank Inspector General of Police (IG). Districts are further subdivided into sub-divisions like circles and police stations which are headed by officers of different ranks. The district police are also divided into two branches—the civil police and the armed police, where the former primarily controls crime, and the latter deals with law and order situations and is also the reserved police of the district kept to meet an emergency situation. See Generally: Dhillon, K., 2011. *The police and the criminal justice system in India. The Police, State, and Society: Perspectives from India and France*, 27. See Also: Varghese, John, *Police Structure: A Comparative Study of Policing Models* (May 12, 2010). Available at <https://ssrn.com/abstract=1605290> or <http://dx.doi.org/10.2139/ssrn.1605290> [Accessed Date: 1st December 2020]

<sup>33</sup>See: First Report, National Police Commission, 1979, Available at: <http://police.pondicherry.gov.in/Police%20Commission%20reports/1st%20Police%20commission.pdf> [Accessed Date: 25th September, 2020]. See Also: Thomas, KV., [2004] “CORRUPTION IN INDIAN POLICE” *Academy Journal*, Volume: Not Found [Jan-June], Pp.3-9

<sup>34</sup>[No Signal] Prakash Singh & Ors vs Union Of India And Ors. Writ Petition (civil) 310 of 1996 ¶ 25, (September 22, 2006)

<sup>35</sup>Id.

<sup>36</sup>NHRC Ribeiro Committee Sorabjee Committee

1. Chief Minister/HM as Chairman.

1. Minister i/c Police as Chairman

1. Minister i/c Police (ex-officio Chairperson)

2. Lok Ayukta or, in his absence, a retired Judge of High Court to be nominated by Chief Justice or a Member of State Human Rights Commission.

2. Leader of Opposition.

2. Leader of Opposition.

3. A sitting or retired Judge nominated by Chief Justice of High Court.

3. Judge, sitting or retired, nominated by Chief Justice of High Court.

3. Chief Secretary

4. Chief Secretary

4. Chief Secretary

4. DGP (ex-officio Secretary)

5. Leader of Opposition in Lower House.

5. Three non-political citizens of proven merit and integrity.

5. Five independent Members.

6. DGP as ex-officio Secretary.

6. DG Police as Secretary.

<sup>37</sup>[No Signal] Prakash Singh & Ors vs Union Of India And Ors. Writ Petition (civil) 310 of 1996 ¶ 27-32, (September 22, 2006)

<sup>38</sup>See: Prakash Singh & Ors vs Union Of India And Ors. Writ Petition (civil) 310 of 1996 ¶ 33, (September 22, 2006)

<sup>39</sup>See Generally: Chaturvedi, A (2017). *Police Reforms in India*. Available at:

[https://www.prsindia.org/sites/default/files/parliament\\_or\\_policy\\_pdfs/Police%20Reforms%20in%20India.pdf](https://www.prsindia.org/sites/default/files/parliament_or_policy_pdfs/Police%20Reforms%20in%20India.pdf) [Accessed Date: 4th October, 2020]

<sup>40</sup>Id.

<sup>41</sup>The Government has reviewed the Model Police Act, 2006 and accordingly, a draft Model Police Bill, 2015 has been prepared and placed on the website of BPR & D. Further, as “Police” is a State subject, falling in List II of the Seventh Schedule of the Constitution of India, it is primarily the responsibility of the State Governments to formulate new Police Act or amend their existing Act on the lines of draft Model Police Bill prepared by the Central Government.

<sup>42</sup>See: Thomas, K. T., Kumar, K., and Sharma, D., 2010. *Final Report of Justice K. T. Thomas Committee. Part IV and V*. Copy is also available at: <http://www.peoplepolice movement.com/committee.html> [Accessed Date: 30th November, 2020]

<sup>43</sup>Justice J.S. Verma Committee, which was constituted in the wake of the brutal gang rape in Delhi on December 16, 2012, submitted a comprehensive report on Amendments to Criminal Law. The Committee regretted that “the Supreme Court’s judgment of 2006 in Prakash Singh’s case giving certain directions for the autonomy and improving the quality of the police force remain to be implemented by all the governments” and emphasized that “action in this behalf does not brook any further delay”. In Chapter XII of the Report, which deals exclusively with Police Reforms, the Committee expressed the view that “ensuring full compliance with this judgment across all of India is of utmost priority to national welfare; including the welfare of women and children and towards the weaker sections of the community”, and urged “all states to fully comply with all six Supreme Court directives in order to tackle systemic problems in policing which exist today”. It further made the following observations: “We believe that if the Supreme Court’s directions in Prakash Singh are implemented, there will be a crucial modernization of the police to be service orientated for the citizenry in a manner which is efficient, scientific, and consistent with human dignity. The Committee believes that this will be reflective of the need of society today and not that of control or suppression as in the colonial era.” See: Verma, J.S., Seth, L., Subramanian, G. and Justice JS Verma Committee, 2013. *Report of the committee on amendments to criminal law*. P.321

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# AGENCIES INVOLVED IN INVESTIGATING AND CONTROLLING CORRUPTION:



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**Karan Kataria**

## Abstract

*The welfare of the society largely depends on the acts of the government servants, who instead of performing their duties in the interest of the society, involve in anti-societal activities including corruption. Corruption is the root cause for any society's decrement, the essence of the word "Corruption" has no specific form attached to it and can be captured through different dimensions and spheres and the consequences and outcomes of one's actions and the impact it has on an individual's character and society as It can be moulded and shaped according to different circumstances. "Corruption" is a well-planned and well-executed offence carried out with sophistication and precision performed in secrecy and requires mutual understanding between the parties involved which in turn benefits both the receiver and giver. As it is carried out with high precision, it becomes the most challenging crime to establish. Author has highlighted the repercussions of corruption on society at large and different institutions set up in India to prevent corruptive practices. The Paper attempts to critically analyses the agencies involved in investigating the crime of corruption Finally, it attempts to shed light on the different Agencies Incorporated by statute by the Indian parliament to control and Investigate corruption related crimes.*

**Key words:** Corruption, crime, Vigilance, Investigation, Government servants, society, social Justice.

## Introduction

The word 'Corruption' literally means a lack of integrity or honesty. As discussed earlier, word corruption is flexible and can mean different in different situations, so its definition has always remained a matter of debate. The Oxford Universal dictionary defines "Corruption" as Dishonest or fraudulent conduct by those in power, typically involving bribery. Corruption cannot be a universally defined. As per Justice V. R. Krishna Iyer (Retd). "*Economic offences often are subtle murders practiced on the community or sabotage of the national economy.*" Therefore, this can be construed as "Corruption". Corruption as an offence can be said to be criminal misconduct by a public servant while the discharge of duty as a fraudulent or illicit and illegal means by illegally benefitting from his/her position as a public service only to obtain any valuable thing or pecuniary advantage for him or any other person (Bishambar Lal Dayal vs State of Punjab, AIR 1964 PH 175).

As we already know that Corruption hinders in economic development, it may be construed as against poverty and development. Current law and legal development of corruption in India are not enough to deal with Corruption. It has become a topic of discussion. In local nonprofessional lingual, it is called as "chai – paani".

Corruption is not an aspect of the modern world only. It has been a severe threat to society even from ancient times. The human race has transformed itself as one of the most progressive species of the living creatures in this world. It has achieved the unique distinction of becoming civilized. There have been many developmental movements in this regard. Humanity has transformed itself through many reformative stages. In earlier times, men used to live like a savage. Then he became civilized by passing through many phases and started living in larger groups than a family. He was dependent on his fellows for his daily needs and security. In this way, the institution of society came into existence. It is the inherent nature of every person to live in society for fulfilling his requirements and security purpose. However, because of the greedy nature of some persons of society, there is a degradation of moral values. They take help of unlawful and deceitful means to fulfill their greed. This degradation of moral values for the sake of personal benefit is called corruption.

Our country is facing a severe threat from this evil. There are many factors behind the expanse of this evil. Dr. William Gould has taken reference of Pandit Jawaharlal Nehru to elaborate the expanse of the evil of corruption. Telling homeowners that everyone is corrupt create an atmosphere of corruption. People think they are in a corrupt environment and they have corrupted themselves. These were the words of Jawaharlal Nehru, spoken shortly after India's independence from British rule. According to an observation made by Dr. Gould, these words seem particularly appropriate given the growing crisis of corruption existing in approximately every stratum of society.

Depends on the growth of nation empowerment of weaker sections of the society. Nevertheless, the irony is that the corrupt officials misuse the schemes and benefit of policies, which are meant for the public. They try to misappropriate the benefits, which are meant for poor people. There are many examples of this scenario. In our daily life, we hear several instances of corruption. In addition, the policies and natural resources which are the property of taxpayers, all citizens and of course whole of the nation are made to be exploited by the individual in authority with connivance of segment present in the society. Coal-Blocks Distribution Scam, 2-G Spectrum Scam, Adarsh Housing Society Scam and Commonwealth Games Scam etc. are some of the new examples of present scenario.

The corruption has stalled not only the growth of the nation, but it is also the mother of several other problems. It has also affected the fundamental rights of the ordinary person. The ordinary person is out of the scene because of the malpractices followed by the greedy bureaucrats and politicians. The State does not fully utilize his capabilities by giving him unequal treatment regarding the attainment of suitable jobs as per his qualifications. The adverse effect of the evil of corruption is not restricted only to government jobs, but it has many other serious results as well.

The allotment of tenders and other schemes of the society involved a great undue advantage in favour of the persons who are having their links with the government and other corrupt officials. We score poorly in the survey conducted by the noted organization, Transparency International, collecting data related to corruption. India stood at Rank-76 (Corruption Perception Index: CPI Brochure-2013, (Transparency International, Berlin, Germany, 2013) in CPI (Corruption Perception Index) in the survey conducted by the organization in 2015. This rank is far from severe.

## **CORRUPTION AND SOCIAL JUSTICE**

The concept of social justice is one basic feature of a welfare State. A welfare State cannot do welfare without incorporating the fundamental values of social justice within its Constitution. Here we are concerned with this concept because of the evil of corruption, which is hindering the noble aim of acquiring equality and posing difficulties for the attainment of social justice. The adoption of the concept of social justice is the need of the hour to establish equality and the rule of law.

India being a democracy is a Welfare State, and a Welfare State must provide justice to all sections of the society. The State has responded well to the situation. Still, a lot has to be done for the attainment of social justice in real terms. The Constitution of the country provides a framework that can be used to attain this noble goal. The judiciary has also shown a keen interest in this regard by interpreting the statutes for the welfare of the people. Besides the administration of civil and criminal justice, the higher courts in India have also taken up the task of social justice administration through judicial activism in the exercise of their writ jurisdiction. This trend is discernible from the decisions of the Supreme Court and some of the High Courts the onwards late seventies of the 20th century. The higher judiciary realized that India is a welfare State; it is committed to the cause of social justice, and the courts must respond to this cause keeping in view the felt needs of the Indian society.(N.V. Paranjape, *Studies in Jurisprudence & Legal Theory* (Central Law Agency, Allahabad, 4th ed., (2008). The results are satisfactory, and the higher judiciary has done an excellent job in this regard. A lot has to be achieved as on the one hand still several people are living in poor conditions and struggling for minimal basic needs, on the other hand, corrupt people are living a luxurious and lavish life.

### **Agencies Instrumental to Control Corruption**

It is already discussed, that Corruption is present in every dimension in India. The existing laws are not enough to eradicate corruption if the investigating machinery and the investigating process are not independent. For proper functioning of the machinery, it is essential that it functions independently, free from legislative or governmental control and superintendence.

There is no thumb rule, which we can ensure the eradication of corruption. To make India corruption free, government and citizen will have to reach full cooperation and work together. It is ironical that our Indian Constitution recognizes freedom of the press as a fundamental right but still the press/media exercise this right with certain restrictions other than those mentioned in the Constitution. To curb Corruption, the independence of the press is significant as influential media can help in fighting corruption.

In India, there are laws in place enacted by the Central Government to tackle Corruption. To ensure proper implementation of these anti-corruption laws, the central government has also constituted commissions such as the Central Vigilance Commission (CVC), Central Bureau of Investigation (CBI) and others.

Today, corrupt public officials are fearless and openly demand a bribe to do their jobs prescribed by laws. This indicates the problem under the present bureaucratic mechanism for isolating the corrupted officials to punish their acts renders to be a wasteful activity and does not have a deterrent effect as political parties or ministers back such officials.

There are specific measures to control the rising corruption, which are as under –

The Right to Information Act (RTI) gives a person access to public information, which is generally not disclosed by the government. It is a way to keep a check on activities of government and their functioning.

Every Governmental Department appoints a Public Information Officer, whose duty is to provide the citizen with relevant information wanted by him on payment of a nominal fee. The applicant can complain to the respective information commission, if the PIO refuses the acceptance of the application or if he fails to provide applicant relevant information in time, which is empowered to impose fine on PIO Rs.25, 000.

Another mechanism to keep a check on corruption in the Central Vigilance Commission (CVC), the commission was constituted to provide guidance and advise the government in the area of vigilance. It is also tasked with creating awareness among people regarding corruption and its consequences. Any complaint or reporting of corruption cases is done to CVC.

Application of the principle of natural justice, i.e. Justice delayed is Justice denied is significant to achieve maximum results. Or if there is a considerable time gap between registration of case and delivery of judgment then in such cases justice fails. Therefore, setting up of special courts for speedy justice is of great importance. To create deterrence, the laws enacted should be robust and stringent;

There are instances where people try to justify their act of accepting bribery by blaming it on their living conditions and how monetary crisis forces them to indulge in corruption even though they do not want to.

### **Agencies Involved In Investigation**

India has seen a significant rise in corruption in the last decade, and it is the need of the hour to have some mechanism which solely focuses on the eradication of Corruption. It is crucial to create awareness on this issue as well as to implement anti-corruption policies to tackle corruption effectively. The CVC, ACB, Enforcement Directorate were constituted for this purpose. The agency aims to implement anti-corruption policies and create awareness mainly. These specialized bodies are entrusted with the power to investigate and prosecute offenders who have violated any anti-corruption law.

At the federal level, various bodies are constituted. Out of which key institutions are the Supreme Court (SC), the Central Vigilance Commission (CVC)(Central Vigilance Commission (CVC), Vigilance Manual 1 (6th ed. 2005) )the Central Bureau of Investigation (CBI) (CBI manual, 182, Para. 1.6 (“in fact, with the establishment of CBI on 1st April, 1963, the Delhi Special Police Establishment was made one of its divisions, viz. ‘investigation and Anti-Corruption division.’.”)the office of the Comptroller and Auditor General (CAG)(The Hindu, Hyderabad, July 25, 1989. Adopted from Balachandrudu. K., Ph.D. Thesis titled “Politics of Bofors: A study of the Institutional and Functional Realms of Political Corruption in India” 1997) and the Chief Information Commission (CIC), Enforcement Directorate (ED) and at the State level there are the Anti-corruption Bureau (ACB)(Vigilance Manual, 165, p. 1–10.) for each State.

As per the recommendation of Santhanam Committee, Government of India vides

resolution dt.11/2/84 establish Central Vigilance Commission (CVC), the Central Bureau of Investigation (CBI), the office of the Comptroller and Auditor General (CAG) and Anti-corruption Bureau (ACB) which are the central nodal investigating agencies for each State. It is essential to discuss the role these investigating agencies play in Combating Corruption.

### **Central Vigilance Commission(CVC)**

In February 1964, the Central Government addressing the need to combat Corruption, constituted the Central Vigilance Commission on the recommendation of the Committee on Prevention of Corruption, headed by Shri K. Santhanam. Mr Nettoror Srinivasan Raust was selected as first Chief Vigilance Commissioner of India. It was created as an apex autonomous body to control Corruption. The Central Vigilance Commission derives its power from the Central Vigilance Commission Act, 2003. It was tasked with providing advice and guidance to the central government agencies to ensure compliance with the anti-corruption policies. It was empowered to independently conduct inquiries and investigations of complaints disclosing any misconduct or misuse of power by any administrative department or any complaint regarding corruption or any other offence committed under the Prevention of Corruption Act, 1988. The offenders under this Act are not limited to just public servants but also include companies and corporations by or under the authority of any Central Act or local authorities, government companies.

The Government of India has authorized the Central Vigilance Commission as the “Designated Agency” to receive written complaints about disclosure on any allegation of corruption or misuse of office and recommend appropriate action. It acts as a watchdog monitoring all the vigilance. As the Commission is an autonomous body, it is free from any administrative control.

Central Vigilance Commission was the apex anti-corruption body to fight against corruption in Hawala case; the Central Vigilance Commission was given statutory status vide ordinance dt.27/10/1988 and confer power upon Central Vigilance Commission to exercise superintendence over the functioning of DSPE and vide G.R.dt.11/2/1964.(The original Resolution of the Government wide MHA’s No.24/7/64-AVD dated 11th February 1964.)

#### **A. Duties of the Central Vigilance Commission are as under:-**

1. To investigate or cause an inquiry into any transaction on which the government of India has administrative control.
2. To Conduct Departmental Enquiry against that public servant who commits criminal misconduct. For this purpose, the Central Vigilance Commission exercises the power of civil courts.
3. To inquire or investigation into any transaction of the public organization under the control and supervision of the government.
4. To organize training courses for the CVO and other vigilance functionaries of central organizations.
5. Central Vigilance Commission has also given additional power to supervise over the function of Delhi Special Police Establishment related to the investigation of offences committed under the Prevention of Corruption Act, 1988.

## **B. Jurisdiction of Central Vigilance Commission:-**

Central Vigilance Commission exercises advisory jurisdiction in the matters related to the Central Government officials and other public servants. However, this list does not include IAS, IPS or IFS officer if they are guilty of any criminal misconduct in connection with the State affairs. The Prevention of Corruption Act, 1988 empowers CVC to conduct an investigation in complaints against any person accused of committing any offence under the said Act.

