FOURTH REPORT

of the

NATIONAL POLICE COMMISSION

Government of India

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CONTENTS

CHAPTER XXVII

INVESTIGATION

The Code of Criminal Procedure

27.1 Investigative powers and responsibilities of the police of India are laid down in the Code of Criminal Procedure which along with the Indian Penal Code and the Indian Evidence Act forms the bedrock of the criminal justice system of the country. The Code of Criminal Procedure was first enacted in 1861 under British rule and later substituted by fresh Codes successively enacted in 1872 and 1882. It was the fourth Code of Criminal Procedure of 1898 that spelt out the framework of investigational procedures which has remained more or less unaltered to this day as far as the police are concerned, and is embodied in the revised Code of Criminal Procedure, 1973 which came into force on 1st April, 1974. The Law Commission has dealt with certain aspects of procedural reform in criminal law in some of its reports. The Thirty-seventh Report of the Law Commission (December, 1967) examined for the first time the provisions of the Code of Criminal Procedure, 1898 and made recommendations section by section from section 1 to section 176. When the Law Commission was reconstituted in 1968, it took up the matter from the point at which it was left by the previous Commission and recommended in its Forty-first Report (September, 1969) the enactment of a revised Code of Criminal Procedure. The legislative exercise taken up in pursuance of its recommendations finally resulted in the present Code of Criminal Procedure, 1973.

Law Commission's approach

27.2 The major problems of reform as viewed by the Law Commission in its Thirty-seventh Report were—

(a) separation of the judiciary and the executive ;

(b) abolition of the jury trial ;

(c) simplification of the various categories of trials ;

(d) Magistrates in Presidency Towns ;

(e) abolition or retention of the ordinary original criminal jurisdiction of High Courts ;

(f) the law of arrest ;

(g) the law of search and seizure ; and

(h) the duty to give information about offences.

(Para 31)

It, therefore, happened that in the above view of the matter, the reports of the Law Commission did not adequately deal with several other aspects of procedure which created difficulties for the police while conducting investigation in the field. Compliance of certain provisions in law proved unrealistic and difficult in actual investigations and, therefore, led to the adoption of certain improper methods and practices by investigating officers to meet the requirements of case law as it developed over several years. In this process the ultimate disposal of cases in the court also suffered. Complainants and witnesses in cases were inconvenienced and harassed by the elaborate procedures and practices that developed in the investigational work of the police. In the course of our tours in States and discussions with judges, magistrates, lawyers, police officers, general administrators and representative sections of the public, we have identified some aspects of the present procedural law relating to investigations where there is urgent need and ample scope for meaningful reform to make investigations conform to the real situations in the field and help in the expeditious conduct of investigations with minimum inconvenience to persons who may be concerned in specific cases as complainants, witnesses or accused persons. We proceed in the following paragraphs to deal with the reforms identified from this angle.

Non-registration of complaints at police stations

27.3 A complaint often heard against the police is that they evade registering cases for taking up investigation when specific complaints are lodged at the police station. In the study conducted by the Indian Institute of Public Opinion, New Delhi, regarding "Image of the Police in India" referred to in para 15.9 of our Second Report, over 50% of the respondents have mentioned "non-registration of complaints", as a common malpractice in police stations. Among the several malpractices it is ranked third, the first two places being taken by (i) showing partiality towards rich or influential people in cases involving them or reported by them, and (ii) shielding goondas and other criminal elements concerned in gambling dens, illicit distillation, etc. This malpractice of non-registration arises from several factors, including the extraneous influences and corruption that operate on the system, besides the disinclination of the staff to take on additional load of investigational work in the midst of heavy pressure of several other duties. Among all such factors the most important one which, in our view, accounts for a substantial volume of crime going unregistered is the anxiety of the political executive in the State Government to keep the recorded crime figures low so as to claim before the State Legislature, the public and the press that crime is well controlled and is even going down as a result of 'efficient' police

administration under their charge. The Chiefs of Police and other senior police officers also find it easy and convenient to toe the line of the Government in developing such a statistical approach for assessing the crime situation and evaluating police performance. As a consequence, this attitude permeates the entire hierarchy down the line and is reflected at the police stations in their reluctance and refusal to register cases as and when crimes are brought to their notice. The scope for removing this malpractice from the police system can be gauged by the examples we have in Uttar Pradesh in 1961, 1962, 1970 and 1971 and in Delhi in 1970 when the State Government and the Union Territory administration and the Chiefs of Police at that time took a bold and realistic stand in this matter and started a drive for free registration of crimes. The police stations readily responded to this lead given from the top with the result the recorded crime figures showed a big leap and reflected the real crime situation more accurately. For example, the total cognizable crime registered in Delhi in 1970 marked an increase of 81% over the figures of 1969 while the increase under the head 'robbery' was as high as 725% ! Apart from the malady of non-registration arising from these factors, police officers are also known to evade registering a case by merely pointing out that the offence has taken place in the jurisdiction of some other police stations. On this account alone the victim of an offence is made to run from pillar to post to locate the particular police station which has jurisdiction and then plead with them to register the case. Section 154 Cr. P.C. clearly spells out the legal responsibility of the officer-in-charge of a police station to register a case in the form of a First Information Report as soon as information or complaint about a cognizable offence is laid at the police station. This section itself does not refer to jurisdictional competence of the police station, while the subsequent section (Section 156) which empowers the police officer to take up investigation refers to the jurisdiction aspect.

First Information Report

27.4 First Information Reports recorded under section 154 Cr. P.C. have drawn a number of court rulings which have tended to give undue importance to the omission of any salient fact in the First Information Report as lodged with the police, even if such omission were to be the natural outcome of the disturbed or confused state of mind of the complainant when he came to the police station. The evidentiary importance attached to the First Information Report, as distinct from statements recorded during investigation which are precluded from being tendered in evidence for the prosecution, has led to the malpractice of police officers delaying the recording of First Information Report in its natural form and compiling it in a made up manner after taking advice from persons with experience in procedural law. We consider it desirable that even when the First Information Report is lodged at the Police Station, the officer-in-charge of the Police Station is enabled in law to question the informant or complainant and ascertain such further details as may be necessary to clarify any point arising from the First Information Report and include such details in making the record as prescribed in section 154 *before* proceeding to take up investigation. The proforma for recording the First Information Report and further details as envisaged above can be suitably devised by the State Government to cover a variety of data relevant to the offence reported.

Reporting Centres

27.5 While the investigative responsibility may rest at the Police Station level, we feel it would be desirable to enable some constituent units of a Police Station—for example, a police outpost—to register a First Information Report as and when an information or complaint about an offence is lodged with them direct. Apart from police outposts which are presently established in several States, we may in due course develop a system of reporting centres also, particularly in urban areas, where some specified residents of a locality of the type of wardens who function in a Civil Defence set up may also be empowered to register First Information Reports and pass them on to the Police Station concerned for taking up investigation.

27.6 To facilitate the arrangements contemplated in paragraphs 27.4 and 27.5 above and to underline the police responsibility for registering a case as soon as information or complaint of a cognizable offence is received by them, whether or not the place of occurrence lies in their jurisdiction, we recommend that section 154 Cr. P.C. may be amended to read as under :—

"154. (1) Every information relating to the commission of a cognizable offence, if given orally to an officer-in-charge of a police station or such other police officer of a constituent unit attached to that station as may be notified by the State Government in this behalf, shall be reduced to writing by him or under his direction, and be read over to the informant ; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the contents thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) While receiving the written information or recording the oral information under sub-section (1), the police officer may elicit from the person giving the information such details as may be required to clarify any matter connected with or arising from the information and record these particulars in the form prescribed in sub-section (1).

(3) A copy of the information and other details as recorded under sub-sections (1) and (2) shall be given forthwith, free of cost, to the informant.

(4) Any person aggrieved by refusal on the part of a police officer as mentioned in sub-section (1) to record the information referred to in the said sub-section may send the substance of such information in writing and by post to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer-in-charge of the police station in relation to that offence.

(5) A police officer, other than an officer in charge of a police station, who records the information and other details under sub-sections (1) and (2) shall forthwith transmit the record to the officer-in-charge of the police station to which he is attached.

(6) The officer-in-charge of the police station who himself records the information and other details under sub-sections (1) and (2) or receives such record under sub-section (5), shall proceed to deal with the case as provided in sections 156 and 157 if he has jurisdiction to investigate it or, if he has no such jurisdiction, transmit the record expeditiously to the officer-in-charge of the police station having such jurisdiction."

Inadequate staff for investigational work

27.7 Another complaint frequently heard from the public in regard to crimes, particularly those involving loss of property, is about the inability of police officers to pursue investigation from day-to-day with a sense of commitment and determination to check all available clues for locating the offender and recovering the stolen property. Apart from the initial visit of a police officer to the scene of crime and his inquiries with some witnesses on the first day of investigation, the complainants very rarely observe evidence of continued investigational work by the police in respect of their cases. A sample survey made at our instance in six States in different parts of the country has revealed that an average investigating officer is able to devote only 37 per cent of his time to investigational work while the rest of his time is taken up by other duties connected with maintenance of public order, VIP bandobust, petition inquiries, preventive patrol and surveillance, court attendance, collection of intelligence and other administrative work. According to statistics available from 13 States, it is seen that in 1977 there were 28,061 Investigating Officers (of the rank of Inspector, Sub-Inspector and Assistant Sub-Inspector) to handle a total of 34,31,933 cognizable crimes reported during the year which means that an average Investigating Officer had to handle about 122 cases per year. The State-wise break-up of these figures is furnished in Appendix I. The wide variations noticed in some States are due to some local laws like Prohibition Act which account for a large number of cases. The pattern of incidence of cognisable crimes under the Indian Penal Code and the local and special laws may be seen in the statement at Appendix II. The enormous burden of investigational workload that falls on the available investigating officers is too heavy to be borne with any reasonable efficiency. There is urgent need for increasing the cadre of Investigating Officers. We shall be examining in a separate chapter the restructuring of police hierarchy to secure, *inter alia*, a larger number of officers to handle investigational work. We shall then be formulating a yardstick indicating the quantum of investigational work that can be efficiently handled by one officer. The feasibility of earmarking some staff for exclusively attending to investigational work will also be dealt with in that Chapter.

Scientific aids

27.8 In Chapter XXIV of our Third Report, we have recommended provision of adequate transport to police officers functioning at the level of police station, circle and sub-division. We have also recommended the strengthening of forensic science laboratory facilities and scientific aids to the detection of crime. Implementation of these recommendations would greatly improve the quality and quickness of investigations at different levels. In Chapter XXV of the same Report we have recommended the provision of mechanical aids like typewriters and tape recorders at the police station level which would greatly help in reducing the load of scriptory work presently borne by the investigating staff. We have also pointed out the need for adequate supply of printed forms and standardised stationery for proper handling of a variety of documentation and scriptory work that is generated during investigations. We are aware that improper and indifferent maintenance of police records has in some cases resulted in the previous antecedents of professional criminals being lost sight of by the police while examining their complicity in fresh cases. The introduction of computers and other arrangements for the maintenance of crime records as suggested in Chapter XXIV of the aforesaid Report would remove this deficiency in the investigational work of the police.

Indentification parade

27.9 There is at present no provision in the Cr.P.C. governing the conduct of identification parades in the course of investigation. Such parades are usually conducted before Magistrates in accordance with the criminal rules of practice in the State. While the conduct of an identification parade before a Magistrate with due observance of certain precautions would make the result of identification parade become creditworthy as a substantive piece of evidence in the case during trial, there are several occasions when an identification parade has to be held by a police officer himself in the course of investigation merely as a step in the process of investigation to know the identity of relevant persons and then proceed further to ascertain clues and connected facts concerning them. We consider it would be desirable to have an enabling provision in the Cr.P.C. to facilitate the conduct of

such identification parades by the Investigating officer himself in the course of an investigation. For this purpose, we recommend that section 37 Cr.P.C. may be amended to read as under :—

Public when to assist Magistrates and police

"37. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid—

(a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or

(b) in the prevention or suppression of a breach of the peace; or

(c) in the conduct of an identification parade to aid an investigation, inquiry or trial under this Code; or

(d) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property."