### **Central Bureau of Investigation (CBI)**

The Government of India established the Central Bureau of Investigation as an investigating agency. Any State can also refer to any sensitive matter to it. The Supreme Court and High Courts can also upon finding any merit in the complaint refer a case to CBI for further inquiry.

The State agencies look up to the Central Bureau of Investigation (Sunil Sondhi, combating Corruption in India: The Role of Civil Society”, XVIII World Congress of International Political Science Association, August 1-5, Quebec City, Canada, 2000. ) as an expert agency for guidance in matters relating to investigation and prosecution of corruption cases. The co-operation between the two sets of agencies is highly satisfactory.

Even though CBI is regarded as a Principal anti-corruption investigating agency but it is not an autonomous body and is directly or indirectly under the supervision of the executive body. Politics has a significant influence on CBI, and its officials are subject to transfer. As CBI is under the control of Central Government, it is indirectly controlled by Prime Minister of India. Thus it is essential to make CBI free from any influence for better independent and transparent functioning. Thus it should be brought under the control of Lokpal or Chief Justice of India.

For the investigation of certain offences during the II World War, Central Government issued an ordinance in the year 1943, to constitute a special police force and after the end of the war in the year 1946, the parliament enacted the Delhi Special Police Establishment Act, 1946 (Legislative Assembly Debates, Vol. VIII, No.1, pp.882-883). On the recommendation of Santhanam Committee (Santhanam Committee Report 9.11-9.15) appointed on Prevention of Corruption, Central Bureau of Investigation was merged and recognised as successor Police Organization to the DSPE. Today, the role of an investigation by CBI is not restricted to offences under the Prevention of Corruption Act but also extends to other conventional economic offences and investigation of offences under different Statutes. Due to technological advancement, there has been a substantial increase in cyber crimes and these are also investigated by CBI.

### **Comptroller and Auditor General (CAG)**

Comptroller and Auditor General is a constitutional authority established under Article-148 of the Constitution of India. Any financial transaction of the Central or State government passes through its scanner. Democracy is considered healthy where acts of its government are transparent and not veiled. Thus CAG ensures this transparency by conducting internal as well as statutory audits in every governmental department or governmental organizations. The primary function of the Comptroller and Auditor General is to see that, money sanctioned by parliament must be spent only for that purpose for which it is sanctioned.

## **Enforcement Directorate(ED)**

The Enforcement Directorate was constituted to fight economic crimes and implement economic law. It is headquartered at New Delhi. It comes under the control of Revenue Ministry and generally consists of officials from India Revenue Services, Indian Administrative Services and Indian Police System.

The Enforcement Directorate was established by Central Government on the 1st day of June 2000 with the primary intention to ensure the enforcement of Prevention of Money Laundering Act of 2002 and the Foreign Exchange Management Act of 1999.

The Director of Enforcement heads the ED. There are namely five Regional offices at Mumbai, Chennai, Chandigarh, Kolkata and Delhi headed by Special Directors of Enforcement.

## **Authorities under Administrative Law**

In India Ombudsman are commonly known as Lokayuktas. An Ombudsman is an officer or commissioner with delegated authority. Earlier we have discussed how political influence affects the functioning of investigating agencies and how it benefits our ministers and other public officials. Therefore, to address this problem, many Indian States appointed Ombudsman to investigate into the complaint received against any politician or public servant disclosing Corruption. By performing his duty, Ombudsman protects the interest of citizen against the abuse of power by executives.

It is important to remember that an Ombudsman can be approached by an individual whenever he is dissatisfied with the fair decision of a public official. The Ombudsman has principal object to investigate allegations he receives complaining of maladministration.

As we know that an Ombudsman has a prime goal to investigate the misuse of powers by the administration. Therefore he is entrusted with a wide range of powers so that he could function independently and without any interference. This also ensures speedy and fair proceedings. Ombudsman's powers are not restricted like that of a civil court, and he can take suo-moto actions. The complainant need not prove his case beyond a reasonable doubt or lead any evidence as the Ombudsman has to inquire and investigate the case himself and for this purpose, he even has access to department files and orders.

Generally, a judge or a lawyer or a high officer is appointed as an Ombudsman by the Parliament, and he acts independently; thus he is not subject to the administrative hierarchy. An Ombudsman is directly answerable to Parliament by making a report. He also makes suggestions of his own to combat causes of complaints. As it operates independently, there is no kind of interference in his operations from any department not even from Parliament. Thus, in short, Ombudsman is the 'Watch Dog' or 'Public Safety Valve' against maladministration, and the 'protector of the little man'.

## **Conclusion**

Corruption endangers the democratic set up of a country and a corrupt public servant breaks the trust of a citizen of a country and nothing can be graver than this. Corruption gives birth to other problems like disparity, high crime rate, breach of trust etc. Therefore, it becomes imperative for our political leaders to shift their focus to protect the interest of those who cannot protect their interest.

The Honorable Supreme Court has also held equality as an essential feature of a democratic country in *D.S. Nakara v. Union of India*(1983) 1 SCC 305). In this case, the Hon‘ble Court held that “it should be the prime aim of a socialist State to eradicate inequality in the context of income, status and standards of life. It is the fundamental aim of a socialist State to make available for people an appropriate standard of life and security from the cradle to the grave. In addition to these, it envisioned equality of income and equal distribution of wealth. This noble aim of equality shall be the prime objective of every welfare State providing equal opportunities to all irrespective of their social or economic background” In *Yogendra Kumar Jaiswal v. State of Bihar & Others*(2016) 3 SCC 183), Honorable Justice DipakMisra has evaluated the problem of a corruption case and termed it as a national terror, which should be dealt with the active and strict implementation of the laws. The Court has observed that the evil of corruption is self- infective having resistance to antibiotics. This social calamity warrants a different control, and hence, the legislature comes up with special legislation with stringent provision.

Corruption is omnipresent; there can be a difference in the way it has affected one country as compared to another. However, no country is left untouched. We have discussed its impact in detail in Chapter-IV. These countries have been able to achieve noticeable results by maintaining the balance between the legislation and its execution. The best example here would be the Foreign Corrupt Practices Act of the USA that allows its court to have extraterritorial jurisdiction over the companies operating aboard and Bribery Act of UK. However, results cannot be attained just by enactment, but accomplishment depends on the investigating agencies that ensure the effective implementation of the anti-corruption laws and policies in a country.

Our society is a progressive society, and nothing can remain permanent not even the way a crime is committed. With the passing of time and technological advancement, new techniques are developed to execute a crime effectively. We are now a part of a digital age, where everything is done online. So how can we expect our old law to apply in these circumstances? If we understand this necessary thing, half of the problem will solve. Our laws are incompetent because we fail to amend them by the present situation. We bring amendments based on situations that have already become our past. Therefore, it is essential for us to enact a law that changes with the changing time addressing all the current aspects related to the subject.

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# FAIR INVESTIGATION: BACKBONE OF CRIMINAL JUSTICE SYSTEM



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**Dr. Parminder Kaur**

## Abstract

*Fair trial and fair investigation are part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, the minimum requirement of rule of law is that the investigation must be fair, transparent and judicious. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner so as to take away the basic fundamental right of the accused who as per law is to be presumed innocent till proved guilty. A victim, would equally be entitled to a fair investigation. Thus, in this context, this paper tends to analyze as to whether our Investigating agencies have been able to embrace the objective modes of investigation or not?*

**Key words:** Defective Investigation; accused; victim; crime; eyewitness; Applied science; Law of Individuality; Law of Exchange; scientific modes; Article 21 of the constitution; fundamental rights; Courts; disclosure statements; scientific investigation; crime scene; physical evidence; trace evidence; Section 161 Cr.P.C ; forensic kits; DNA profiling

## Introduction

In a democratic setup, peace and harmony are two inevitable components. But equally true is the fact that commission of crimes can't be avoided. However, it's not always the commission of crime that may be the deleterious to peace and harmony of the society, but what may be, is the defective investigation.

Defective investigation tends to shake the faith reposed by the members of the society including the suspect/accused as well as Victim. The most effected would be suspect because all have to be presumed to be innocent till proved guilty and tainted investigation would curtail his freedoms i.e. life and liberty guaranteed under Article 21 of the Constitution of India (Nirmal Singh Kahlon vs State of Punjab & Ors, (2009) 1). Likewise, victims, as they have surrendered their rights in legitimate expectation of protection of their interests including safe environment. (Violence Against Children: International Criminal Justice Norms And Strategies) So, it necessitates striking a balance between the conflicting interests of accused and the Victim, for which, evidently fair investigation is the solitary solution.

With every commission of crime, race begins to decipher the most vital questions; who, why, where and how. Getting a good start is very important. There is no dictionary that can help the crime investigator. He has to use his wit and wisdom in quest of truth from the circumstantial/physical/trace evidence keeping in mind the adage that "Men may lie but circumstances don't"(Anand Sharma v/s NCT Delhi, 2014).

Fear of enmity, terror of revenge, unobtrusive attitude, nonchalant people; and lengthy, time consuming, uneasy, scary, frightening, petrifying and risky court procedures are some of the reasons those may keep the eyewitness accounts beyond the bounds of investigation. In addendum, desperate witnesses may tend to lead the investigation on the wrong path.

Hence, in such like situations, the sole alternative available with the investigating team is to lean upon applied sciences. Applied sciences(Applied science - Wikipedia) introduce objectivity. It rules out all kinds of bias; and allows the physical evidence to speak for itself as applied sciences follow the Principles of Law of Individuality(Safwi) and Law of Exchange(Sharma).

Scientific advancements have been a boon for Tech-savvy criminals. The cyberspace has made barbaric and archaic methods of enforcing social order in the society, especially the investigation, redundant. Hence, in the modern scenario, forensic investigation(forensic science-wikipedia) is the best thing since sliced bread. Thus, use of technology or scientific techniques for analyzing the physical evidence in order to get answers of the questions of legal interest becomes indispensable. Scientific methods not only help in early detection of the offenders but also help in prevention and foul play.

But whether our Investigating agencies have been able to embrace the scientific modes of investigation wholeheartedly would be question to be delved upon in the present paper?

At the outset, it needs to be appreciated that it's always the Fair investigation that would result in Fair trial. A prudent mind may out rightly question how?

As a matter of common prudence, courts of Common Law countries including India, have very little or no scope of intervention in the investigation process.(Investigation into crimes 'prerogative' of police, courts should not interfere: SC) Accordingly, courts have no option except to receive the mélange and proceed. But the courts are not as barehanded as perceived. Precedents lately have acknowledged that Courts are not the mute spectators as they definitely possess the power to monitor and supervise the Investigation(Sakiri Wasu v/s State of UP). Nevertheless, the fact remains that scope wouldn't be much. Moreover, the investigation should be kept under minimal pressure, be it any quarter. When that is so, the responsibility on the investigating officers increases many folds. The Investigating Officer has to keep in mind that his duty is not to bolster the case of prosecution for seeking the verdict of guilt but he has to bring out the real unvarnished truth (R.P. Kapoor Vs. State of Punjab, 1960).

Both fair trial and fair investigation are part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner(Babu Bhai vs. State of Gujarat, 2010).

The Criminal jurisprudence rests on a premise that accused is to be presumed innocent till proved guilty. So, the accused is entitled to fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e., to maintain law and order, public order and

preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation (Nirmal Singh Kahlon vs State of Punjab & Ors, (2009) 1)....”

When there is so much emphasis on Fair investigation, let us determine what would constitute Fair Investigation? Broadly, fair investigation comprises of several components including honesty and competence. In my considered opinion, Honesty and competence are interwoven. An Honest investigating officer would let his work speak for himself. Dishonesty requires pull strings and consistent loss of energy in making up the lacunae. Thus, it is emphasized that investigation must be based on scientific evaluation that is expected to give objective results at least superior to the verbal testimonies.

Hence, amid scientific advancements, it would be supine for the Investigating agencies to lean on the archaic modes of investigation like disclosure statements whose admissibility is always a moot question in Court of Law unless it leads to discovery of a fact that is in exclusive knowledge of the deponent (Malik, 2013). Even if it does, it still has to pass many tests to become admissible. On the other hand, Expert evidence, though weak, but still has a quantum force to connect the crime to criminal.

When that be so, it's time to prepare the checklist of the deficiencies/ grey areas that need to be touched upon for making the Investigations commendable and not a mere correspondence.

1. Investigating officer is the Kingpin of the Criminal Justice delivery system(Amitbhai Anil Chandra Shah v. CBI, , (2013) 6 SCC 348). As soon as the crime is committed, a police officer, the I.O is deputed to proceed on the basis of the gravity of the offence. However, what is missing is the Expertise and experience to handle the case. Thus experience should be given priority over the designation.
2. The Moment the I.O. takes over the crime spot, his first and the foremost effort should be to preserve the crime spot so that the trace/physical evidence is not destroyed or tampered. In case, it's not feasible to preserve the crime spot, then it is recommended that the field experts should be contacted with all promptitudes so that the valuable evidence for forensic analysis is not lost, tampered or contaminated. An investigating officer must appreciate that his best guide is the crime scene, so he must promptly reach there so that he must have a microscopic eye to make sure that no vital evidence is left behind.
3. If the crime scene involves biological evidence, then the Investigating officer must take aid of experienced and qualified officers comprised of forensic or other experts. Lifting, collection and preservation of sensitive evidence are the prime areas those need consideration. The forensic kits must be sterilized or replaced after every crime.
4. Ironically, the field study shows that the crime scene is being handled by the experts who are statistical experts as there are either no or very few experts who have biology, physics or chemistry as their academic qualifications.

5. Financial capacity for providing latest forensic kits is the major issue (kaur, 2015). The state and the central government must show concern and make the investigating agencies strong by equipping them with latest and proper scientific aids of investigation.
6. The investigating officer is also required by law to keep a record of the proceedings of the investigation in narrative form in a diary (ACT, 2013) with all promptness mentioning all significant facts in chronological order and with complete objectivity. Haphazard maintenance of a case diary destroys the main objective for which, it is required to be maintained. A copy of the diary relating to each day's investigation (along with copy of any statements that may have been recorded u/s. 161 Cr.P.C.) should be dispatched to the circle inspector the following day (M.R.Malik, 2013).
7. The statements recorded under Section 161 Cr.P.C. should not be the Xerox of what is written in the FIR. These statements should be recorded in verbatim of what is stated by the witness. But, in reality it is just the paper work. So, at-least in heinous crime including all crimes against women and children, the statements should be audio/video-graphed (Malik, 2008).
8. It is equally necessary to video-graph all the recoveries effected at the behest of the accused to remove all the bias and to make the prosecution case strong.
9. The investigation team heading for the investigation of serious crimes must not succumb themselves to the political and administrative pressures. This is possible if they have constant support of their superiors.
10. Submitting the body samples or DNA testing would yield best results especially in Rape's or paternity issues. However, optimum use of DNA profiling is possible if, we have DNA data-banks or DNA databases. It will help to locate the criminals as well. Hence, it is proposed that the parliament must pass the DNA profiling bill, 2012 (In Depth, DNA Profiling Bill, 2019) revisiting the entire Act as it is littered with striking human and ethical issues.
11. During Field Study by the author, it revealed that majority of the criminals belong to lower strata those are either illiterate or barely literate. Empirical study also reveals that they are hardly aware about DNA profiling. Hence, such people do not understand the pros and cons of the said technique. Utility of DNA profiling would increase if the accused understand that DNA profiling can also prove them innocent so they should not refrain from giving their body sample. For spreading awareness, it is proposed that aid can be taken from the Legal Services Authority established throughout India. Also, it is recommended that the police officials maintain good behavior with suspects that will provide additional aid in collection of samples for comparison purposes. Thus, the police officers must try to convince them that the technique is as much useful in inculcating as in exculpating.

12. Studying crime scene, illustrative sketching, and art of collection, lifting and preservation requires good observation skills, intelligence, expertise, and knowledge. Hence, it is proposed that a specialized training and refresher courses by experts be imparted to investigating officers especially chosen for collection of DNA and other biological evidence. The object of such training should be to make officers aware of all new techniques in the area of DNA profiling, and other scientific areas where samples are required to be taken for comparison purposes.
13. The Investigating officers should be given extensive training about the potentialities of good investigation and for this; special crash courses should be designed in which, the major portion of the course should be case study. Also, they should be given facts from already decided cases and should be asked to document as to what kind of evidence they would collect to prove the case. This would help the invigilator to understand as to whether the trainee's have understood the relevance of link evidences and the chain of custody.
14. Empirical study (kaur, 2015) reveals that the investigating officers in the States of Haryana prefer to send biological samples for DNA profiling only in cases of serious offences and the percentage of such forensic samples for comparison purposes is very low. This is mainly because they still rely on archaic modes of investigation or disclosure statements and because DNA profiling is costly. As far as first part is concerned, it is recommended that the Investigating Officer's should be sensitized to bring change in the methods of investigation. For the latter, it is proposed that government should provide more funds for forensic purposes.
15. The importance attached to chain of custody in collecting, preserving, and transporting evidence for DNA analysis must be accentuated upon the officers. So, it is proposed that they must keep a well documented log of all the details.
16. Fair administration of the police must be ensured. So, it is recommended that the corrupt officials should not be spared from punishment and those who excel in their work, especially in eliciting public co-operation through their humane/helpful attitude should be suitably rewarded.
17. Lastly, there is essential need to audit the role of Police, Forensic Science and Medical wings with an object to ascertaining their role in those cases where prosecution has failed to prove the guilt of the accused charge sheeted in a court. This audit process can be done by examining FIR, Inquest Report, Charge-sheet, Post mortem Report, FSL Report, Medico-legal Reports, deposition of different witnesses during Examination-in-Chief and in cross-examination with a perpendicular approach along with the Trial Court judgment to find out basis for adverse comments. The total process may be conducted on different points, which will help the audit to find out where the fault was found to exist

and which damaged the cause of prosecution. This process will not only be helpful in rectification of the flaws but also increase the conviction rate and also help the innocent.