Place of examination of witnesses

27.10 Section 160 Cr.P.C., which gives the power to an investigating police officer to summon any person to appear before him for being examined, stipulates that a male person under the age of fifteen years or any woman shall not be required to attend at any place other than a place in which such male person or woman resides. The other persons who are normally summoned to police stations for being examined as witnesses feel greatly inconvenienced when they are asked to come to the police station repeatedly for being examined by different officers in the hierarchy. We consider it would greatly help cordial police-public relationship if the examination of witnesses is conducted, as far as practicable, near the scene of offence or at the residence of the witnesses concerned or at some convenient place nearby. This arrangement might be secured by the issue of appropriate departmental instructions. Having said this, we would further like to observe that the insistence of examination of witnesses, particularly women witnesses, at their residences in preference to a police station is more to avoid inconvenience to them by having to be absent from the house for a long time than to strengthen or recognise any impression that a police station is a place to be avoided by the public, particularly by the women. In fact we are very anxious that the entire police philosophy, culture and attitude should be such as to make a police station appear and function as a ready source of relief for any person in a distress situation, more so in regard to the weaker sections of society.

Examination of a witness or accused—Presence of third party

27.11 We have been told of the difficulty faced by police officers by the insistence of some accused persons, particularly the rich and influential, that their lawyers should be present by their side when they are examined by the police. Examination of a person either as a witness or accused by a police officer in the course of an investigation relates to the facts within the exclusive knowledge of the person concerned and there is really no need for him at that stage to have the immediate assistance of anybody else by his side to be able to answer the questions put by the Investigating officer. Further, the facts put before a witness or accused by the Investigating officer and the facts ascertained from a witness or accused in the course of his examination have to be kept confidential at the stage of investigation and it might prejudice the course of investigation if they get known to a third party and several others through that party. We, therefore, consider it desirable to make a specific provision in law that when a person is examined by a police officer under section 161 Cr.P.C. no other person shall, except in the exercise of powers under the law, have the right to be present during such examination.

Examination of witness—Record of their statements

27.12 Sections 161 and 162 Cr.P.C. deal with the procedure for examination of witnesses by the police, recording of their statements and the use to which they may be put in subsequent trial. Voluminous case law has built up on these two sections over several years, the effect of which has been to underline the following legal requirements :—

(i) The statement of a witness, if the police officer decides to record it, shall be recorded in detail in the first person even as the witness goes on making his statement.

(ii) The statement so recorded cannot be used for any purpose other than the sole purpose of *contradicting* the witness at some stage during trial, if his deposition in court happens to differ from that statement.

27.13 In actual practice, the full statement of a witness becomes available to the investigating officer only after a process of detailed examination combined with verification of facts mentioned by the witness and also confrontation with other witnesses wherever necessary, particularly when the same incident is spoken to by more than one witness. Further, section 161(3) gives discretion to the police officer to record or not to record the statement of a person examined by him. The Law Commission itself has recognised the need for this discretion as otherwise the police officer will be obliged to record the statement of each and every person from whom he may be making an inquiry in the course of an investigation, and such an insistence on scriptory work would throw an impossible burden on him besides wasting time. It is only *after* examining a witness that the police officer would be able to appreciate whether or not the statement of the witness is material enough to be recorded.

27.14 The Code of Criminal Procedure 1973 has done away with the procedure of preliminary enquiries by magistrates in cases exclusively triable by a

Sessions Court. Before this Code came into force, the procedure envisaged the examination of material witnesses twice over, once by the committing Magistrate and later by the Sessions Judge. Thus, for the same witness, we would have three sets of statements on record, one recorded by the police during investigation, the second recorded by the committing Magistrate and the third recorded by the Sessions Judge. It is a basic principle of justice that the findings of the trying judge should be based on what the witnesses actually depose before him, but the availability of detailed statements from the same witnesses before another forum recorded on an earlier occasion provides scope for arguments based on *contradictions,* however, trivial or natural they might be in the circumstances of any particular case. We consider it wholly improper if not unjust for the conclusions in judicial proceedings to be largely determined by contradictions in evidence by a mechanical or routine comparison of the statements made separately by the witness before different authorities instead of by probabilities flowing from the evidence. The Code of Criminal Procedure, 1973 has rightly eliminated one unnecessary stage of recording the detailed statement of a witness by the committing Magistrate. We would now recommend a further step to do away with the detailed recording of statement as made by a witness in the course of investigation, and substitute in its place a revised arrangement in which the investigating officer can make a record of the facts as ascertained by him on examination of a witness. This shift in emphasis from the statement made by the witness to the statement of facts ascertained from the witness would imply that the statement could be in third person in the language of the investigating officer himself. This statement of facts as recorded by the investigating officer would be adequate to assess the evidentiary value of the different witnesses and accordingly cite them in the charge sheet, if and when it is laid in court on conclusion of investigation.

27.15 When the statement as described above becomes a statement of facts as ascertained and recorded by the investigating officer, it loses its significance to serve as an earlier statement made by the witness himself in his own language and, therefore, the question of using that statement for contradiction or corroboration would not arise. The present provisions in section 162 Cr.P.C. relating to the restricted use of the statements of witnesses would, therefore, become redundant.

27.16 Under the present provisions of section 162, a police officer is precluded from obtaining the signature of a person on the statement recorded from him. It has been emphatically represented to us by several police officers that this provision in law operates to their great disadvantage and induces a general feeling among witnesses that they are not in any way bound by the statement recorded by the police and that they could freely deviate from it at a subsequent stage without attracting any penal notice.