The above checklist may not be considered as exhaustive but merely illustrative. Nonetheless, Criminal Justice system Is the backbone of democratic set up. The only approach to prevent it from crippling is Fair Investigation. Closing, it reminds me of an adage which reads as :

***“Should Law sit limply while those who defy it go scott free; and  
Those who seek its protection lose hope” (Jennison v Baker)***

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# IMPACT OF COUNSELING ON STRESS AND PSYCHOLOGICAL WELLBEING AMONG THE WOMEN POLICE PERSONNEL



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## Abstract

*Police officers/personnel deal with variety of events which are negative and distressing. It has been strongly argues that the job performance of a police officer is affected when they undergo chronic stress. Since police officers, especially women are subjected to high levels of stress on everyday basis, it is important their stressors are handled efficiently. The aim of the present study was to develop and determine a counseling program by evaluating its impact on occupational stress and psychological well-being. A sample of 50 women officers was collected from Gurugram (Haryana, India) through snowball sampling. The women officers' ages ranged between 30 to 45 years. The Occupational Stress Index (Srivastava and Singh, 1981) and Psychological General Well-Being Index (Dupuy, 1984) were used to collect the data. The participants were measured using the tools and then they were given counseling sessions for 8 weeks (once a week), and they were again measured on the two variables. The results revealed that counseling was effective in enhancing psychological well-being of female police officers and in reducing occupational stress. Implications of the study for the police personnel are discussed. Based on these results various recommendations have thus been suggested in the paper.*

**Key words:** Counseling, Occupational Stress, Psychological Well-being

## Introduction

A police officer's job is more stressful in comparison with other occupations (Goodman, 1990). With the advent of globalisation, the opportunities of coming together for committing organised crimes have increased, along with international implications of crimes involving drugs, trafficking, intellectual frauds and cyber-crimes like phishing.

National Police Commission (1980) highlighted the importance of women in the police and suggested that they should be assigned investigations more often. Women have been able to present an image of themselves as being intelligent, sympathetic and finding non-coercive solutions to crimes (Pope & Pope, 1986). Women police officers make use of the styles that rely more on communication and less on physical force. They have been found to use a community-oriented style of policing and have been proved to be better at handling incidents and cases related to domestic violence (Schuck & Rabe-Hemp, 2005). Women officers with their style of policing, can fulfill the requirement of the job which is related to not only dealing with the criminals, but also providing a touch of healing to the victims of the violence and crimes.

However, it has been strongly argues that the job performance of a police officer is affected when they undergo chronic stress. (McGreedy, 1974). "Police stress" refers to the negative pressure related to police work. Women police officers face more stress as compared to their male counterparts. They face stress not only due to lack of perceived support and negative attitudes from

the society, but also because they face disapproval from their friends and family and their ability to work in this field is questioned by supervisors, peers and public. There is a constant need to “prove themselves”.

Since police officers, especially women are subjected to high levels of stress on everyday basis, it is important their stressors are handled efficiently. Therefore, it is important for them to use positive coping strategies and focus on improving their overall wellbeing.

## **REVIEW OF LITERATURE**

Onkari and Itagi (2018) did a study to investigate the occupational stress of women police and to understand its relation with the demographic variables in the year 2014-15, in Karnataka. 60 women police officers were selected who aged between 21 to 60 years. To measure occupational stress, scale developed by Srivastava and Singh (1984) was used, and a self structured questionnaire was used to collect demographic information. They found out that 60% of women police had moderate levels of occupational stress, 36.67% had high level of occupational stress, and only 3.33% had low level. Occupational stress was also positively and directly related to duty period and distance from home. Also, a significantly negative relationship exists between family size and occupational stress.

Vinayak and Judge (2018) studied the “Psychological Well-Being among Police Personnel” in 2018. They studied the empathy and forgiveness are correlated of psychological well being, along with gender and rank differences. Assistant Sub Inspector and Sub Inspector rank police officers who aged between 30 to 45 years, and had a minimum of three years of experiences were selected from Jalandhar (Punjab Police). Ryff’s psychological well-being scale (Ryff& Keyes, 1995), Heartland Forgiveness Scale (Thompson, Snyder & Hoffman, 2005) and Toronto Empathy Questionnaire (Spreng, McKinnon, Mar & Levine, 2009) were used to collect the data. It was concluded that empathy and psychological well being were positively correlated among the police personnel, significant gender differences exists on the variable of forgiveness and significant rank differences exist on both empathy and psychological well being.

Jaegers et al. (2020) conducted a cross-sectional survey with jail officers and used descriptive analyses, prevalence and regression models to predict depression. They concluded that the prevalence of depression among the jail officers was high and was strongly influenced by the job burnout and other indicators of health. It was also concluded that mitigation workplace stressors and identifying the interventions to help them could be used to reduce depression among them.

### **Objectives**

1. To assess the relationship between occupational stress and psychological well-being among women police officers.
2. To assess the effect of counseling on occupational stress and psychological well-being of women police officers.
3. To suggest recommendations based on results.

### **Hypotheses**

Ho1: There will be no relationship between occupational stress and psychological well being of the women police officers

Ho2: There will be no impact of counseling on the levels of occupational stress and psychological well-being of the women police officers

METHOD

SAMPLE-

A sample of 50 women officers was collected from Gurugram (Haryana, India) through snowball sampling. The women officers’ ages ranged between 30 to 45 years, and had at least 7 years of experience. They were introduced to the study objectives and those who agreed where selected as a part sample.

TOOLS-

1.The Occupational Stress Index (Srivastava and Singh, 1981)

Developed & Standardized by Srivastava and Singh (1981) which measures 12 dimensions namely: Role overload, Role Ambiguity, Role Conflict, Unreasonable group and political Pressure, Responsibility for persons, Under Participation, Powerlessness, Poor peer relationship, Intrinsic impoverishment, Low status, Strenuous working conditions and Unprofitability.

2.The Psychological General Well-Being Index (Dupuy, 1984)

It is a global measure and is specifically designed to assess psychological distress rather than physical incapacitation. The PGWBI targets peoples’ self-representations of an aspect of their general well-being. The 22 item instrument includes six dimensions: Anxiety, Depressed Mood, Positive Well-being, Self-Control, General Health and Vitality. The 22 items are frequently used to generate an overall index or total score for general well-being.

PROCEDURE-

The selected women police officers were introduced to the objectives of the study and the two tools were administered on them. Then they were given counseling sessions for 8 weeks (once a week), and they were again measured on the two variables using the tools. The data was then analyzed using the SPSS. The women officers were also debriefed and they were given an option to continue individual sessions after the study as well.

STATISTICALANALYSIS-

Pearson’s Correlation and t-test were used to find out the results using SPSS.

RESULTS AND DISCUSSION

Table 1. Pearson’s Correlation between occupational stress and Psychological well being

Correlations			
		Occ. Stress	Psych. Well being
Occ. Stress	Pearson Correlation	1	-0.31*
	Sig. (2-tailed)		0.000
	N	50	50
Psych. Well being	Pearson Correlation	-0.31*	1
	Sig. (2-tailed)	0.000	
	N	50	50
*Significant at the 0.05 level, **Significant at 0.01 level			

The correlation coefficient is significant at 0.05 levels, which means that the relationship between occupational stress and psychological well being is significant, and negative (which depicts only the direction of relationship). Higher the stress faced by the women officers, lesser is the psychological well being and vice versa.

**Table 2.1** Scores of the women police officers on the Occupational Stress Index before and after the counselling sessions

<i>Sr.No.</i>	<b>Particular</b>	<b>N</b>	<b>Mean</b>	<b>SD</b>	<b>t<sup>1</sup></b>
<i>1</i>	Before	50	123.45	3.2	13.639**
<i>2</i>	After	50	115.12	2.9	

**Table 2.2** Scores of the women police officers on the PGWBI before and after the counseling sessions

<i>Sr.No.</i>	<b>Particular</b>	<b>N</b>	<b>Mean</b>	<b>SD</b>	<b>t<sup>1</sup></b>
<i>1</i>	Before	50	71.34	2.4	13.380**
<i>2</i>	After	50	76.58	2.2	

Therefore, social workers, psychologists, personnel psychologists and other mental health professional should develop and focus on intervention strategies for improving the self-efficacy, active problem solving, coping and their social networks of the police personnel.

The implications also present a platform upon which organizational commitment of the police personnel could be understood and managed.

Sequel to the findings of this study, the following recommendations were made:

1. Women police officers should be given regular counseling sessions irrespective of the current mental health status.
2. Training programs should be designed to enhance the self-effiacy, coping strategies and social networks of the police so that they can cope with their stress and issues more effectively. It is also important that the working hours of the police be reduced in order to reduce the daily hassles that lead to work stress.
3. The government should look out for improving the psychological attributes of their employees. They can focus on the attributes like- self-efficacy, motivation, emotional labor, stress and psychological well-being among others. Improvement of all these attributes is important because this will enhance the organizational commitment as well. This can be achieved by the establishment of behavioral clinics in all the police stations

throughout Haryana. This will aid the diagnosis and treatment of behavioral problems among the police personnel.

4. In order to reduce work related stress, and enhance their performance and productivity, a conducive environment should be created.
5. Finally, one of the most important things would be training of the police personnel on the dangers and hazards related to their job, so that their safety can be enhanced.

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# OPERATION SAMVEDNA: HUMANITARIAN RELIEF OPERATION DURING COVID-19 PANDEMIC MANAGEMENT AND RESPONSE



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HARYANA'S RELENTLESS EFFORTS IN ALLEVIATING THE HARDSHIPS OF CITIZEN

*Anil K. Rao*

**Key words:** Humanitarian, Police, Lockdown, Pandemic, Migrants

## Introduction

The year 2020 began with a promise of new era of economic and social prosperity for people of Haryana and for the people of India. The state was fresh out of its 5-year cycle of elections, and there was a general air of expectation around things and our way of life in the state. The state and its people were looking at the new and emerging possibilities in numerous fields such as IT, Services, Manufacturing, Farming, Education and Sports. Our most recent gross state domestic product (GSDP) growth rate was 11%, which was well above the national average. There had been broad new initiatives on many important issues such as agro-industries, services and education.

But unknown to everyone, a storm was brewing far away from the state and the country's borders. In China, an unknown and unseen virus was spreading through the community of Wuhan city and as was expected of a respiratory virus of this type and ferocity, the tentacles of this virus were soon spreading far and wide, from East Asia, to Europe, to the Americas and the South of Asia. Although the virus had now been spreading for a couple of months around China and other countries, India was able to shield itself from its first wave, thanks to a slew of countermeasures taken at the entry points into the country. However in spite of the best of surveillance it was not long before cases started cropping up across many states. The rising cases and increased strain on country's healthcare infrastructure eventually forced the central government's hand and it declared a national lockdown period starting from the intervening night of March 24th – 25th.

What followed thereafter was an exemplary tale of how the country and how the state of Haryana, in particular, rallied human resources and material to help the citizens caught up on the wrong side of this nationwide emergency. During this unprecedented phase in our country's history, recent or old, the state of Haryana rewrote the concept of a welfare state by being not just a protector or a caregiver to its citizens, but by also being a trustworthy friend who could be called upon at any time and one that would answer this call without fail.

This relation of care and empathy exactly captures the true spirit of the namesake operation launched by Haryana government – Operation Samvedna. This operation saw and covered all humanitarian relief aspects of pandemic management - from sheltering stranded citizens, feeding the homeless and hungry, medical check-up of vulnerable sections and transporting people to their home districts. Even though there are reams of paper that have been filled with stories of state's

benevolence during these extremely testing times, we shall keep this article focused on Operation Samvedna, providing a concise account on how this operation unfolded.

### **Governance in testing circumstances: Haryana rising to the occasion**

This pandemic's brute impact and its ripple effects, no doubt, were unprecedented and something beyond any reasonable comprehension but the general demeanor of a Haryanvi is never to be cowed down in face of adversity. And it wasn't any different here as well. The state had proactively started bracing itself for all eventualities as the likelihood of a lockdown to arrest the spread of this pandemic became stronger. The CID team of the state had been reading the pulse on the ground and their inputs, along with inputs from the district administrations of all 22 districts, were crucial to these preparedness plans.

In the initial part of the pandemic lockdown, the focus, in addition to the regular administrative effort, was on lockdown curbs, food relief and shelter while in the latter half it was on relief and transportation. The smooth transitioning from one phase to another was made possible by the synchronized working of all state administration wings under the astute and splendid leadership of our Hon'ble Chief Minister Sh. Manohar Lal. His eye for the detail, a calm demeanor and an insistence on visibility of government machinery in every corner of the state – were the ingredients that went into a resolute state response to this pandemic emergency.

On repeated occasions, the state came in for praise from the Hon'ble Prime Minister and also the state governments which benefitted from Haryana's benevolent approach towards all citizens of the state, residents or migrants.

Not just within the state borders, but the able and steady leadership mantle shown by state of Haryana was even evident well beyond its jurisdiction. A case in study would be the decision to provide a fleet of about 800 buses to transport migrants to various districts of Uttar Pradesh from the Anand Vihar Inter State Bus Terminus in Delhi, where they had gathered en masse demanding passage and transportation to their home districts just as Lockdown 1.0 was being implemented.

This pandemic would've been an unwelcome arrival for the state and country on any given day, but by breaking out towards the latter half of March, it couldn't have chosen a much worse time for making its presence felt. The state was just beginning with the Rabi procurement season and any disruption to that could've had serious ramifications for the state's social and administrative structure. A big credit goes to the procurement teams and the farmers, who could finish the process without any glitches even under such testing circumstances. A total of 73 Lakh MT wheat and 8.25 Lakh MT mustard had been procured by May 25th, 2020. Even though CID didn't have a direct role in the agricultural harvest and procurement, its ground operatives were keeping a close watch on the agricultural hubs and the prevailing situation there. Also, the enumeration of agricultural migrants was one of the major tasks performed by CID in the midst of Rabi procurement season.

### **Industrious work by the ground teams: Backbone of Op Samvedna**

When the task of evacuating lakhs of people across the 22 districts of the state and their onward journey to the home districts in different parts of India was being deliberated upon, the

situation looked onerous and unprecedented, to say the least. The cumulative effect of a harsh but necessary lockdown, collateral effect of an economic slowdown and a climate of uncertainty with respect to the pandemic meant that the state had very little space to maneuver and there was virtually none for any errors. But having prepared and activated all resources at its disposal well in advance, especially the brilliant groundwork by the CID and the police teams, they were more than a match to the situation. Unlike many other states that might have seen migrant unrest or displeasure of its residents, Haryana proved to be a shining example of effective intelligence gathering and policing.

There were a few stray incidents of inflamed passions and raising of tempers, but the law enforcement arm of the administration dealt with all of it, with great alacrity and empathy. It was understandable for some to lose their patience, but a hard-fisted approach would have proven to be rather ham-handed. Rather, the administration placed a comforting hand on the shoulders of those in despair to reassure that the state was with them, throughout this ordeal. For example, in the case of migrants walking over to Haryana from Punjab-Haryana border, the administration setup shelter homes and reasoned with them on the need to follow a strict protocol of testing, followed by a coordinated evacuation via trains and buses. In another instance, when worshippers from a seminary in Delhi poured into the state in early April, the excellent intelligence gathering of CID and district teams proved crucial in keeping the spread under check, helping isolate those who were infected with CoVid-19. And then, the prelude to eventual evacuations - statewide enumeration work of migrant population was another example of CID teams being in the vanguard of pandemic management. Operation Samvedna is replete with such instances of excellent groundwork by state teams, especially the CID.

### **No procrastination: Decisions taken quickly and pro-actively, with due diligence**

A common thread that emerges from all the stories and accounts of how Haryana dealt with Corona virus pandemic was the pro-active decision making and the speed at which these were implemented. At the time when Shramik Express trains had been initiated by Ministry of Railways, the state of Haryana within no time, wrote to many of the migrant states to ask from them for a NOC – which was a prerequisite for the train indenting process. In fact, such was the due diligence of the CID team that the NOC for the next batch was already asked for even as the previous batch trains were still chugging-off from their designated departure stations within state. To avoid any hiccups during the train indenting process for evacuations, the state of its own volition, deposited an advance train hiring amount with Indian Railways. This precluded any sort of back-and-forth or surplus conversations over monetary matters, between agencies.

For the road evacuations, the state took a decision to fully utilize its vast fleet of Haryana Roadways buses, instead of asking the other home states to send in their fleet for evacuation of their residents. A lot of neighbouring states benefitted from this decision, especially Uttar Pradesh which got a lion's share of these trips. And then there were instances where Haryanvi students were rescued from Kota, Jawahar Navodaya Vidyalaya students from many of the Deccan states and army men from Kerala. All of it was about quick decision making and coming to the aid of citizens.

The CID team's excellent inter-agency and inter-state coordination for all the evacuation operations was made possible by the great degree of latitude given by Hon'ble Chief Minister Sh.

Manohar Lal. As ADGP CID Sh. Anil K. Rao would later say *“Hon’ble CM’s message was crystal clear – no one should be left stranded and people of all the states of India are our own children. And as fellow Indians, the full might of Haryana State should be with them in this moment of need.”*

SP CID Sh. Pankaj Nain talks about how CID was exceptionally quick in responding to operational exigencies – *“CID team was well aware of the game-changing nature of its operational duties during Operation Samvedna. The gravitas of our role was what kept us going, even if our energies dropped a bit in-between, due to sheer exhaustion from this effort.”*

### **State’s hidden infantry: The role of volunteers**

While much of the focus has remained on state’s role and the operation leadership shown by CID during Operation Samvedna, the role of volunteers in the operation and during this entire pandemic management exercise has been one of grit and determination.