27.17 It has also been brought to our notice that the phenomenon of prosecution witnesses turning hostile is becoming increasingly common in the context of pressures and influences which operate from the side of the accused person and that it is becoming increasingly difficult to check this tendency. We find that on the recommendation of the Law Commission in its Forty-First Report (September 1969), a provision was introduced in the Code of Criminal Procedure Bill, 1970 to authorise the police officer to obtain the signature of a witness on the statement recorded from him in cases where the witness can read the statement so recorded, but the Joint Committee of Parliament felt that this provision may lead to abuse and, therefore, rejected it.

27.18 We have carefully examined all aspects of this matter from the point of view of the police officer as well as the person whose statement is recorded. In cases where a witness is reported by the police to have turned hostile during proceedings in Court, it may very well be that his statement in court is his own genuine statement while his earlier statement as recorded by the police was an embellishment made up by the police themselves without regard to what the witness had told them earlier. A police malpractice brought to our notice in this connection is the habit of some police officers to be very cursory in their examination of certain witnesses and then proceed to make a detailed record of the witness's statement, assuming it to be what they would like it to be in the context of statements of other witnesses already recorded. It is imperative that we put down this malpractice to ensure the honesty and cleanliness of investigations. We are of the view that a great measure of credibility could be imparted to the statement of facts as recorded by the police officer after examination of a witness, if we provide in law that a copy of the statement so recorded shall, if desired by the witness, be handed over to him under acknowledgement. In the eyes of law this position would be slightly different from obtaining his signature on the very statement itself, but would be a sufficient safeguard to ensure that the record as made by the police officer is not in deviation from what the witness had told him. In recommending this arrangement, we have in mind a similar arrangement that already exists for the delivery of a search list prepared under section 100 Cr.P.C. to the occupant of the place search or the person searched.

27.19 To give effect to the revised arrangements proposed in paragraphs 27.11 and 27.14 to 27.18 above, we recommend that sections 161 and 162 Cr.P.C. may be amended to read as under :—

Examination of witnesses by police

"161. (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than

questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) When a person is examined by a police officer under this section, no other person shall, save in the exercise of powers under this Code, have the right to be present during such examination.

(4) The police officer may reduce into writing a statement of facts ascertained from a person in the course of an examination under this section; and if does so he shall make a separate and true record of the statement of facts ascertained from each such person.

Statement of facts disclosed to police not to be signed

162. No statement of facts ascertained by a police officer from any person in the course of an investigation under this chapter, shall, if reduced to writing, be signed by the aforesaid person; but a copy of such statement duly authenticated by the police officer recording it shall be delivered under acknowledgement to the person on whose examination such statement was recorded, if so desired by that person."

Case diary

27.20 In view of the amendment we have proposed to section 161 to make the statement recorded under that section a statement of facts ascertained from the witness as distinct from a statement as made by him, section 172 relating to the case diary also would require a corresponding amendment to reflect this shift in emphasis. We recommend that the revised section 172 Cr.P.C. may read as below :—

Diary of proceeding in investigation

172. (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and a statement of the circumstances ascertained through his investigation; and also attach to the diary for each day copies of statement of facts, if any, recorded under section 161 in respect of the person or persons whose examination was completed that day.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provision of section 145 of the Indian Evidence Act, 1872 shall apply.

Search witnesses

27.21 Section 100 Cr.P.C. prescribes the procedure for the conduct of searches generally. It is a legal requirement under the provisions of this section that two or more independent and respectable inhabitants of the locality in which the place to be searched is situated shall attend and witness the search. Though sub-section (5) of this section states that 'no person witnessing a search under this section shall be required to attend the court as a witness of the search unless specially summoned by it', a practice has developed on the basis of some court rulings for the prosecution to get the search witnesses invariably examined to avoid the risk of adverse inference from their non-examination. This single practice has stood in the way of members of the public from associating themselves freely with the executive action of the police, particularly when they involve searches which would invariably draw them into the court hall and expose them to considerable inconvenience and harassment arising from court rituals and procedures, not to speak of malicious cross examination by some defence counsel. Several local and special laws, which confer police with powers of search, invariably stipulate that the searches shall be conducted in conformity with the Code of Criminal Procedure. This requirement immediately brings all searches under the local and special laws also within the purview of the case law mentioned earlier and the police are obliged to seek the help of some members of the public to figure as search witnesses as and when searches are conducted. Enforcement of Prohibition Act throws up several such situations and the police come to depend on a few residents of the police station limits to figure as search witnesses in more than one case. The malady of 'stock witnesses' is thus born and exposes the police to sharp criticism in court on this account. We strongly feel that the principle embodied in sub-section (5) of section 100 Cr.P.C. that the search witnesses shall not be required to attend the court unless specially summoned by it should be strictly implemented in practice, if necessary by further amending the provisions of this section to underline the importance of this principle. Further, we are also of the view that while section 100 Cr.P.C. might be applicable to searches generally, a search conducted by an investigating officer under section 165 Cr.P.C. stands on a separate footing, specially when the proposed search is based on some confidential information received by him in the course of investigation and there is risk of leakage of this information if he starts enquiring from the neighbours to locate witnesses for search. In such situations it should be legally made possible for the police officer to take the assistance of a public servant (other than a police officer) having jurisdiction over the area to be present and witness the proposed search. We, therefore, recommend that sub-sections (4) and (5)

of section 100 Cr.P.C. may be amended to read as under :—

Persons in charge of closed place to allow search

100. (1) *** *** ***

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other neighbouring locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

Provided that in the case of a search made under the provisions of section 165, any public servant, other than a police officer, having jurisdiction over the place of search shall be a competent witness for the purposes of this section.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless the Court considers it essential as provided in section 311, and the list prepared as aforesaid may be used as evidence in an inquiry, trial or other proceeding under this Code, although the persons witnessing the search are not called to depose as witnesses.