The Co Vid Sangharsh Senani was a brilliant initiative to galvanize the people towards a concerted citizen action, in aid of the administration. Many of the shelter homes for migrants were spaces given out by religious and charitable groups, school administrations and even entrepreneurs. During the migrant departure aboard trains and buses, citizen groups would distribute meal packets, water and even hand sanitizers, masks to the travellers. And it wasn’t only about their help, but more about the effusive helpful deeds that spurred others to come forward as well. Like they say, positive energy is infectious!

### **Samvedna = empathy and concern!**

A hallmark of Haryana’s resolute approach towards CoVid-19 pandemic management has been an empathetic approach towards welfare of its citizenry. And not just a strata or region, but all of its state residents and all 22 districts alike!

In the action of battle, some anecdotes stick to our minds that show the human side of the people in the vanguard of this action. One such instance would be the polite declining of an offer of financial help made by Hon’ble CM of Bihar Sh. Nitish Kumar to the state of Haryana, concerning the welfare of migrants from Bihar within Haryana. Quoting from the reply penned by Hon’ble CM Sh. Manohar Lal – *“In Haryana’s economic, industrial and agricultural progress, migrant workforce has played a pivotal role. We treat them like ours and shall take care of them as ours, in this moment of need and otherwise too. They are as much as our responsibility too.”* When the executive head of the state articulates his thoughts so well and clearly, the motivation it lends to the state to make these words reach fruition is immense.

Since the migrants found themselves in uniquely difficult circumstances, the state walked that extra mile to help alleviate their hardships, but it never lost sight of the in-state residents who also got a large chunk of that compassion and concern.

Whether, it was their need for dry rations or pre-cooked meals, or curfew passes and essential commodities – the civic administration was alert to the situation in all 22 districts of the state. The ‘Haryanvi pride’ too was on full display, as people came ahead to help their neighbours, strangers and the administration.

If someone would've predicted that CoVid-19 would've made a positive impact on the state's psyche, they would've been written off as super optimistic. But this is exactly what happened. The state and its citizenry turned this situation into an opportunity to show to the country and world, that together as one people – we are unconquerable by any adversity!

# SLEEP DISORDERS IN POLICEMEN CAN LEAD TO ENHANCED ATHEROSCLEROSIS



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**Dr Nasreen Akhtar**

## **Abstract:**

*Police officers are exposed to several occupational stressors such as long work hours, sleep deprivation, traumatic and unpredictable events, shift work (defined as work occurring outside typical daytime working hours), chemical hazards, and other organizational stressors. Occupational stressors like these make the police officers prone to sleep loss and sleep fragmentation. In most cases, either the police officers are not diagnosed with sleep disorders or do not take regular treatment for it. Obstructive sleep apnoea is the most prevalent sleep disorder among police officers. Working out of phase from their habitual hours is another. The pooled prevalence of bad sleep quality in police officers was reported as 51%. One of the pathways mediating the relationship between sleep fragmentation and atherosclerosis is increased cortisol from increased stress degranulates more neutrophils, causing increase in the proinflammatory marker Nuclear Factor Kappa Beta. This is known to enhance atherosclerosis. There is a need for assessment of interventions to address sleep irregularities among policemen, and whether they can reduce cardiovascular disease risk over the long term.*

**Key words:** Police officers, sleep fragmentation, cardiovascular disease.

## **Introduction**

Sleep disorders are common and are largely undiagnosed and untreated in police officers. A comprehensive sleep disorders screening program found that 40.4% of police officers reported symptoms consistent with at least one sleep disorder. The majority reported not having been diagnosed in the past or not taking regular treatment. Police officers who screened positive for a sleep disorder were likely to report more actual and near-miss administrative errors and safety violations. The loss of even 2 hours of nightly sleep for one week is associated with decrements in performance comparable with those seen after 24 hours of continuous wakefulness. Sleep disorders resulting in chronic sleep efficiency may therefore adversely effect on-the job performance.

Yoo et al., 2007, studied changes in the amygdala with functional magnetic resonance imaging and reported that those in a sleep deprived state were unable to appropriately govern behavioural responses to negative emotional stimuli. This may also explain the self-reported increased number of citizen complaints filed against those officers who screened positive for a sleep disorder, although further studies are required to test this potential mechanism. Many police officers are at an even greater risk of these outcomes because they are often required to work overnight, on rotating shifts, or both. Impaired cardiometabolic responses are observed in healthy volunteers scheduled to eat and sleep out of phase from their habitual times, and night work greatly increases the risk of progression to diabetes. These findings may at least in part explain the increased risk of

cardiovascular disease and diabetes in shift workers, in particular police officers. Physical activity and diet may also account for the observed increased risk.

Obstructive sleep apnoea is the most prevalent sleep disorder among police officers, with one-third of officers screening positive. Given that obesity is a major risk factor for OSA and that one-third of police officers have a BMI of 30 or higher, the high prevalence of OSA can be anticipated. Although only a subset of patients with OSA report excessive sleepiness, many describe related symptoms (eg, fatigue, nonrestorative sleep, inattention). The prevalence of OSA without a complaint of excessive sleepiness, even in 1993, was 24% in men and 9% in women (Young et al., 1993). Today, it is likely even higher, given that the prevalence of some of the major risk factors for OSA (eg, aging and obesity) is increasing. In addition, recent improvements in diagnostic technology would likely yield higher apnea prevalence estimates. Obstructive sleep apnea exposes individuals to increased sleepiness and a 2- to 3-fold higher risk of motor vehicle crashes. Although in-the-line-of-duty death rates in police have decreased by almost half since 1972, the proportion of deaths due to unintentional injury have shown little change and in 2003 were greater than the rate of felonious deaths in the US (Vila, 2006).

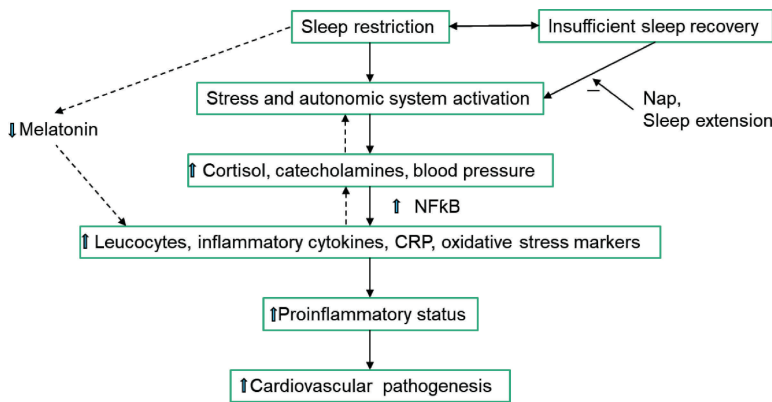
Cardiovascular diseases (CVDs) have now become the leading cause of mortality in India. The Global Burden of Disease study estimate of age-standardized CVD death rate of 272 per 100,000 population in India is higher than the global average of 235 per 100,000 population. In India, there has been a sudden epidemiological transition from infectious disease conditions to non-communicable diseases. The progression of the epidemic is multifactorial. Epidemiological reports have proved a strong link between both quality and quantity of sleep and CVDs and metabolic syndrome. Alteration in duration of sleep is associated with increased cardiovascular morbidity, incidence of cardiovascular disease (CVD), and major risk factors for CVD such as high cholesterol, incidence of Type 2 diabetes, and metabolic syndrome. Cardiovascular risk parameters used include age, sex, previous myocardial infarction and stroke, diabetes mellitus, smoking, systolic blood pressure, diastolic blood pressure, total and HDL cholesterol, and carotid intima-media thickness.

Studies suggest that common carotid artery intima-media thickness (IMT) is nearly as predictive of atherosclerosis as all nine of the other risk factors combined. There is an inverse linear association between objectively measured sleep duration and maximum IMT. An association has been established between sleep duration and abdominal obesity, elevated fasting glucose and hypertriglyceridemia, thus indicating that the odds of developing metabolic syndrome vary with alteration in duration of sleep. Police officers are exposed to several occupational stressors such as long work hours, sleep deprivation, traumatic and unpredictable events, shift work (defined as work occurring outside typical daytime working hours), chemical hazards, and other organizational stressors. Sleep disorders have been associated with an increased prevalence of self-reported comorbid physical and mental health conditions such as diabetes, CVD, and depression among North American police officers (Elliott & Lal, 2016)

Several studies have been conducted to establish the association of sleep duration and sleep quality with increased risk for metabolic and cardiovascular disorders. One of the studies

demonstrated that short sleep duration significantly increased the risk of all-cause mortality. 35 hours or less of sleep was associated with heart disease when compared to a duration of 8 hours of sleep (Ayas et al., 2006). A cross-sectional study concluded that when compared with sleep duration of 7 hours, there was a positive association between both shorter and longer sleeps durations and CVD in a representative sample of US adults. They found both short and long sleep durations to be independently associated with CVD, independent of age, sex, race-ethnicity, smoking, alcohol intake, body mass index, physical activity, diabetes mellitus, hypertension, and depression. Compared with a sleep duration of 7 hours (referent), the multivariate odds ratio (95% confidence interval) of CVD was 2.20, 1.33, 1.23, and 1.57 for sleep duration and  $\leq 5$  hours, 6 hours, 8 hours, and  $\geq 9$  hours respectively (Sabanayagam & Shankar, 2010). Short sleep duration is also linked to increased risks of hypertension (Gottlieb et al., 2006), and may be a significant risk factor for high cholesterol (Gangwisch et al., 2005).

Police officers have been reported to exhibit a high incidence of pathologies, which present prematurely in an otherwise healthy population. The pooled prevalence of bad sleep quality in police officers was reported as 51% [95% CI :42-60%] (Garbarino & Magnavita, 2015)



**Figure 2:** Potential pathway(s) by which sleep restriction (SR) and insufficient sleep recovery lead to cardiovascular pathologies. Sleep restriction with insufficient recovery sleep enhance the activity of the autonomic and stress systems. Increased blood pressure causes vascular shear stress and leads to inflammation in the vascular wall potentially leading to the endothelial production of inflammatory mediators. The stress mediators cortisol/catecholamine can mobilize leukocytes in the blood circulation; among leukocyte subtype neutrophil degranulation can trigger an oxidative burst and the release of oxidative stress markers. Nap and its slow wave sleep (SWS) component can blunt the stress response e.g., reduce cortisol release with subsequent decreased leukocyte mobilization. Catecholamine can enhance the expression of nuclear factor-kappa B (NF-κB), an activator of pro-inflammatory gene expression, e.g., pro-inflammatory cytokines. All these physiopathological altered pathways following SR contribute to a chronic pro-inflammatory status ultimately leading to the development of cardiovascular pathologies. Abbreviations: C-reactive protein (CRP). Faraut B, Boudjeltia KZ, Vanhamme L, Kerkhofs M. Immune, inflammatory and cardiovascular consequences of sleep restriction and recovery. *Sleep Med Rev.* 2012 Apr;16(2):137-49. doi: 10.1016/j.smrv.2011.05.001. Epub 2011 Aug 10. PMID: 21835655.

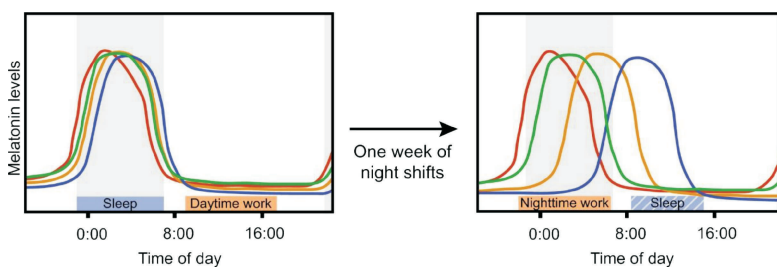
In 2012, (Faraut et al., 2012) the potential pathway(s) (Figure 2) by which sleep restriction and insufficient recovery sleep lead to cardiovascular pathologies were discussed. Sleep restriction coupled to insufficient recovery sleep enhance the activity of the autonomic and stress systems. Vascular shear stress exacerbated by increased blood pressure lead to inflammation in the vascular wall potentially leading to the endothelial production of inflammatory mediators. While the

physiological underpinnings of the sleep and CVD relationship are not yet well defined, one plausible mechanism may be endothelial dysfunction, which is found in the early stages of atherosclerosis. Circulating markers of endothelial cell activation and damage (e.g. von Willebrand factor, endothelin-1) are increased among patients with obstructive sleep apnea (OSA) compared to healthy controls and among relatively healthy adults with increased sleep disturbance according to both self-reports (von Känel et al., 2007) and polysomnography-derived indices of sleep (e.g., latency in rapid eye movement or REM sleep) (Mills et al., 2007).

The stress mediators cortisol/catecholamine can mobilize leukocyte in the blood circulation; among leukocyte subtype neutrophil degranulation can trigger an oxidative burst and the release of oxidative stress markers. Nap and its slow wave sleep (SWS) component can blunt the stress response e.g., reduce cortisol release with subsequent decreased leukocyte mobilization. Catecholamine can enhance the expression of nuclear factor-kappa B (NF- $\kappa$ B), an activator of pro-inflammatory gene expression, e.g., pro-inflammatory cytokines. All these physiopathological altered pathways following sleep restriction contribute to a chronic pro-inflammatory status ultimately leading to the development of cardiovascular pathologies.

Nakazaki et al, in 2012 found that IMT was significantly greater and sleep efficiency was significantly lower in subjects with Total Sleep Time  $\leq 5$  ours than those with Total Sleep Time  $> 7$  hours with no significant differences in hypertension, diabetes, hyperlipidemia, smoking, or alcohol consumption. (Nakazaki et al., 2012)

In 2013, Ma et al, examined the association of objectively measured actigraphic data and self-reported sleep duration with carotid artery intima media thickness (IMT) among 257 police officers, a group at high risk for cardiovascular disease (CVD) (Young et al., 1993). They found that officers who had fewer than 5 hours or more than 8? hours of objectively measured sleep duration had significantly higher maximum IMT values, independent of age. Self-reported sleep duration was not associated with either IMT measure (Cc et al., 2013).



**Figure 1:** Effect of circadian misalignment on individual melatonin levels. Each line represents melatonin levels of individuals. Grey area is the habitual sleep period. Left panel: Regular melatonin peaks synced with sleep. The panel on the right indicates different adjustment in each individual after several days of night shifts. Due to the shifted work schedule, sleep now occurs outside the biological night, potentially leading to shorter and more fragmented sleep. Reproduced with permission from: Kervezee et al. *European Journal of Neuroscience*, Volume: 51, Issue: 1, Pages: 396-412, First published: 25 October 2018, DOI: (10.1111/ejn.14216).

Kervezee et al, in their article discussed the evidence for the contributions of circadian disruption and associated sleep disturbances to the risk of metabolic and cardiovascular health problems in shift workers. Disruption of the internal circadian timing system and concomitant sleep

disturbances (Figure 1) is thought to play a critical role in the development of these health problems. Controlled laboratory studies have shown that short-term circadian misalignment and sleep restriction independently impair physiological processes, including insulin sensitivity, energy expenditure, immune function, blood pressure and cardiac modulation by the autonomous nervous system. If allowed to persist, these acute effects may lead to the development of cardiometabolic diseases in the long term. (Kervezee et al., 2018)

In 2006, The Buffalo Cardio-Metabolic Occupational Police Stress (BCOPS) study, one of the first population-based studies to integrate psychological, physiological, and subclinical measures of stress, disease, and mental dysfunction, was undertaken to establish a methodology and descriptive results for a larger police study. They found that compared to populations of similar age, police officers had slightly lower FMD, lower carotid IMT, elevated BMI, and higher reported rates of depression and PTSD. Standardized physiological and psychological data collection and descriptive results confirmed that the methodology of the study was feasible in a working police population (Rajaratnam et al., 2011).

Butt et al in 2011, studied the association between obstructive sleep apnea and increased cardiovascular morbidity and mortality by studying myocardial perfusion using real time quantitative myocardial contrast echocardiography with concurrent assessment of macrovascular and microvascular endothelial dysfunction in subjects with obstructive sleep apnoea (OSA) and found a positive association between the two (Butt et al., 2011).

In 2016, Yadav et al had worked on both female and male police officers on their sleep quality working out-of-phase. Various questionnaires were used PSQI, ESS, FSS, and categorized into good and poor sleepers. At the beginning of the study, the existing duty schedule of these subjects was OP and lasted for 4 days (OP1). Thereafter, they were allotted their preferred (IP) duty schedule for 4 days, followed by OP2 for further 4 days. Over the 12-day period, subjects were monitored for their BP and sleep-wake cycle. Results showed that the poor sleepers improved their sleep quality and HR during IP duty schedule; however, good sleepers were not affected significantly (Yadav et al., 2016).

In 2017, Farooqui et al conducted an observational case control study in which they assessed the endothelial function using flow mediated dilation (FMD), peripheral arterial tonometry (PAT) and carotid artery ultrasound was used to measure CIMT in OSA patients constituting the study and non OSA subjects as control group at AIIMS, New Delhi. They found that endothelial function is significantly impaired in moderate to severe OSA patients without comorbidities. They also showed evidence of subclinical atherosclerosis in the form of increased CIMT (Farooqui et al., 2017).

There are several interventions and policy changes that might lead to improved sleep pattern and decreased cardiovascular disease risk among policemen. The department can instate a physical fitness program, which provides fitness facilities and the opportunity to exercise at all stations during work time. If a program already exists, it can be upgraded. Job performance standards, the annual performance report should include reports on physical ability and physical fitness.