Custody of property

27.22 After the seizure of property by police in any particular situation, it continues to be retained in custody for a long time even though it may not really be required for the purposes of the case as it develops further on the basis of evidence available. In such circumstances police should be enabled to return the property to the person from whom it was seized or to any other appropriate person with due safeguards for the proper custody of property till the final disposal of the case. We recommend that sub-section (3) of section 102 Cr.P.C. be amended as indicated below to give greater discretion to the police for releasing, seized property provided they are put under proper custody.

Power of police officer to seize certain property

"102 (1) ** ** **

(2) ** ** **

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the court or where there is difficulty in securing proper accommodation for the custody of the property, or where the continued retention of the property in police custody may not be considered necessary for the purposes of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the court as and when required and to give effect to the further orders of the court as to the disposal of the same."

Return of property after disposal of case

27.23 Public experience considerable difficulty in securing the return of their property from court even after the connected case is disposed of. The police have no recognised role to play in this matter. Everything is left to be done under 'Court's orders', and the securing of Court's orders means endless difficulties for the private individual concerned. We recommend that the police be required through departmental instructions to initiate appropriate steps immediately after the disposal of a case for the prompt return of the case property to the person entitled to get it.

Arrest

27.24 The present police practice of making arrests indiscriminately in the course of investigations is a source of considerable harassment and annoyance to the persons arrested and their families. In paragraphs 22.20 to 22.28 of our Third Report we have already dwelt at length on the scope for corruption and malpractices arising from the power of arrest available to the police. It has been pointed out that several police officers make it appear that an arrest is mandatory while investigating a case while, in fact, it is discretionary under the law. It has also been pointed out that a good portion of the arrests made by the police has been, on further scrutiny, found not really necessary from the point of view of crime prevention or the interest of investigation. The amendment to section 170 Cr.P.C. and the guidelines for making arrests as recommended in paragraphs 22.26 and 22.28 of the aforesaid Report would help in changing the existing attitude of the police towards arrests and ensure that the arrest of a person is governed by public interest and the actual requirements of an investigation and not by a mere desire of the police to show off their power.

Intimation to family members

27.25 In the general provisions relating to arrest of persons in Chapter V of Cr.P.C. the following may be added as a new section—Section 50A—to require intimation to be given about the arrest of a person to any one who may be reasonably named by him for sending such intimation to avoid agonising suspense for the members of his family about his whereabouts.

Intimation to be sent about arrest

50 A—When any person has been arrested and is being held in custody in a police station, he shall be entitled to have intimation of his arrest and of the place where he is being held sent to one person reasonably named by him without delay or where some delay becomes unavoidable in the process of investigation, with no more delay than is unavoidable.

Third degree methods

27.26 Police are frequently criticised for their use of third degree methods during investigations while examining suspected or accused persons. Police brutality in their handling of suspects is referred to in some context or the other in the literature on police forces in several countries of the world, and the Indian police system is no exception. Interrogation of a person, whether he be a witness or suspect or accused, is a difficult and delicate exercise for any police officer and calls for enormous patience and considerable understanding of human psychology. He has to question the witness/suspect/accused at great length, putting before him the facts already secured by the investigating officer, confront him with the statements already made by other witnesses and ascertain from him a full version of all the relevant facts within his knowledge. From an initial position of total reluctance to divulge the facts known to him—which reluctance stems from a variety of factors like fear of repercussion under the law, disinclination to depose against a fellow member of the community, etc.—he has to be taken through a process of intensive questioning, including confrontation with other witnesses, to a point where he himself would desire to make a full disclosure of facts as known to him and thereby feel resolved of the conflicts in his mind. Any process of interrogation implies the questioning of a person more than once with reference to a variety of facts with which he may be confronted in succession. This process will, therefore, result in the building up of some kind of pressure on the mental state of the person questioned. This, in our view, is inevitable in any process of interrogation but when it crosses the limits of a mere pressure of facts building on the mind of the interrogated person and gets into the domain of physical pressure being applied on him in any form, it becomes despicable. Unfortunately several police officers under pressure of work and driven by a desire to achieve quick results, leave the path of patient and scientific interrogation and resort to the use of physical force in different forms to pressure the witness/suspect/accused to disclose all the facts known to him. While law recognises the need for use of force by the police in the discharge of their duties on some specified occasions like the dispersal of a violent mob or the arrest of a violent bad character who resists the arrest, etc., the use of force against an individual in their custody in his loneliness and helplessness is a grossly unlawful and most degrading and despicable practice that requires to be condemned in the strongest of terms, and we do so. Nothing is so dehumanising as the conduct of police in practising torture of any kind on a person in their custody. Police image in the estimate of the public has badly suffered by the prevalence of this practice in varying degrees over several years. We note with concern the inclination of even some of the supervisory ranks to countenance this practice in a bid to achieve quick results by short-cut methods. Even well meaning officers are sometimes drawn towards third degree methods because of the expectation of some complainants in individual cases that the suspects named by them should be questioned by the police with some kind of pressure ! We consider it most important for improving police image that the senior officers and the supervisory ranks in the police deem it their special responsibility to put down this practice at the operational level in police stations and elsewhere. Some remedial measures are indicated below :—

(i) Surprise visits to police stations and similar units by the senior officers would help the immediate detection of persons held in unauthorised custody and subjected to ill-treatment. Malpractices, if any, noticed during such visits should be met by swift and deterrent punishment.

(ii) A Magistrate or Judge before whom an arrested person is produced by the police for remand to custody should be required by administrative rules of criminal practice to question the arrested person specifically if he has any complaint of ill-treatment by the police, and if he has any complaint the Magistrate or Judge should get him medically examined and take appropriate further action.

(iii) In Chapter X of our First Report, we have already recommended a scheme for mandatory judicial inquiries into complaints of death or grievous hurt caused while in police custody. We earnestly believe that such an arrangement would itself act as an effective check against the continuance of third degree methods in police work.