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# UNDERSTANDING JUVENILE DELINQUENCY: CAUSES AND CONCERN



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**Deepika Kamboj (Antil)**  
**Dr Rajesh Hooda**

*"We are guilty of many errors and faults; But our worst crime is abandoning of children, Neglecting the fountain of life, many of the things we need can wait, The child cannot wait; Right now is the time, His bones are being formed, His blood is being made and his senses are being developed, To him, we cannot answer 'tomorrow'. His name is 'today'*

**-By Golden words by Gabriel Mistral  
(Nobel Prize winner from Chile)**

## **Abstract:**

*"Modern societies seem to look at young people in a rather ambivalent manner. The last decades of the twentieth century provided us with a couple of telling examples from several countries. On the one hand, the children and juveniles are viewed as needing care and protection. If they become delinquent, educational measures are seen to be the appropriate if not pivotal answer to the problems they are causing or may suffer from. This is the prevailing attitude among the general population in the majority of countries in the world, so long as the offences committed by youngsters do not rise steeply in numbers and remain petty or moderate in quality. On the other hand, more serious crimes cause public concerns, and may even spark outrage when considered to be disgraceful; even more when attributable to the youth with a history of repeat offending. Hence, the present study aims to examine the causes of juvenile delinquency, the approach towards their rehabilitation or reformation and the way they are treated by the present legal system.*

**Key words:** Juvenile, Delinquency, Police, Child, Crime

## **Introduction**

Delinquency in children is a very serious and complex problem which cannot easily be solved by law alone. This could very well be understood as an outcome of various factors namely socio-economic, cultural, environmental and political, which yet has not been addressed and identified. It has been found that any child who has suffered injury in the frontal cortex before age seven develop abnormal behaviour resulting in frustration, anger and aggression (Khushid, 2008). Also according to the Neuro-Science this prefrontal cortex is that part of the brain which fully matures in the last. So, the background factors have greater impact on the development of the child. These factors can very well transform one into serious or hardcore offender of tomorrow. According to the United Nations Convention on the Rights of the Child and the United Nations standard Minimum Rules for the Administration of Juvenile Justice, Juvenile Justice System should respect the human rights of juveniles, pursue the best interest of juveniles and promote diversion systems or

community treatments for them (Sugano, 2008, p. 96) . If we take a look globally Canada's first national juvenile justice law also recognized that the children or the youths are distinct from adults and they should not be held accountable in the same manner for the violations of the criminal law as that the adults are. According to the various sources at the international level the legal framework which govern the treatment of children including its treatment by the judicial system also, should resemble the assessment of the best interest of the children. The various standards and practices for juvenile justice all-round are changing again. Following the period of the harsh punishments of juveniles often based on the notion that the juvenile who has committed adult crime should be sentenced to prison for the adult time has now been undergoing the substantial shifts. Juvenile justice Act marked the new beginning; it mirrored a sincere desire to realize the two folded constitutional aspirations i.e. the state obligation to provide ideal conditions for the development and also must act to protect them against exploitation and moral and material abandonment.

### **Notion of Juvenile Delinquency**

According to the criminologists, juvenile delinquency encompasses all public wrongs committed by juveniles in the age group of 12 and 18 generally. Sociologists adopt a wider and a more comprehensive perception of juvenile delinquency. They believe that different violations of legal and social norms, from minor offences to serious crimes, committed by juveniles, come under the ambit of juvenile delinquency. It also covers the status crimes i.e. those actions which would not have been considered an offence had it been done by adults. But owing to the age of the juvenile, such an action is deemed to be an offence. As per the United Nations Guidelines for the Prevention of Juvenile Delinquency popularly called the Riyadh Guidelines "youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood". According to these guidelines a large number of adults have in the process of growing up indulges in some or the other type of delinquent behaviour. But such criminal transgressions haven't necessarily resulted in their taking up criminal careers, as they grew up. However there is always a subtle threat that such juveniles may at times result in the formation of stable criminal groups even as they mature into adults. Delinquency is primarily a group phenomenon which is generally resorted to by certain subcultures of young people who have jointly assumed a particular identity. Social cohesiveness is characteristic feature of peer groups of juvenile delinquents who collectively reject societal values and ethos. Furthermore, the period of transition from childhood to adulthood proves difficult and problematic both to the children and to the community .

There could be multiple theoretical underpinnings of juvenile delinquency. Sociologists generally associate juvenile delinquency with the condition of juveniles at home, their familial relations and the socialization that they undergo while growing up. Social relations and institutions which used to ensure a smooth process of socialization are rupturing and floundering fast and the young minds find themselves lost in the wilderness of the fast paced world. These juveniles often respond to the traumatizing and destructive changes in the social reality by engaging in deviant or criminal activities. Very often juvenile delinquency is the result of perceived insecurities of the child. The emergent identity crisis that the young ones experience while growing up can also push them into

the world of criminal activity. It is also to be noted that the ongoing process of rural migration and consequent urbanization is another major contributing factor behind juvenile delinquency. Urbanization leads to anonymity and thereby gives greater space for children to experiment with delinquent acts, without the threat of detection. Another factor contributing to juvenile delinquency is the failure of the social institutions to integrate the marginalized sections of the society into the mainstream. Those families which experience social exclusion often fail miserably to provide congenial atmosphere for their children. Their children thus fall prey to all sorts of delinquent forces. Juvenile delinquency can also see a rapid spurt concurrently with economic decline, political instability, and the weakening of major social institutions (including the State, welfare schemes and institutions). Thus we can safely conclude that any policy meant to deal with juvenile delinquency will be doomed to fail if family and community aren't made components of that policy. Any policy meant to combat the menace of juvenile deviancy must recognise the importance of family well-being.

### **Approach towards Juvenile delinquents**

An ambience towards young people in trouble is not a new phenomenon in relation to justice for children. Crime constitutes the intentional commission of act usually deemed socially harmful or dangerous and specifically defined, prohibited and punishable under criminal law by virtue of their age and status of dependency on adults (Singh, 2003). A delinquent child has two statuses that of a child and that of offender. This dual status yields a dichotomous response from a community that wants to protect its children but be protected from its offenders. Juvenile justice policy in India is reflective of the constitutional mandate given under Article 15 that guarantees special attention to children through necessary and special laws, schemes and policies to safeguard their rights. The Constitution of India recognizes the vulnerable position of children and their legitimate claim to protection. The provisions of Section 82 and 83 Indian Penal Code, 1860 have also given protection to the children who have not attained sufficient maturity of understanding to judge the nature and consequences of his conduct. So, ever since then the child has been given proper protection and so it is said that 'A child below the age of 12 years is a blank canvas; he is neither a saint nor a devil'. He is nothing but the product of the environment around him. Thereafter in 1986, Parliament passed the Juvenile Justice Act (herein after JJA) for the whole country except the State of Jammu, thereby bringing in a uniform system of juvenile justice throughout the country. While it retained the scheme and primary features of the Children Act 1960, the JJA substituted the word "juvenile" for "child". It provided two separate authorities to deal with the two categories of delinquent and neglected children. The three new provisions provided for establishment of Advisory Boards, creation of a Children's Fund and appointment of visitors for each institution. In 2000, Parliament enacted the JJA 2000 as it found it "expedient to reenact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, 1989, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other relevant international instruments (Addenwalla, 2006). It has been observed as a complete departure from the welfare approach. The cut-off age defining a child is different in various legislations. The issues

raised in relation to the age gives a glimpse of the complexity of this simple proposition. Every child has four rights namely; Right to protection, Right of survival, Right of development, Right to participation. The philosophy behind the act is not to punish a juvenile delinquent or neglected child but to bring him/her back to the mainstream and to ensure their above rights.

Ever since the Nirbhaya case shook the societal conscience in December, 2012 there has been a growing clamour to do away with any leniency that is shown towards the juveniles in cases of serious crime involving extreme depravity of thoughts and action. Not only the Nirbhaya case, but several other crimes committed by juveniles have left the society aghast and generated opprobrium against the juvenile delinquents. Henceforth, the latest transition in law is the passing of the Juvenile Justice Act of 2015. Here the juveniles in the age group of 16-18 years committing heinous offences are to be treated as like adult offenders. The Juvenile board will assess the mental and physical capacity of the juvenile to commit the heinous crime (provided under S. 15 of The Juvenile Justice (Care and Protection of Children) Act, 2015 hereinafter JJ Act) and based on this preliminary assessment, the board will now decide whether to transfer the case to the Children's Court or the Session court (S. 2(20) of JJ Act, 2015) to be tried as an adult (S. S. 18(3).of JJ Act, 2015). Though no doubt the JJ Act is a step forward towards the protection and prevention of the offences committed by the juveniles in the manner provided above but still there exist lacunae's which proves the Act ineffective for different reasons because of the ineffective implementation of the provisions of the Act. Much of the ignorance relating to the system of juvenile justice was centred on the issue of age i.e. what will be the minimum age of criminal responsibility and the sentencing policy? Is there a difference lies between the age of criminal responsibility and the age for the juvenile justice responsibility? Why the age is legislatively fixed and not judicially determined? Even after various amendments the various issues relating to the juveniles like the issue of the age, the sentencing of the juveniles are still in public domain. There lies conflict between the protection of the juvenile offenders and the prevention of the crime by these offenders. Time and again because of the dynamic nature of the law the parliament has made efforts for bringing about the amendments in the law and so the law is very well existed in the today's scenario. Here the question lies in the fact that how effective it has proved? Whether there is loophole in the law or in the system itself? Debates are endless on the existing law and procedures for the juveniles but the time is for the reality check. In reality if we assess, the failure is on the part of various chains of agencies involved in providing justice to the child and resultantly an innocent child is at a higher risk of being punished and spoiled. The idea should be to adopt a child friendly approach in the adjudication and dispensing of matters in the best interest of children and for their ultimate rehabilitation through various institutions (Chaudhary, 2003).

## **Role of Agencies in combating Juvenile Delinquency**

### **Judicial Trends:**

The judiciary has always played an active and a supportive role for juveniles at the time of punishing an offending juvenile. . This is evident in the case of **Kakoo v. State of A.P (1976)<sup>viii</sup>**. In this case a Kakoo named boy of 13 years of age has committed rape on a small child of two years. He convicted and sentenced for four years rigorous imprisonment. When this case reached the Apex court, the court adopting a humanitarian approach Justice Sarkaria observed that an excessive long

imprisonment term is sure to turn a juvenile delinquent into adamant criminal and has also laid emphasis that in case of child offenders current punitive trends appreciation a more humanitarian approach and so after the above observation and the proper reasoning reduced the sentence to only one year's rigorous imprisonment. Court was of the opinion that the juveniles are to be detained separately from adult prisoners, preferably in a reformatory school. From this time onwards the Supreme Court had got into the mould of sensitivity towards juvenile offenders and there was a series of judgments reducing sentences and expounding on the sentencing jurisprudence which was up till now indifferent to juveniles. This was the approach which was and now also being adopted by the judiciary in dealing with the cases involving juveniles in conflict with law.

Justice **Krishna Iyer** in case of **Satto v. State of Uttar Pradesh (1979)**<sup>ix</sup> enunciated the “aim of criminal justice to be correction informed by compassion, not incarceration leading to degeneration. According to him in India the approach of the criminal law should be that the child offender be given humane nourishment and they should not be the target of harsh punishment. Upbraiding the state he points out the situations of the juvenile homes and their lack of orientation.” There is a lot of discretion rests on the judges to consider the determination of the deprivation of the liberty of the juveniles. Krishna Iyer J. vehemently puts forth that it is time that the notion that secure detention is good for the child be thrown light on. He further submits that some legal absolutes seem imperative; jail for the juveniles should be forbidden; status offenders should not be put into safe custody; determinate limits should be set on how long a child can be detained before or after adjudication. He also relied on the “pre-sentence” reports which are emphasized by the United States Supreme Court in which before the imposition of sentence on the accused a report is submitted which consists of the background and surroundings of the defendant also along with the circumstances or the mental capacity the offence has been committed which will facilitate the sentence to be given to the juveniles in conflict with law. The judge has to assure that the proper course is adopted for the juveniles in conflict with law keeping in view the relevant information provided under the report.

In the case of **Salil Bali v. Union of India (2013)**<sup>vi</sup> a three-judge bench judgment headed by Altamas Kabir C.J. the court analysed certain core issues regarding the juvenile in conflict with law. Court in the above case addressing the issue of the status of the juveniles has observed that though there are exceptions regarding the criminal behaviour of the juveniles in the age group of 16-18 years but according to the court observation such examples are not of such extents as to permit change as according to them it is better to try and reintegrate children into mainstream society rather than allow them to develop into hardened criminals. Later in the recent past in a case of **Dr Subramanian Swamy and others v. Raju Thr. Member Juvenile Justice Board & Another (2014)**<sup>xii</sup> an appeal was filled by Dr Subramanian Swamy, he contended that with respect to the object and purpose behind the enactment, the true test of “juvility” is not the age but the mental maturity of the offender and so with this regard the Act should be read down in order to understand the above purpose and would save the Act from unconstitutionality. The court on the above arguments is of the opinion that works placed goes on to show that studies of adolescent brain composition clearly indicate that upto the age of 18 years regions of the brain that regulate such things as foresight, impulse control and resistance to peer pressure are in a developing stage. These are normative occurrences that a teenager cannot control and not an extreme illness or defect.

Here in the above discussions of the judicial opinion over the various contentions make us clear that the judiciary after going into the expand study is trying to understand the psyche of the juvenile. Considering them as the last resort for justice they are playing a compassionate and proactive role in keeping the balance in the society by giving just and equitable treatment to the juveniles in conflict with law. Let us keep our fingers crossed and wait for our Hon'ble Supreme Court for evaluating the provisions on the standards of our great and dynamic constitution and the various international obligations specially the UN Convention on the Rights of the Child (UNCRC) 1989.

### **Police Handling of Juveniles:**

Law enforcement is the foremost task of the police and for that matter they should play a proactive role in preventing the criminal activities in the society. Especially with regard to the juveniles their approach should be more responsible in dealing with the delinquency. Police is the first agency which comes in contact with the juvenile delinquents and so their role plays a very important role in dealing with them. Special trainings should be given to them in order to understand the psychology of the juveniles. Many of the times the juveniles are forcedly pushed into the criminal activities so that the bigger criminals can get an escape from their criminal acts. So special attention is supposed to be given to these innocent juveniles who come in conflict with law unintentionally. For appropriate and effective dealing with the juvenile special and trained police unit is required. In the year 1955, first United Nations Congress was held in Geneva on the prevention of crimes and treatment of delinquents, which has pointed out that specially trained police officers should be appointed for this purposes, as the police is the first in contact with the delinquents and so they required special training and skill. Another point of action is of ensuring protection to the released juvenile delinquents against the threats and victimization by providing benevolent and obtrusive supervision. The 'Guidelines for Action on Children in the Criminal Justice System Recommended by Unites Nations Economic and Social Council' vide Resolution 1997/30 of 21 July 1997 are in line with the Beijing Rules, which has directed all the states to establish specialized unit in order to deal with the cases involving children. Also according to Clause 58 of the UN Guidelines for the Prevention of Juvenile Delinquency (hereinafter, "Riyadh Guidelines"), specialized police personnel must be trained in order to "respond to the requirements of child and should be familiar with the programmes and referral possibilities for the diversion of children from the justice system." Even though nationally and internationally there exist guidelines for the protection of the juveniles but the ground reality should not be different from the set procedures.

Under the JJ Act, 2015 special duties are imposed upon the police looking into the sensitivity attached to the juvenile apprehension and detention. Special juvenile police unit (SJPU) (provided under S. 107 of JJ Act, 2015) has been formed in each district comprising of the Deputy Superintendent of Police, Child welfare Police officer (CWPO) and two social workers who are attached to the District child Protection Unit of the concerned District. This special unit is basically the watch-dog for providing legal protection against all kinds of offences against the children and also they take a charge of the instances of non-compliance for further legal action. The SJPU or the CWPO has the duty to record the information of the offence alleged to have committed by the child in

his daily diary and also record the information of the social background of the child with the circumstances under which the child was apprehended and thereafter should produce the child before the Board before the first hearing (provided under Rule 8 of The Juvenile Justice (Care and Protection of Children) Model Rules, 2016). The above procedure shall be followed only if the child is apprehended of the heinous crime otherwise in case of petty offences or serious offences the child should not be apprehended and should be produced before the Board. The Police, SPJU and CWPO all these should work keeping in mind the best interest of the child even though the offence alleged to have been committed is of heinous nature. The child should not be compelled in any manner to confess his guilt, should not be forced, should not be hand-cuff, chain and the child should not be sent to the lock-up. The police shall comply with the whole procedure as prescribed by the law consciously and try to make speedy disposal of its duties. The Police basically should try to work with the voluntary organizations, community based organizations in order to report the cases of the children victims of various exploitations and also the children who are in conflict with the law. The main responsibility of the police is to create trust in the minds of the juvenile and to deal with them with decency and dignity while conducting the investigation. It is the responsibility of the police to change the perception of the juvenile. The approach of the police towards children should be that of a guardian, giving sympathetic care in providing them proper care and protection. No torture or harassment should be resorted to by the police in order to extract information from them. Specialized knowledge should be given to the authorities in order to understand the child psychology and the approach while dealing with them should be reformatory or social rather than penal in the best interest of the child. It is hoped that besides sensitizing the police officers, the various procedures and guidelines followed by the police officials will go a long way in bringing about a change in the mindsets. This would further assist us in creating a system where the instances of child in conflict with law and the child abuse would be the last such instances with that child.

### **Conclusion and suggestions**

On a more philosophical note, we can say that nothing one does for a child can ever be wasted. Small acts of kindness done towards the child can have great impact and may go a long way in transforming a deviant juvenile into a great man. One should also not forget that children are great imitators. So if the society is to improve, we must necessarily forgive the children, even if they are delinquents but at the same time societal interest cannot be put to stake. If we show mercy towards them, even the most hardened juvenile delinquent may be reformed. Under the JJ, Act nothing is looked into from the perspective of the victim or the victims who are juveniles. What is suggested through this study is not the retribution for juveniles but a cooperation and proactive support from the various agencies involved in keeping justice. For the purpose of controlling the delinquency there need an effective implementation of the Juvenile Justice Act, by creating public awareness and by conducting orientation programs, by providing training to the professionals and law enforcement agencies and also after care protection should also be given to the released juveniles. Juvenile homes should not be underestimated as mere transit points rather they should have trained staff capable of exerting a positive beneficial influence on the juvenile delinquents. Police should also be passionate about upholding the rights and dignity of the juveniles otherwise the system would be unsuccessful.

There is a dire need to create a mechanism for assessing the needs and requirements of the juveniles and this should be reviewed regularly. India needs to adopt a model which could balance between the need to rehabilitate the juvenile offenders and at the same time take responsibility for his crime and ensure justice for the victims. As a parting note one would say that “every child one encounters is a divine appointment” and we must do our best to uphold the sanctity of this divine entity, if the society is to flourish and thrive.

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# THE DRUG ADDICTION IN JUVENILE DELINQUENTS – A CASE STUDY



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## **Abstract:**

*Substance abuse and criminal behavior are intimately linked. The magnitude of drug addiction may be associated with the severity of the criminal behavior and violence. This relationship is more serious and alarming in case of young population. The present study was conceptualized to get a better understanding of the phenomenon of drug addiction and juvenile delinquency in young population through a case study in a NGO De-addiction center dealing with juveniles in Delhi. Semi-structured interviews were conducted with the juveniles, volunteers, mental health expert and the branch project in-charge of the center. Detailed field observations were recorded in three field visits with the team of researchers. A theme-based analysis of the data indicated that there is a complex relationship between drug addiction and juvenile delinquency with diverse implications for the psychological, socio-cultural and policy realm. The efficacy of therapeutic interventions at the NGO was also assessed. A representative model was constructed to represent the journey of the juvenile from entry to the exit. It revealed that multiple factors play a role in initiation, perpetuation and escalation of drug use, abuse and criminal behaviour. The paper describes these findings in detail.*

**Key words:** Juvenile delinquency, drug addiction, rehabilitation, therapeutic interventions

## **Introduction**

### **Drug Addiction in Juvenile Delinquents - A Case Study**

The researchers of this case study were inspired to carry out this study after watching a YouTube video by the name of 'kamlesh soluchan' uploaded for the first time in 2012 shot in Connaught Place, New Delhi. It is a short interview of a scrap picker named Kamlesh aged 13 years who admitted being addicted to multiple drugs starting from nicotine (beedi and cigarettes), alcohol, weed, hash, opium, heroin and inhalants. He spent most of his earnings on drugs and mere rupees 20 on his diet. He perceived that there was no advantage in trying to give up the drug as he slept well and remained in a blissful state most of the times. He had no major ambitions in life. When the interviewer asked if he wished to go back to his hometown, he simply refused since his mother would not allow him to use inhalants and do drugs. He had a carefree attitude towards death and did not care even if he died very soon. Many viewers can find the video disturbing because it is presented as a humorous satire but highlights a very critical problem, plaguing the world.

## **Menace of drug abuse**

Drug abuse is a devastating menace to human life, affecting not just the individual but their friends, family and many other people involved whether directly, indirectly or circumstantially. 356 million Indian youth are facing a surge in rates of drug abuse and crime. As reported by the NCRB, rates of juvenile delinquency increased by 2% from 2018-19 wherein 75.2% of all juveniles delinquents were aged 16-18. With a share of 8.6% in all-India juvenile crime, Delhi stands as the third largest contributor despite having a considerably lower projected population of children (56 lakhs) as compared to majority of Indian states (National Crime Records Bureau, 2019).

Coupled with this is another worrisome fact; most drug abusing youth involved in crime come from an underprivileged background. Delhi alone has an estimated 1 lakh or more street children (Naik, Bansode, Shinde, & Nirgude, 2011), with 4 to 8 lakhs being the total estimate for the entire nation given by UNICEF (Chatterjee, 1992) – which rose to 2 million in 2009 according to a study by Save the Children, India (Kanti, 2018) and substance abuse is reported as a major health problem in this segment of the population. According to information given by the Ministry of Social Justice and Empowerment in 2017, more than 90 percent of street children in Delhi-NCR are addicted to drugs (Shakil, 2018). The psychiatry department of IHBAS (Institute of Human Behaviour and Allied Sciences) in Delhi estimates that over 87 percent of the total examined adolescents had a history of drug abuse, while a report by the DCPCR (Delhi Commission for the Protection of Children's Rights) on substance abuse by children found that 100 percent of children in conflict with the law were drug abusers in 2015 (Sharma, 2016). These statistics reflect an alarming situation about the link between drug abuse and juvenile delinquency in the Indian context.

A survey conducted by the Society for the Promotion of Youth and Masses (SPYM) and the National Substance Dependency Treatment Centre (NSDTC), AIIMS, New Delhi, in 2015 in Punjab, where 2,32,856 drug abusers were identified in 10 districts, is a horrifying example of a long ignored drug abuse crisis caused by a combination of such socio-environmental factors- ongoing agrarian crisis in the state coupled with easy availability of narcotic substances, a profit nexus between drug associations, organized crime, politicians and legal set-up, police and a lack of opportunities for profitable jobs (Phukan, 2018).

## **Etiology**

Juvenile delinquency and drug abuse have a multi-faceted and overlapping etiology which includes familial, social, psychological, environmental and economic factors (Jenkins & Zunguze, 1998; Noyori-Corbett & Moon, 2010). Social factors such as the culture, neighbourhood and family play a vital role in initiation, perpetuation, and even escalation of drug use and criminal behaviour in an individual. Family structure and functioning; broken homes, absent or problematic interpersonal relations, lack of balanced parenting, lack of guidance, economic instability, substance abuse or addiction in the family or among peers, access to addictive substances and exposure to physical, sexual, emotional abuse or trauma violence and peer pressure can lead to and perpetuate juvenile delinquency (Bachman, Wadsworth, O'Malley, Johnston, & Schulenberg, 1997).

High stress and personality traits like high impulsivity or sensation seeking, depression and anxiety are some psychological factors that can lead to usage of substances and criminal behaviour. People who develop substance use disorder have excessive dependency which might get reinforced initially because it reduces tensions and raises spirits. Linked to this reduction is the expectancy that drugs will be comforting and helpful due to which their use persists. A positive relationship between hyperactivity, concentration or attention problems, impulsivity and risk taking and later violent behaviour has also been reported (Hawkins, et al., 1998).

### **Types of substances**

Despite such a detrimental impact, the storehouse of substances abused everyday has expanded and metamorphosed into various types, six of which are as follows:

#### **Alcohol**

A cultural staple in many countries, its excessive intake serves as the introductory step to misuse of many other substances. Of the total 14.6% of Indian population that consumes alcohol, 1.3% are youth between 10-17 years of age (Ambekar, et al., 2019). Overdrinking has several short and long term impacts on cognitive, psychological and biological functions such as lowered inhibitions leading to poor judgments, trouble in concentrating, coordinating, perception (especially vision), trouble learning, mood changes, slowed reaction times, difficulty remembering, confusion and loss of consciousness, depression, diminished gray and white matter in the brain, memory loss, stroke, high blood pressure, irregular heartbeat, liver fibrosis and throat, mouth, breast and liver esophageal cancer (Monico, 2020). Long-term effects include conditions such as disruption of person's job performance, personal relationships, legal issues etc.

#### **Nicotine**

Nicotine is another legally available substance used on a daily basis by 24.9% (232.4 million) of Indians aged 15 and above as reported by the Ministry of Health and Family Welfare through the Global Adult Tobacco Survey or GATS 2 (TISS, 2016-17). It is mostly consumed through chewing of khaini, gutka, zarda and smoking of beedi and cigarettes. Non-smokers have to face its ill-effects since they are often forced to inhale passive smoke. Many smokers report arousal, relaxation and perceived stress relief due to smoking however it puts people at high risk of developing various health complications such as chronic bronchitis, peptic ulcer disease, stroke, diabetes, heart diseases and loss of sense of taste or smell in the long run. Once dependence sets in, withdrawal from nicotine causes symptoms such as headaches, drowsiness, nausea, sleeping problems, excessive weight gain or loss, concentration difficulties and mood swings.

#### **Cocaine**

Cocaine is a status symbol in India, has a high price tag and is famous among rich urban elite Indians. Cocaine addiction develops swiftly and can create psychological dependence greater than any other drug. Other stimulants such as LSD and ecstasy are used increasingly as part of “rave”

parties. Short term effects of such stimulants include increased heart rate, constriction of vessels causing cardiac arrests, suppression of appetite and prevention of sleep. It also elicits positive moods, makes person friendly, energetic, and produces brief sense of euphoria. Withdrawal may lead to dizziness, confusion, panic states, irritability and depressed mood. It's long-term effects however include the disruption of occupational and social roles, heart problems, respiratory effects, digestive problems and long term usage may lead to onset of psychosis, increase in violent behaviour, depression which may cause suicidal tendencies(NIDA, How does cocaine produce its effects?, 2020).

## **Heroin**

Heroin is a type of opioid that can be injected, sniffed, snorted or smoked (also known as Chitta, Brown sugar and Smack). Based on a survey by NDDTC and AIIMS, 77 lakh issue opioid consumers are reported to be in the country as of 2019 (Ambekar, et al., 2019). Heroin binds to opioid receptors in the brain and body that send a surge of dopamine and intense pleasure through the body, much like other opioids. Dry mouth, nausea and vomiting, extreme itching, and clouded thought are among its short-term symptoms. A very strong dose can interfere with breathing and lead to death. Insomnia, heart infections, liver and kidney failure, collapsed veins, depression, and extreme addiction are among its long-term consequences. Addicts to heroin are much more likely to die from AIDS, aggressive actions, suicide, etc. As reported by Punjab Police in 2018, despite its high price heroin is abused widely regardless of class and income in Punjab since many turn to peddling as a source of income while others steal to sustain their habit. (BBC India, 2018) This also reflects on the severe life conditions faced by farmers in India.

## **Cannabis**

Cannabis in both its legal form (bhang) and illegal forms (charas/hashish, ganja) is the second most commonly consumed substance (after alcohol) alongside opioids in India. About 3.1 crore individuals (2.8% of the population) reported use of cannabis product in 2018 (Ambekar, et al., 2019). Depending on the duration of use and the individual, the impacts of cannabis usage vary. Short-term effects can include feeling a sense of happiness and well-being, relaxation, talkativeness accompanied by need to munch on something. Withdrawal may cause difficulty sleeping, anxiety, depressed mood, irritability and restlessness. It may cause lapses in memory, concentration problems, trouble in retaining and organizing information.(National Health Service UK, 2017).

## **Inhalants**

Inhalants are volatile chemicals that have psychoactive/mind- altering properties and are consumed through inhalation. Categorizing them is difficult since such chemicals are present in a variety of products such as correction fluids, glues, sprays and other industrial/household items. As a result, the abuse of inhalants is worst amongst children and adolescents, who are able to access these chemicals way more easily and at cheaper rates than any other drug. At the national level, approximately 58 lakh children and 18 lakh adults need help for their problematic inhalant use

(Ambekar, et al., 2019). The mind- altering effects of inhalants are very strong, setting in within seconds of inhaling. Slurred speech, dizziness, unconsciousness, hostile behaviour, impaired judgement and severe headaches are some of the symptoms that surface during or a very short while after use. Long term use can irreversibly damage organs like the liver, heart, lungs, bone marrow severely, result in hearing loss and death from heart failure or asphyxiation(Elkins, 2020).

### **Consequences of Drug Addiction**

In those who inject drugs, the risk of having HIV or hepatitis C infection-two diseases transmitted by blood and other bodily fluids-is also increased as sharing needles or other injection equipment is often used. The practice of indulging in unprotected sex, which heightens the chance of contracting HIV is also more prevalent among drug users.

The abuse of different drugs has also been found to prevail with different types of crimes. As per a review conducted at Prayas observation home for boys, Inhalant use was found to be high among juveniles convicted of rape, cannabis was common among those accused of murder, while opioid and heroin use was higher in mugging and snatching-related crime convicts. Crimes of a more serious nature were found to co-exist with abuse of psychoactive substances. (IHBAS, 2016).

### **Treatment**

Drug treatment is of critical importance not only for abusers and their families but also to reduce the crime rate in the society overall. It may include psychotherapy (such as cognitive-behavioral therapy or management of contingency), medications, or their combination. Based on the individual needs of the person and often on the types of drugs they use, the precise type of treatment or mixture of treatments can vary (NIDA, 2020).

The initial step of treatment is usually detoxification. This requires the removal of material from the body and constraining withdrawal responses. As per the drugs they used, detoxification is hard for many people. Withdrawal effects may be more physical or mental depending on the substance. Detoxification also involves medications that replicate the effects of drugs to reduce withdrawal symptoms. Medicines can also treat co-occurring diseases or overall discomfort.

While recovering from a drug-related disorder and its associated complications, a person may take medication on a daily basis. However, during detoxification, people frequently use medication to control symptoms of withdrawal. The treatment may differ depending on the substance to which the individual is addicted.

Behavioural therapies also may help motivate addicts to engage in drug treatment, provide strategies to cope with drug cravings, suggest ways to avoid drugs and prevent recurrence, and help people cope with relapse when it happens. Behavioural therapies can also help enhance communication skills, interpersonal skills, parenting skills, and family structure. As per the person's specific needs, therapy may occur on a one-to -one, group or family basis. At the beginning of therapy, it is usually intensive with the frequency of sessions slowly decreasing over time as symptoms subside (Felman, 2018).

Juveniles who continue to abuse substances are also more likely to pursue their crime careers. The drug-crime cycle reflects that substance abuse and crime similar risk factors (Chassin, 2008). A study by Plattner, Giger, Bachmann et al. (2012) too found rates of psychopathology to be high in detained juveniles which suggests that the same cycle of drug abuse and crime was at play among juveniles.

To pay for their habit of drug use, addicts turn to violence. Drugs reduce restraint and weaken judgement that can lead to violence. It is a vicious cycle. In addition to impacting financial stability, addiction raises tensions and causes any member of the family untold emotional pain. The loss in terms of human potential is incalculable, with most drug users being in the active age group of 18-35 years. The damage to the physical, psychological, moral and intellectual growth of the youth is very high (Nadeem, Rubeena, Agarwal, & Piyush, 2009).

Chassin (2008) focused on the high prevalence in the criminal justice system of drug use disorders among young offenders and on attempts by the justice system to provide care for these disorders. A lack of aftercare services and a lack of coordination of services in the juvenile justice system indicate the need to establish models of treatment that incorporate and organise multiple services for adolescent offenders, particularly community-based approaches, both during and after their justice system involvement. Malhotra, Sharma, Ingle, and Saxena (2006) in a study carried out in Delhi, showed that peer groups and media were chief etiology for initiation of drug use and criminal activities and it progressed gradually from tobacco and alcohol use to other drugs.

Sharma, Sharma, and Barkataki (2016) conducted a study in New Delhi to find a correlation between substance use and criminal behaviour in juveniles. Results showed that greater the substance abuse, the greater the criminality and violence; drug-crime relation was observed among use of cannabis with murder, inhalants with rape, and opioids with snatching related offences. Hansraj Gangaram Ahir, the Indian union minister of state for home stated that 2499 crimes were committed by juveniles in 2016, an increase of 133 cases as compared to the previous year -with a significant increase in the number of women centric crimes and vehicle thefts (Javaid, 2017).

The review of literature clearly established the link between crime and drug addiction which is on the rise amongst juveniles in the country. NGOs have an especially important role to play in the prevention, treatment and rehabilitation process of drug abusing juvenile delinquents. Few studies had been conducted on the role of NGOs and rehabilitation centre on the theme of drug addiction and juvenile delinquency. In view of the above discussion, the present study was conceptualized to study the theory and practice interface on the problem of juvenile delinquency and drug addiction in an NGO setting. The following objectives were proposed:

- To understand the causal factors leading to the problem of juvenile delinquency and drug addiction
- To explain the role of non-governmental organizations in addressing the problem of juvenile delinquency and drug addiction.
- To understand the role of caregivers and school system in dealing with juvenile delinquents and drug addicts.

- To understand the treatment methods used with drug addicts and juvenile delinquent in NGO setting.
- To understand the process of rehabilitation and relapse.
- To understand the role of legal system in dealing with juvenile delinquency and drug addiction.

## **Method**

### **Participants**

A NGO dealing with juvenile delinquents and drug addiction was selected for the case study. The organization provided an opportunity to interact with a sample of 100 male juvenile delinquents, aged 7-18years. In-depth semi structured interviews were conducted with 3 juveniles, 3 reformed juveniles (referred to as volunteers in the NGO) project manager and counsellor separately.

### **Design**

In-depth case study in the NGO setting was conducted spanning over three field visits.

### **Tools used**

Four semi-structured interview schedules were constructed to collect data from juvenile delinquents, volunteer, project manager and counsellor. Data collectors also actively interacted with the 100 juvenile delinquents the details will be shared in a separate paper.