(iv) Supervisory ranks, including the senior levels of command in the police and the Government, should strictly eschew a purely statistical approach while evaluating police performance. Any administrative review of a kind which is likely to induce the subordinate ranks to adopt *ad hoc* and short-cut methods to show results should be avoided. Adequate emphasis should be laid on the honesty and cleanliness of investigations and the adoption of proper methods while handling all the connected work.

(v) Training institutions should pay special attention to the development of interrogation techniques and imparting effective instructions to trainees in this regard.

Remand to police custody

27.27 Under the present provisions in law when an accused person is arrested by the police in the course of investigation they can examine him in their custody for a very limited period only and are required to produce him before a Magistrate within 24 hours of arrest. Under section 167 Cr. P. C. an arrested person who is produced before a Magistrate is generally remanded to judicial custody unless he is released on bail. Remand to police custody at that stage is very exceptional. In actual practice police officers find it difficult to complete the examination of the accused person within such a short time after his arrest. The fact that they cannot hold on to him for more than 24 hours and whatever information they expect to ascertain from him to be secured within that period makes them adopt several malpractices including the use of third degree methods to pressure the accused person. We are convinced that if the average police officer is assured of adequate time and facility for patiently examining an accused person and pursuing the examination from point to point through a process of simultaneous verification of facts mentioned by the accused, it would facilitate a proper examination of the accused person without resort to questionable methods involving pressure tactics. This would become possible if the police can secure the remand of an arrested person to police custody for a few days under orders from a Magistrate. When the accused remains in police custody under specific orders from a Magistrate, the scope for using third degree methods while interrogating him in such custody would get greatly reduced since he would be liable for production before Magistrate on expiry of the brief custody. In the light of the present phraseology of section 167 Cr. P. C., some conventions and practices have developed in several States for the Magistrates not to grant police custody unless the Investigating Officer pleads that the accused has already made a confession and his continued custody with the police is necessary to take him from place to place and recover property. This peculiar requirement of convention and practice drives police officers to make false statements before the Magistrate while in fact the accused would not have made any such confession and they would merely be requiring to verify several facts mentioned by him and continue with his examination. We would, therefore, recommend that the existing sub-sections (3) and (4) of section 167 which imply that remand to police custody should be exceptional may be deleted and a new subsection (3) may be added to facilitate remand to police custody in the interest of investigation whenever required.

Remand by Executive Magistrates

27.28 Section 167 Cr.P.C. as amended by the Code of Criminal Procedure (Amendment) Act of 1978 facilitates the production of an arrested accused before an Executive Magistrate in situations 'where a Judicial Magistrate is not available'. A situation of non-availability of a Judicial Magistrate is not likely to arise in reality since there is bound to be some Judicial Magistrate or the other having jurisdiction over the area concerned. What is likely to happen in a situation of serious diturbance of law and order is that a large number of accused persons may get arrested by the police within a short time and, if the Judicial Magistrate having jurisdiction over the place is situated far away, the exercise of producing the large number of arrested persons before him may involve the local police officers in long journeys and take away a good part of police transport and personnel on this work alone, to the detriment of other important preventive work on the law and order side. In such situations a large number of Executive Magistrates will usually be available in the neighbourhood and it will be convenient for the police to produce all the arrested accused before such Magistrates and obtain the initial remand. We, therefore, recommend that the amendment introduced in 1978 may be further modified to meet the real requirements of situations as described above.

27.29 For the purposes mentioned in paragraphs 27.27 and 27.28 above, we recommend the following amendments to section 167 Cr. P.C. :—

(i) Sub-section (4) may be deleted, and existing sub-sections (5) and (6) may be renumbered as (4) and (5).

(ii) Existing sub-sections (2A) and (3) may be substituted by fresh sub-sections as furnished below.

"(2A) Notwithstanding, anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, if the urgency of a situation so requires and the circumstances render it difficult for the police officer to produce the accused expeditiously before a Judicial Magistrate, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2) :

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

(3) Detention in the custody of the police may be authorised under this section by a Magistrate, including an Executive Magistrate acting under sub-section (2A), if, after hearing the police officer making an investigation under this Chapter, the Magistrate is satisfied that detention in police custody would be in the interest of investigation and would enable the police officer verify expeditiously the facts arising from the examination of the accused person and examine him further for clarification in the light of such verification.

Provided that detention in police custody authorised under this section shall not exceed fifteen days in any case".

Police stations and officers in charge thereof—definition

27.30 In our First Report we have indicated the need to develop a police constable as a potential investigating officer, and suitably devise the recruitment, training and promotion procedures to enable him rise to higher levels of responsibilities. We would be dealing with this matter at greater length in our chapter on the Restructuring of Police Hierarchy. The existing section 2(o) Cr. P.C. stipulates that a Constable may not function as an officer-in-charge of a police station unless the State Government specially directs. In view of our intention to upgrade the personality and potential of a Constable we consider it would be desirable to remove this discrimination spelt out in law. Section 2(o) may be amended to omit a pointed reference to a Constable as such but retain the power of the State Government to notify the officer-in-charge of a police station.

27.31 Apart from the regular police stations in the districts, we have special investigating units in the CID, Anti-Corruption Bureau, Harijan Cell, etc., whose staff perform investigating duties under the Cr. P.C. Offices of these units are formally declared as police stations but by executive orders their investigational responsibility is confined to certain specified classes of cases. This functional limitation does not have authority in law. We consider it desirable that section 2(s) be amended to make such functional limitation possible. Such an amendment would also facilitate establishment of special police stations for dealing with a communal riot situation or any other similar public order problem or for investigating economic offences as recommended in Chapter XXIII of our Third Report.