### **Procedure**

Data collectors and three faculty supervisors conducted three field visits. The purpose of the case study was to understand juvenile delinquency and drug addiction, their underlying causes and reformatory processes in male participants. Permission for the field visits, interviews and interaction was taken from the concerned NGO in accordance with APA ethical guidelines. Interviews were semi-structured, the questionnaire was constructed and finalized with the help of three faculty supervisors. All the data collectors were assigned specific roles. In all the three field visits the project manager briefed the entire team about the whole institution's functioning; the judicial procedure followed for admitting the delinquents and the reformatory processes used. They visited the relevant sections of the organization and were explained day to day routine of the juveniles. All data collectors took detailed notes of the entire experience which were collated in several sessions after the field visits.

### **Results**

Table 1, 2, 3,4 and 5 depict the themes analysed from the interviews. Table 1 represents themes emerged from the juveniles' interview.

Table 2 represents themes which emerged from the volunteer's interview.

Table 3 represents themes from project head.

Table 4 represents themes from counsellor's interview.

**Table 1:**  
*Themes from the juvenile’s interview*

<i>Themes</i>	<i>Definition</i>	<i>Verbatim Evidence</i>
1. Family Dynamics	The juvenile's life prior to coming to SPYM and the role of family	"My father used to say let's drink alcohol together, don't to smack. But that was not enough for me."  "My elder brother use to abuse drugs. He was the reason why I experimented with drugs."
2. School System	General attitude towards the conventional schooling system	"Studying used to bore me out of my wits. My heart never stayed in studies."  "I never adjusted in school. The teacher use to beat me in front of everyone in the class."
3. Relationship with friends	Role of peer group in the initiation of drug use	"I was 8 years old when I stole my father’s cigarettes... because smoking them felt so good. Then I started meeting, spending more time with my friends and that’s when I started taking drugs. They used to take them too. Then we met more people who used to do drugs so we gradually got into it."
4. Substance abuse & criminal history	Past history with drugs and crime	"I got caught stealing..."  "I’ve done everything... cannabis, heroine, weed/marijuana; smoked cigarettes as well of course and did rings too."
5. Emotions linked to theme 4	Emotions of the juvenile when he started using drugs and later when he thought of quitting	"Initially I used to really like the feeling of being high. But when the frequency of drug intake increased, I started feeling guilty about it. I started praying to God because I felt like I was destroying my life. I used to think about quitting but I was so used to doing drugs that I couldn’t stop. Since I was unable to do anything, I would run to go buy drugs again."
6. Life at the NGO	Day to day life of juvenile	"They don’t torture us here unlike other places where they wouldn’t even let us see the daylight... the focus is on education here."  "I have come here to change myself." "I feel better clean and cared for."
7. Transformation	Change perceived by the juvenile	"A man is known by the company he keeps, you must’ve heard? He becomes similar to the kind of people he is around... so I don’t meet those old friends anymore." "I definitely feel a positive change."  I like the security."
8. Hope	Future expectations after leaving the NGO	"I want to change myself now...that’s why I wouldn’t want to do drugs again."  "I also want have a normal life. I want to live long."

**Table 2:**  
*Themes from the project-in-charge’s interview*

<i>Themes</i>	<i>Definition</i>	<i>Verbatim</i>
1. History of abuse and crime	An overview of the past of the volunteer with special focus on drug abuse and crime.	“I began at around 8-9 years of age. Everyone around me used to do drugs. There isn’t any type of drug that I haven’t done. I began with weed and fluid (whitener solution).”
2. Influence of family	Role family played in etiology of drug and crime.	<p>“No, my family members didn’t know. They found out very late; only once I came here.”</p> <p>“My father was a wife beater. It had a very detrimental influence on my life.”</p>
3. Influence of school	Role played by peers, teachers & other stakeholders in juvenile’s introduction & perpetuation into drug addiction & crime.	“Yes, my friends in school used to do drugs, that is how I started too. We used to run away from school and no one would find out...where we went, what we did. They were that careless probably because it was a government school.”
4.Criminal history	Volunteer’s involvement in any crime before he came to this institution	<p>“Yes, I’ve stayed behind bars for many years. I’ve also been held in Tihar jail for 6 months. Once I had set fire to a tent at school...I even smashed the principal’s head.”</p> <p>“In the past when I used to do drugs, whenever there would be a burglary anywhere, the cops would pick me up as a suspect automatically.”</p>
5.Transformation	Physiological and psychological changes felt by volunteer during treatment and relapse episode if any.	“Before I came here, I had lost all track of time; didn’t know whether it was day or night...all I could think of was wanting to do drugs. Now I do everything on time, even if I sleep at 3 in the night, I automatically wake up at 5am.”
6.Role of the institution	Volunteer’s involvement in the institution and his perspective about the treatment provided here. Contribution of the organization in his reformatory process.	<p>“The treatment here is very good. They should conduct more activities here, perhaps they could teach us more skill sets, things like mobile repairing perhaps...for now, they only train us as plumbers and electricians.”</p> <p>“Now I like life a lot. I feel happy about how I’ve transformed from what I used to be when I first came here....how I’ve reformed and changed now.”</p>

**Table 3:**  
*Themes from the project-in-charge’s interview*

<i>Themes</i>	<i>Definition</i>	<i>Verbatim</i>
1. Institution history	A brief history of the institution	“The said organization primarily started with the aim of rehabilitating juvenile delinquents but later on due to co-morbidity of delinquency and drug addiction the focus shifted to drug de-addiction also.”
2. Background of the inmates	Background details	“Most of the inmates here are street children who come from a low socio-economic background. However, there are a few children who are from well off families.”
3. Activities	Daily routine of the inmates and the additional tasks they are supposed to perform	"The inmates are supposed to follow a strict time-table throughout the day which consists of daily essentials and different activities like yoga, meditation and different types of sports. Some activities are done every day at the same time so that they develop good habits and follow them throughout their lives"
4.Interventions	Actions performed to bring about change in people	“The center follows a 90 days program wherein the first month is for reformation, second for rehabilitation and third for reintegration.”
5.Obstacles	Difficulties faced while implementing the program	<p>"We've faced extreme financial crisis in setting up this organization. The government has not provided the grant for our project for more than 4 years."</p> <p>“A crucial problem faced by the organization is the relapse of the problem in the juvenile delinquents when they get into their original surrounding.”</p>
6.Reformation	Number of successful reformation of juveniles	“Around 1650 inmates have been reformed and resettled in their lives till now.”

**Table 4:***Themes from the counsellor's interview*

<b><i>Themes</i></b>	<b><i>Definition</i></b>	<b><i>Verbatim</i></b>
1. Academic Background	Details of counselor's qualifications and experience	"I have completed my B.A. Philosophy, M.A. Psychology from IGNOU and done a drug de-addiction certificate course"
2. Motivating Factors	Inclination towards the cause	"My husband has been struggling with alcohol addiction for the past 30 years."
3. Counseling Schedule	Counseling sessions held for the inmates	"Individual and group sessions are conducted for 45minutes to 1 hour. There are 10-15 boys in a group. Each inmate receives 2-3 individual sessions in 90 days stay at NGO. Otherwise all are free to visit anytime".
4. Interventions	Steps taken to create a conducive environment for counseling	"A particular strategy usedto help the inmate open-up, is OARS (Open -ended questions, Affirmation, Reflective Listening, Summarize)."
5. Therapies	Therapeutic methods used by the Counsellor	"Therapy is based on Cognitive Behaviour Therapy, but gets modified as per requirement. Group sessions include workshops on, Problem Solving, Decision Making and Stress Management and in individual sessions personal facts about the child are uncovered".
6. Diverse response to treatment	Varied individual responds to the three month treatment process	"One of them is a great artist and painted the walls with colorful designs."  "Another boy is great at rapping, he wrote a song for his mother and performed it in front of everyone."
7. Challenges	Difficulties encountered during counselling sessions	"While there was one child who got released at 4pm and at 6pm sent pictures of himself holding drugs, to a volunteer; mocking him and using abusive language."  "Juveniles are initially resistant, there are 2 stages, pre-contemplation and contemplation. Especially in pre-contemplation stage there is a lot of resistance."
8. Reinforcing rehabilitation	Steps taken to strengthen rehabilitation once the inmate has left the institution	"Since there is no way to tell how they will behave when they have easy access to drugs, juveniles are advised to come for monthly check ups and sessions if they're having difficulties."
9. Personal well being	Managing their own mental well being	"The more you suffer, the more you learn, the stronger you become." "With the good comes the bad; people who grill you the most, teach you the best" "The best is yet to come, and it will come, it will."

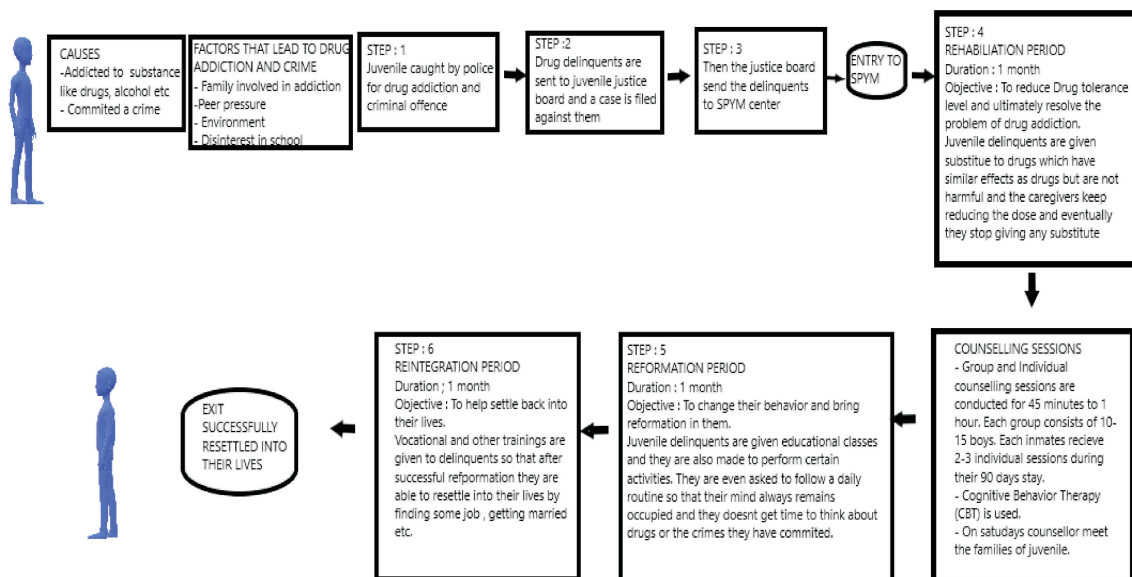


Figure 1. Successful reformation of juvenile delinquent- An Illustrative Model

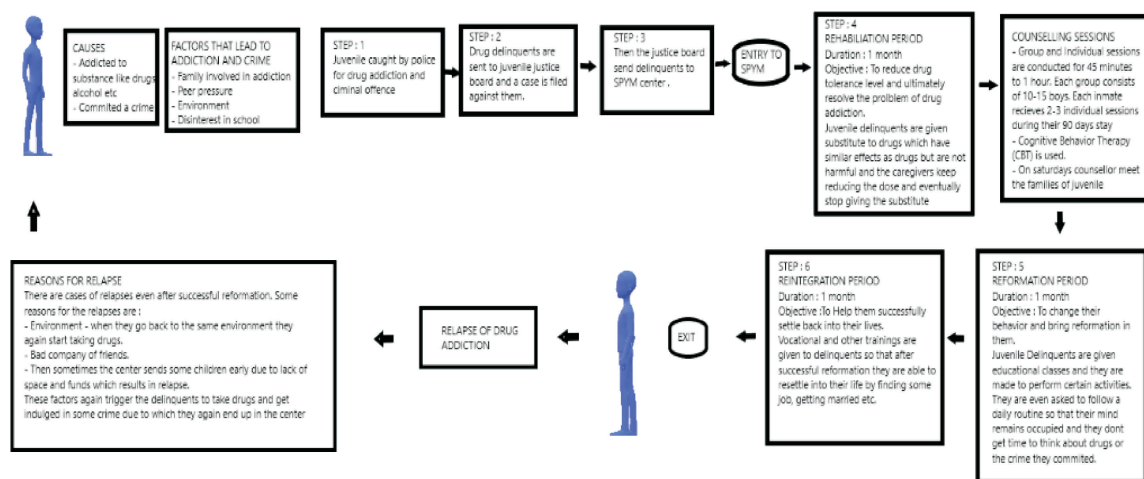


Figure 2. A relapse of juvenile delinquent into drug addiction- An illustrative model

## Discussion

The aim of this study was to study drug addiction in juvenile delinquents. The objectives of the study were to study the link between theory and practice and to understand the functioning of the organization and its role in dealing with the problem of juvenile delinquency and drug addiction. For this purpose, the counsellor and project manager were also interviewed alongside the juvenile and volunteer.

The following account of juvenile's interview (Table 1) is based on the themes namely- Family dynamics, School system, Relationship with friends, Substance abuse and criminal history, Emotions linked to crime and abuse history, Life at NGO, Transformation and Hope. The analysis of juvenile's interview shows that prior to coming to the NGO, he lived in Delhi-NCR with his family. His family belonged to a low socio-economic background: his mother worked as a nurse, father- as a goldsmith, elder sister and a younger brother were both studying; in college and class 8th respectively. He was the closest to his mother (who also influenced his future aspirations- he wished to be a doctor as she was a nurse). However, the same cannot be said for his father. He first began substance abuse by stealing his father's cigarettes, and used to run away from home due to his father, who was an alcoholic and verbally abusive. His father beat him when he found out about his son's addictions and encouraged him to "stop drugs and drink alcohol instead". His parents were the one who first found out about his addictions and tried sending him to private rehabilitation centers. He was still in touch with his family, and wished to go back home.

In most cases, the precipitating factors of drug abuse appear to be adverse home and social environment, where the parents were either abusive, or working- which might be suggestive of neglect faced by the child.

The education system failed to keep children on the right track. Interaction with the juvenile revealed that he disliked authority as well as following schedules. He also displayed an aversion towards the conventional schooling system- he stopped studying after class 5th and even when he did attend school, he used to run away- stating he disliked studying. His family did insist on his schooling, but he did not pay heed to them. Even at the NGO, there wasn't any particular subject that had caught his interest, although cooking was an exception (he was genuinely engaged while talking about what all he knew how to cook). He liked to play, saying he enjoyed badminton (here at NGO), however he digressed to negative behaviour.

His friends/peers exercised a major influence on his life choices, and were a major reason for his current condition. While the juvenile's substance abuse started with cigarettes, he began using drugs after meeting his associates at the time. He was the youngest member of the group, and it is in their company, that he progressed to committing theft and burglary. They used to burglarize homes together to buy drugs. He himself successfully convinced some of his friends to take drugs. Prior to NGO, his friends also used to attend his court hearings, and then he, along with them, use to get intoxicated. However, after coming to NGO, he no longer was in touch with them. He has also made various new friends here, and was quite happy with them.

The juvenile's account demonstrated the extent to which one's peer group could influence a person's addiction especially an adolescent's. Relationship between the juvenile delinquency and drug addiction can be understood by the following series of events. The juvenile started smoking cigarettes he stole from his father at the age of 8 years. He used to consume alcohol too, and used to even drink with his father and uncles. While his father encouraged him to abuse alcohol and not drugs, it wasn't enough for him. He had an extensive history of substance abuse, in addition to committing burglaries in homes to obtain money for buying drugs. He then progressed to more dangerous drugs, under the influence of his friends. He used to actively consume a variety of drugs- from smack (heroin), to charas-ganja (street names for cannabis), to injected substances. He had been addicted to these for 9 years, and had undergone 2-3 private rehabilitation attempts, all unsuccessful.

Given the juvenile's continuous and broad substance abuse, there was a high risk of relapse. He himself admitted of there being a possibility of him relapsing into his old ways, however he was also determined to avoid that as much as he could.

While being interviewed, the juvenile admitted that when he began substance abuse, he used to feel good. But when he got addicted to it, these feelings changed to those of guilt. He used to pray to god, thinking he was wasting his life. He used to have thoughts about giving up, but found himself unable to do so, as the addiction had seeped into his veins. He couldn't help but buy drugs. However, he never himself actually tried to do something about his guilt. After his parents found out about his addictions, they sent him to private rehabilitation centers, twice/ thrice, but it was unsuccessful- he relapsed every single time. He described how those centers were in stark contrast to the NGO. The private centers were strict and used punishment, NGO focused more on their education, and did not use harsh disciplinary methods.

At the time of interview, the juvenile had been in NGO for almost 3 months. After he was caught by the police, he was beaten, kept in a lock up for 3 days, following which he was taken for medical checkup, where it was revealed that he was an addict. From there, he was referred to this NGO. It was the one that brought about a change in his life. He had to follow a schedule here- getting up in the morning, doing yoga, attending various classes- he likes cooking, and had learned to make various dishes. He had even made various friends, after breaking ties with his previous peer group. He attended the counselling sessions, and shared his story with the counsellor, and was provided help to solve his problems, etc. He found himself changing for the better after coming here.

He developed courage to admit his mistakes. Previously, he was attracted towards destructive things, but he feels he is changing. Now he shares more and opens up to others. Earlier, he used to believe drugs to be the solution to every problem, but now he realizes it is not so. He admitted that his older peer group was toxic, and now he tries to stay away from such people.

The juvenile, while being reflective and empathic, was hopeful towards his future. He was to be presented before court in a few days (at the time of interview), after which he would be transferred

to a different jail, following which he might be released. He was fully aware of his vulnerability, but he was determined to overcome it. He wanted to go home. He aspired to become a doctor. He acknowledged that he had troubled a lot of people, but he had been given a second chance by God. As repentance, he now wished to do good for others.

The analysis of volunteer interview (Table 2) revealed various themes like History of abuse and crime, Influence of family, Influence of school, Criminal history, Transformation and Role of institution. The volunteer was asked questions about his history, life transformation, perspective on institution and other aspects. The volunteer had been in the institution for 1.5 to 2 years after his time in the institution as an inmate. Currently, he had been working as a staff member for the past 5-6 years. He was 20 years old when he was sent to the institution because of his criminal record and drug abuse. He spent 1.5 years as an inmate in the institution due to various cases in different courts. He reported that he wrote his age less than his actual age in order to avoid going to some big jail (Tihar). He also reported that he earned a reasonable amount and spends almost all of it on himself only. When asked about his relationship with other inmates, he reported feelings of affection and attachment with the children; he also said that they listen to him (ex-addict) more as compared to non-addicts. He also reported feeling of happiness about his transformation because of his stay at the institution.

The volunteer started using drugs at the age of 8-9 years and claimed that he had abused all kinds of drugs but started with 'Ganja' and 'Fluid'. He also reported that it was very easy to find and buy ganja (only Rs 50) and he did petty crimes like theft to arrange money for buying drugs. He had extreme withdrawal symptoms like loose motion, body aches, red and watering eyes.

The volunteer was introduced to drugs by his school friends. He and his friends used to skip school in order to get drugs. The volunteer had an inclination towards knowledge and wanted to educate himself but the school did not provide him with conducive atmosphere which might be one of the factors that pushed him into abusing drugs. He also reported an incident in which he set fire to the tent in which they used to study and smashed the head of the principal in a fit of anger under the influence of drugs. He was currently doing his tenth standard from an open school and had plans for future studies. He reported that it was very easy to procure drugs in school. He suggested that the schools should have counselling services to counter this vice.

The volunteer reported that his family members didn't know about his involvement with drugs and crime; they came to know after he was sent to the institution by the court. This shows their negligent attitude. During his stay at the institution, he never met his family members and only called his brother a few times. When asked if he would like to stay with his family he refused and expressed desire of living by himself. However, he also reported that he was ready to help if his family was faced with any crisis.

The volunteer reported being sent to many different jails before coming to this institution. He also reported staying at the Tihar Jail for 6 months before this. When asked about the accessibility of

drugs in the jails, he reported that they were very easily available.

The volunteer reported a state of helplessness and numbness before his treatment began; he said the only thing on his mind twenty-four into seven was how to get drugs. However, after the treatment he reported having a schedule and a purpose in life; he focused on his job as a volunteer and on completing his studies. He recalled that if there was any crime in his location, the police used to arrest him, but now he worked with the police. When asked about the relapses, he reported that relapses occurred because of lack of follow ups.

The volunteer reported being satisfied with the treatment being provided in the institution. Helping juveniles proved to be therapeutic for him. The facilities in the NGO were also up to the mark according to him. The quality of education provided was also above average. In his opinion, there should be more activities like mobile repair in the organization for some more varieties of skills and jobs.

Interview with the Project Head (Table 3) helped in gaining insight about how the organization worked. The Project Head who was working since 2008 in this field. The organization was started in 2010. Its goal initially was to reform male juvenile delinquents but later eradicating addiction also became its primary goal. According to him the most addictive substances were smack and alcohol. The inhabitants belong to Delhi NCR. The ninety days treatment of 3Rs provided to juveniles, consisted of one month of reformation, another month of rehabilitation and finally a month of reintegration. He also told us about the various difficulties and challenges faced while implementing the programme successfully. Many problems revolved around lack of infrastructure, resources and shortage of funds. They faced issues with funding which the government had not contributed to, for the past 5 years. They got donations but they were inadequate.

They had given treatment to around 1750 inhabitants so far. The exact relapse rate was still not known. Number of juveniles who came on a daily basis could be 0-5. The infrastructure and land used by the organization were provided by the government. They did not carry out promotional activities for their center and were instead working like a hospital. They carried out a follow up after juveniles leave for around 2 months. The reform and follow-up period was too short due to paucity of resources. Ideally instead of three months treatment should be at least six months and follow-up should go up to one year.

Interaction with the organization counsellor also revealed a lot of information. She started by telling how it was her personal family issues that pushed her into counselling field. She was a graduate in Philosophy and did her Masters in Psychology from a central university and a De-Addiction course. Then she narrated her work experience and nature of job till now at this organization. On regular days she counselled 3-4 inmates with 45 minutes-1 hour session each. Her style of counselling involves motivational interviews, open-ended questions, reflective listening and summarizing and paraphrasing whatever the child had said. Therapy was based on Cognitive

Behaviour Therapy maybe modified as required. Group sessions included workshops on problem solving, decision making, stress management. NGO also tied up with organizations like Narcotics Anonymous, Alcoholic Anonymous and Aman Biradari for successful rehabilitation of juvenile delinquents back into the society. The juveniles at NGO were from varying socio-economic backgrounds but mostly were from lower income group. She believed that as most inmates were from low economic strata hence they suffered from low self esteem. Easy availability of some drugs, detrimental peer influence and stress-busting properties of drugs made these adolescents much more vulnerable. The NGO not only aimed at recovery of juveniles but also targeted their successful re-integration back into the mainstream society. She had taken initiatives like teaching them coping skills to deal with extra ordinary situations. Meditation, yoga, relaxation techniques, healing music and other similar techniques were also taught to make them well equipped to lead quality lives.

Based on detailed observations and interviews two illustrative models were proposed. Model 1 depicted a successful recovery and reintegration into the society and model 2 depicted a relapse. For the various stages please refer to figure 1 and 2.

In conclusion it can be said that study was able to fulfil its aims satisfactorily. Though there is a scope of many more detailed studies. The study clearly establishes a deep connection with drug addiction and delinquency, where the former can be a motive to commit various crimes. NGOs and other such institutions can play a pivotal role in reform and rehabilitation process provided they are funded and staffed adequately. All the juveniles had a lot of potential to lead productive and drug free lives. They had adequate cognitive capacities. As far as care givers and school system was concerned, they were failing the juveniles. In fact the entire system was failing them as they were from lower socio-economic strata so they had uneducated parents and ill equipped schools and no support from the government. A detrimental peer group in the dangerous neighbourhood and school did not help the matters, on the contrary worsened them. A multi-method and diverse approach to treatment should be followed. Treatment should be individualized from case to case. It was also very clear that the responses to treatment could also vary from one individual to another. So the facilitator has to be sensitive and flexible to these realities. The process of rehabilitation and reintegration was a huge challenge with very high relapse rate. The key was to make the treatment period go up to six months and follow up to one year at least. But as pointed out earlier paucity of funds was a huge issue. Not much could deciphered from research about role of legal system but it was clear that legal system and police may extreme punitive measures with these juveniles which was detrimental and even illegal. Though, juvenile justice system had a positive role to play.

Some limitations in the present study include- There has been a theory practical interface discrepancy. The theory states complete rehabilitation, while the inmates have to leave even if the process is incomplete due to a constricted time period of 90 days. Further, a demand and supply imbalance can be noted, there are few organizations while the number of delinquents is much more. Rate of relapse is also high and reformation is less which can be attributed to environmental factors,

like easy accessibility of drugs and an unsupportive family. The juvenile and volunteer were not selected randomly for the interview; rather they were selected by the administration which might have affected the authenticity of the answers.

Some suggestions for further research include- Interviewing the significant others of the juveniles including parents, siblings and teachers. These accounts could be corroborated with the interviews of the juveniles. As the juveniles are mostly the wage earners of the family, their families often make them leave before their treatment is complete. Thus a need arises for spreading proper awareness among the parents so as to make them realize the severity of the problem- this can be done by collective sessions and activities involving parents and children. It was observed that some techniques used to promote healthy behaviour in inmates are not effective. For instance, the quotes written on the walls are not able to achieve the desired goal of motivating and educating the inmates about de-addiction. Therefore there is a need for introducing more innovative interventions that would be able to inculcate the right thoughts and values in the juveniles. Researchers, policy makers and all important stake holders should work on strategies to providing adequate funding to all deserving organizations doing promising work in this field. Going a step further many grass root level interventions are required including parent education and drastically improving school system so that these children do not get exposed to drugs. A comprehensive and affordable counselling facility should also be accessible to all especially the vulnerable section of the population. This will help in solving the problem from the root itself.

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# ROLE OF POLICE IN PREVENTION AND TREATMENT OF JUVENILE DELINQUENCY



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**Nisha**

## Abstract:

*(The welfarist principles) represented a move away from executive (social worker) to judicial decision making, and from the belief in the child in need to the juvenile criminal- what Tutt (1981) called the rediscovery of the delinquent (Gelsthorpe and Morris, 1994)*

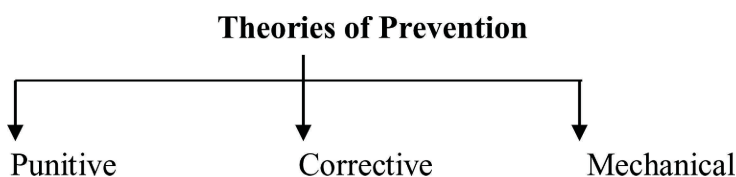
*In order to prevent Juvenile Delinquency we have to deal not only with maladjusted children and youths whose difficulties bring them before law, but also with those who while not violating laws, but who are also disturbing others in school and in the street. Prevention is necessary for such children, if they are not prevented then they would become the habitual offender so their prevention is necessary.*

**Key words:** Juvenile delinquency.

## Introduction

Prevention is necessary overcome on the Juvenile Delinquency who's seem to contribute to their delinquency. They make mistakes and become excited and fail to behave according to legitimate expectations. First of all we should do diagnosis of such juveniles and after give treatment. They will become the habitual offender if they are not timely prevented from committing the offence. If, a person is ill and he is brought to the Doctor for treatment then it is primary duty of the doctor to make a diagnosis of his illness and gives treatment according to his illness.

It would become a great problem for him if it is not given treatment timely and the treatment will not be effective and his/her end would be definite. Like that a juvenile who does or commits an offence then he should be primarily or timely prevented. If, he is not prevented he would become the habitual offender on one day and all efforts would be ineffective to prevent him therefore, prevention is necessary or they are needed to be properly controlled. It is a kind of adjustment of such children with the social sub systems of which they are part of it.



1. Punitive Prevention: The main aim of it to control the crime through the punishment.
2. Corrective Prevention: The main aim of it is to eliminate those causes, factors and motivations, which stimulate the commission of crime.
3. Mechanical Prevention: It is entirely different from both to prevent the offenders, the obstacles are produced or placed in their way which make them difficult and impossible for committing an offence. Today there is much confusion in the field of prevention among the criminal lawyers and practitioners of corrective prevention and legislator's at large. Such confusion should be finished and they should work in the main stream and should be stopped them from committing an offence. Prevention is not a job of merely of that a police officer or probationary officer or Court but it is a joint duty or responsibility of groups which represent the variety of social sub systems viz. legal, penal, educational and correctional etc.

### **Kinds of Programmes**

There may be two kinds of programmes for preventing the delinquency. One is individual programme, which involves the prevention of delinquency through counseling. Psychotherapy and proper education.

Second is environmental programme, which involves the employment of techniques with a view to changing the socio-economic context likely to promote delinquency. These two forms of preventive approaches are reflected in the following strategies, which are adopted in crime prevention programmes their main function is to protect them from harm and maintaining law and order.

### **Role of Police**

The Police are a separate agency from the Juvenile court and they are also guided as well as directed by the policies and philosophies of the juvenile Court with which they work. All the delinquent and misbehaving children are picked up and arrested by the police but less than half are referred to the juvenile court and other half are to be handled independently by the police and police decide which children will handle and how. In addition, police have many more informal functions and they encounter with children on streets and in places where their main function is to protect them from harm maintaining law and order. (Ruth Shonle Cavan Theodore & Ferdinand).

### **Law Enforcement**

The basic or main function of the police is to enforce the laws. The function may involve. Interfering with crime that stepping in to prevent a crime. It is duty of the police to inspect such places where illegal activities are carried on and lured the children attract them to be involved in these activities. The police are empowered by the laws to arrest the juveniles involved in delinquency every and criminal acts. Those drunker youth, girls looking on the streets late night; boys found trying to locks on doors and windows, rowdiness and fighting, all of these should be arrested immediately and take strict action according to rule and regulations so that they could not repeated such type of activities.

## **Juvenile attitude towards the police**

The juvenile towards the police is a fearful substance. It is generally said that a police has to act as a friend.

## **Police attitude toward the Juvenile**

As it is said that a police has to act as a friend. It means that police attitude toward the Juvenile should be lenient. Attitude should be favorable not the hostile. It is also said that police attitudes towards Juvenile are affected by the pressures of youth and by the occupational determinants of police work. It has been mentioned that 50 to 75% at police agency work. Directly or indirectly affects adolescence. (Bartollas and Miller)

While handling the juveniles who come to contact of police, the law enforcement officer should make difference or learn to discriminate between dangerous, hard core offenders and harmless offenders, the attitude of police must be hard toward the hard core nature offenders and dangerous offenders and lenient towards harmless.

In view of the pressure created by the youth and by the occupational determinates of police work, it would seem that police officer would have considerable animosity towards law, violating juveniles. Walter Miller, in his national securing of youth gangs does not find this to be true.

## **Police as a preventive force**

It has been considered that police is a preventive force. Police should prevent the crime in the society and do welfare for the public. This is saying that prevention is better than cure. It is an essential duty of the police to prevent the crime on criminal from committing the crime. When in 1947 partition of India held a vast masses of people migrated to a new area and has forced them to live in very small slum area. Avenues of income have been choked. Sweet home were destroyed. It is necessary that police should act as a preventive force and also should take police should act as a preventive force and also should take various preventative steps like:-

- (a) Mapping of Delinquency area: It is duty of the every in charge of the thana (S.H.O.) to prepare a map of delinquency pockets within its area. At present it is true is now growing the tendency among the criminals to immediately migrate from the place of crime and live in the thick of area or place so that he could not be arrested. A map should be upto date. The area may develop in delinquency pockets with the migration tendency of population from rural to urban areas and restricted to unrestricted areas. That is why an update map is necessary. The map should be kept at the conspicuous place in the thana.

## **Deep understanding of pre-delinquency activities**

A list of pre-delinquent activities are to be made and kept in the record such activities are mostly found in the pockets Delinquency. There is a need of deep understanding about the pre-delinquent activities. Preventive steps should be taken for prevention of such activities by the every thana. Unless there is deep understanding about their activities, such activities could not be curbed so, deep understanding is necessary for this purpose. (Johanson, 1974).

## **Police as a Detective Force**

Detecting force is also a primary function of the police. The following are the primary functions of the police as a detecting force:

- (a) Discovery of the delinquent/potential delinquents including neglected, children as early in the life as possible and apprehending or arresting them into custody.
- (b) Detention and escorting
- (c) Investigation of children cases
- (d) Disposition by referring such cases to the juvenile Court or to other competent authority.

## **Social History of Juvenile**

The investigating officer should prepare the social history of 'Juvenile' accused after arresting him. This problem cannot deal with alone by the policemen. The investigating officer about the offenders should make an enquiry. It is also true that it may not be possible for the police department to go deep into the socio-psychological phenomena in which child is forced to commit the delinquency, for the lack of expertise. Such information may be collected by the probation officer (Mishra, ). Section 19 of C.A. empowers the P.S.H.O. whose arrests the child that he shall inform the probation officer for obtaining the information when he is released from the corrective institution police may play an important role for rehabilitation of the juvenile offender.

## **Police as a Protective Force**

When police come in contact with the juvenile offender, the officer concerned has to understand the socio-economic condition or situation of the child in which he is forced to commit the crime. In this way the treatment may restart the mental change and too soft may encourage the separation (Mitra, ).

## **Protection after the decision of Court**

It is a fact that police play an important and vital role as a protector. The police may provide the protection to the juvenile. Often the decision of the Court. The Court may leave the juvenile delinquent or send to jail. There may two process of providing the treatment. One may be indoor other may outdoor. Outdoor treatment means leaving the boy under the care of parents in their home. It is also considered that when a person is at his home his criminal propensity is generally minimum. He may be corrected maximum in the home instead of indoor or jail. It has been also been gradually seen that the outdoor treatment are becoming very important way of punishment in child delinquency like releasing him after making enquiry or investigation or repatriations or released on bond under supervision on the probation when he gives to home with other members of the family, he has to be under the supervision of the police. Probation is considered or regarded as the most important or effective way of treatments. (Robert Partum, 1971).

## **Conclusion**

Juvenile Delinquency is a problem all over the world. It is more rooted in the developed countries. In India also cases of juvenile Delinquency are increasing every year. Hearly noted researcher of crime conation narrates the following main causes of juvenile delinquency bad

Company, Adolescent instability and impulses, early sex experience, Mental conflicts, school dissatisfaction and poor recreation etc. In any case, the presentation and treatment of juvenile is very important so that they could be made good persons of socially (Hearly&Bmanner, ). The responsibility of law is both the deal with maladjusted of children as well as youth with facilities as well as their reformation and rehabilitation. Prevention is most safe approach to deal with the delinquent. Generally, it is found that they make mistakes and get excited and started behaving against the norms of legitimate expectations.

### **Suggestions**

Some important suggestions are given below in this context to reform and prevent juvenile delinquent in the state;

1. The police attitude towards the juvenile should be lenient, favourable and if n o t t h e hostile. Therefore, police should act as a friend while dealing with the delinquents.
2. There should be a trained staff dealing with such problems.
3. There juvenile delinquents should not kept inside the jail for more time they should visit outside of the jail with proper grounding staff at least twice in a month for their mental development.
4. The report the probation officer should be compulsory requirement for consideration by the juvenile Court and juvenile welfare board.
5. It would be better, if separate coder are created for this purpose. A J.W.O. drawn from such coder may have to preside over the juvenile welfare boards and also may have to discharge the function of probation officer for preparing the case history are with the help of voluntary social workers.
6. Finally, it is that success of all these would depend on the implementation of these measures or how these measures are being implemented.

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