27.32 For the purposes mentioned in paragraphs 27.30 and 27.31 above, clauses (o) and (s) of section 2 Cr. P.C. may be amended to read as under :—

Definitions

2. In this Code, unless the context otherwise requires,—

(a) ** ** **
** ** **

(o) "Officer incharge of a police station" includes, when the officer in charge of the police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next senior and not less than such rank as may be specified by the State Government in this behalf;

** ** **
** ** **

(s) "police station" means any post or place declared generally or specially by the State Government to be a police station, with its jurisdiction extending over any local area as may be specified by the State Government in this behalf; and shall also include any post or place which may be so declared specially for dealing with particular cases or classes of cases arising from such local area as may be specified by the State Government in this behalf.

Confessions—Their admissibility in evidence

27.33 The existing law relating to confessions before the police has been agitating the minds of police officers for a long time. Section 25 of the Indian Evidence Act completely prohibits any confession made to a police officer from being proved against a person accused of any offence. This total ban on the entry of a confessional statement recorded by a police officer into the arena of judicial proceedings has placed the police at a great disadvantage as compared to several other enforcement agencies who also handle investigational work leading to prosecutions in court. This provision in the Evidence Act which was enacted in 1872 bears relevance to the then situation in which the police were practically the only enforcement agency available to the Government and they had acquired notoriety for the adoption of several gross mal-practices involving torture and other pressure tactics of an extreme nature to obtain confessions from accused persons. More than 100 years have rolled by since then. We are aware that the police are still not totally free from adopting questionable practices while interrogating accused persons, but one cannot possibly deny that the greater vigilance now exercised by the public and the press, growing awareness of citizens about their individual rights under the law and increasing earnestness and commitment of the senior levels of command in the police structure to put down such mal-practices have all tended to reduce the prevalence of such practices in the police to a lesser degree than before. We have also to take note of

the fact that after the enactment of the Indian Evidence Act, several other law enforcement agencies besides the police have also come up in the field. Officials of the Income-tax, Central Excise and Customs departments have wide powers of search and seizure which can be followed by investigative processes leading to prosecutions in Court. The Directorate of Enforcement which deals with contraventions of the Foreign Exchange Regulation Act is another agency with similar powers. Members of the Railway Protection Force also have similar powers to make arrests and launch prosecutions in specified situations concerning railway property. Confessions recorded by the investigating staff of these agencies are not hit by the provisions of section 25 of the Evidence Act and are therefore freely admitted in evidence in prosecutions launched by them. This distinction in law between the police and the other enforcement agencies is viewed as highly derogatory by all police officers and makes them feel that they as a whole community are deliberately distrusted in law. We have also been told of some instances in which the non-admissibility of confessions made to the police in the presence of a large village community, which knew the confession to have been made voluntarily, lowered the image and prestige of the police in the estimate of the community when they were later told that the Court would not accept the confession. After a careful consideration of all aspects of this much debated question we feel that the stage has arrived now for us to take a small positive step towards removing this stigma on the police and make it possible for a confession made before a police officer to enter the arena of judicial proceedings, if not as substantive evidence, at least as a document that could be taken into consideration by the court to aid it in an inquiry or trial in the same manner as now provided in regard to case diaries under section 172(2) Cr. P.C. and the confession of a co-accused under section 30 of the Evidence Act. We are also of the view that this approach to the evidentiary admissibility and value of a confession made before a police officer should apply not only to the police but to all persons in authority before whom a confession may be made. If the Evidence Act reflects this approach to confessions as a class, it would largely remove the present feeling of the police that they have been unjustly discriminated against in law. In our view of the matter as explained above, we would recommend that sections 26 and 27 of the Evidence Act may be deleted and the existing section 25 may be substituted by a new section as detailed below :—

Confession to a person in authority not to be used as evidence

25. A confession made by a person may be proved in any judicial proceedings against that person; but such a confession made to any person in authority other than a judicial officer acting in his judicial capacity shall, if proved, not be used as evidence against the person making the confession but may be taken into consideration by the Court to aid it in an inquiry or trial in the manner provided in section 30 of this Act and section 172 of the Code of Criminal Procedure, 1973.

Provided that when any fact is deposed to as discovered in consequence of a confession made or information given to any person in authority other than a judicial officer acting in his judicial capacity, so much of such confession or information as relates distinctly to the fact thereby discovered may be used as evidence against the person making the confession or giving the information.

Explanation :—For purposes of this section, 'judicial officer' means a Judge, Judicial Magistrate, Metropolitan Magistrate, Special Judicial Magistrate or Special Metropolitan Magistrate appointed under the Code of Criminal Procedure, 1973, and includes a Judge of the Supreme Court or a High Court.

27.34 We would like to add for clarification that the above changes in the Evidence Act are not intended to and will not, in our opinion, affect the admissibility of confessions made before officers of such departments like the Income Tax or Central Excise or Directorate of Enforcement for purposes of their departmental adjudication proceedings. The limitations spelt out in the amendments proposed by us would apply to prosecutions in criminal courts, whichever agency might launch the prosecution.

Supervision

27.35 While closing this Chapter we would like to state that the comprehensive amendments in procedural law and Evidence Act as proposed above would not by themselves bring about noticeable improvement in the quality of investigations unless the supervisory ranks in the police hierarchy pay adequate attention to the detailed supervision over the progress of individual investigations. Unless adequate interest in this regard is evinced at every supervisory level, the quality of output of investigational work at the police station level will not improve to the desired levels of public satisfaction. The quality and quantum of supervisory work done in regard to crime investigations as distinct from mere ad hoc maintenance of public order from day to day on a 'somehow' basis should be carefully assessed for each supervisory rank and taken due note of for his career advancement. Effective supervision of an investigation would call for—

(i) a test visit to the scene of crime,

(ii) a cross check with the complainant and a few important witnesses to ensure that their version has been correctly brought on police record and that whatever clues they had in view have been pursued by the police,

(iii) periodic discussion with the investigating officer to ensure continuity of his attention to the case, and

(iv) identification of similar features noticed in other cases reported elsewhere, and coordinated direction of investigation of all such cases.

CHAPTER XXVIII

COURT TRIAL

Rising pendency

28.1 The Supreme Court of India and the High Courts in the States lie at the apex of the judicial establishment of the country which, for purposes of dealing with criminal cases, consists of a number of courts presided over by Sessions Judges, Metropolitan Magistrates and Judicial Magistrates at different places in each State. With the coming into force of the Code of Criminal Procedure, 1973 the separation of the judiciary from the executive as envisaged in Article 50 of the Constitution has been effected throughout the country. Procedures for the conduct of criminal trials in different courts are elaborately laid down in the Code of Criminal Procedure which has largely adopted the Anglo-Saxon approach and style in working the judicial system. Owing to undue emphasis laid on rigid rituals in this system, proceedings in courts have become protracted and disposals have become tardy over the last several years. Compared to about 2 lakh criminal cases under the Indian Penal Code pending in courts in 1962, there are over 10 lakh such cases pending in courts now. Including cases under the local and special laws there were about 21 lakh cases pending trial in courts at the end of 1977. In the period from 1962 to 1977 incidence of cognizable crime under the Indian Penal Code has risen by 82.5% while the pendency of the same category of cases under trial in the same period has risen by 473.0%. The figures furnished below show the position from 1971 to 1977 :—

Indian Penal Code, Special Acts and Local Acts (Cognizable offiences) cases disposed of by Courts.

(In Lakhs)

S. No.	Year	Cases instituted under IPC, Local & Special Acts	Disposal (cases in which trials were completed)	Cases pending trial at the end of the year
1.	1971	32.61	31.43	11.51
2.	1972	27.57	24.96	13.08
3.	1973	29.64	26.49	15.45
4.	1974	30.27	26.80	17.79
5.	1975	36.93	33.80	19.71
6.	1976	37.03	34.94	20.02
7.	1977	31.57	29.41	21.20

It is obvious that the disposal of cases in Courts has not kept pace with the institution of fresh cases for trial year after year with the result that the entire judicial machinery has got clogged up and the protracted disposal of cases has diluted the desired deterrence on the criminal elements in society.

28.2 From the information available in the Department of Justice (Ministry of Law, Justice and Company Affairs) the pendency of cases in courts in the States which have noticeable pendency was as under on 30-9-1978 :—

State	Sessions Court (in Units)*		State/ Union Territory	Magisterial Courts (No. of cases)	
	Pendency as on 30-9-78	%age of total pendency in the country		Pendency as on 30-9-78	%age of total pendency in the country
Uttar Pradesh	34,598	41.8	West Bengal	8,01,025	17.0
Bihar	22,433	27.1	Maharashtra	6,03,308	12.8
Rajasthan	3,895	4.7	Uttar Pradesh	5,95,255	12.6
Maharashtra	3,258	3.9	Bihar	5,06,137	10.7
Madhya Pradesh	3,064	3.7	Gujrat	4,53,221	9.6
West Bengal	2,694	3.3	Delhi	3,16,841	6.7
Assam	1,850	2.2	Madhya Pradesh	3,14,942	6.7
Punjab	1,741	2.1	Rajasthan	2,77,185	5.9
Orissa	1,326	1.6	Orissa	1,65,583	3.5
Tamil Nadu	1,157	1.4	Tamil Nadu	1,49,273	3.2
			Assam	1,45,025	3.1

*1 Unit=1 trial case or 5 revisions/appeals.

28.3 A few States appear to have a strikingly larger pendency in courts as compared with others. We made a sample study of the disposal of Sessions cases in a crime infested district in one of these States. Out of a total 320 cases disposed of in Sessions court during 8 months in a year, 29 ended in conviction while 291 ended in acquittal. As many as 130 cases, which included 21 murders, 58 attempts at murder, 17 dacoities and 9 robberies, took more than 3 years for disposal, reckoning the time from the date of registration of First Information Report. It was also noticed that the longer a case took for disposal the more were the chances of its acquittal. Protracted proceedings in courts followed by acquittal in such heinous crimes tend to generate a feeling of cofidence among the hardened criminals that they can continue to commit crimes with impunity and ultimately get away with it all at the end of leisurely and long drawn legal battles in courts which they can allow their defence counsel to take care of. Such a situation is hardly assuring to the

law abiding citizens and needs to be immediately corrected by appropriate measures even if they should appear drastic and radical.

Law Commission

28.4 The Law Commission in its Seventy-Seventh Report (November, 1978) has dealt with the problem of delays in court trials and made some recommendations to improve matters. In our view of the matter, these recommendations relate mostly to administrative measures including supervision and inspection by the judicial hierarchy. Some changes in law have also been suggested but they appear peripheral. In our view the entire philosophy and procedural conduct that attend the present working of the legal system, particularly in regard to court trials, would need a detailed examination for revamping the system to make it conform to the expectations of the common people to secure speedy and inexpensive justice which would appear meaningful and effective in their daily lives. There is obvious scope and need for cutting down a lot of rituals and imparting a sense of commitment and urgency to the participants in judicial proceedings to secure the ultimate objective of rendering justice to society as well as to the individuals concerned. We, as a Police Commission, are aware of some requirements of reform viewed from the angle of Investigating Officers and the prosecuting agency, but the sweep of reforms in the legal system has to be much wider and cover several other areas in which the lawyers and Judges have a prominent role to play. It is beyond our present scope and competence as a Police Commission to go into the wider aspects of legal reform but we would urge and recommend that an appropriate body might be asked by the Government to go into this matter. We would further urge that functionaries from the police and Correctional Services might be associated with the deliberations of this body to ensure a comprehensive look at the entire scheme of things and identify the requirements of reform.

Reforms

28.5 While the reforms that may emerge from the deliberations of a body as suggested above might meet the long term requirements of the current situation of judicial stagnation, we feel there is ample scope for some immediate changes in law which might relieve the present stagnation and help the judicial machinery to start rolling smoothly for the dispensation of justice. The reforms we have in mind are intended to —

(i) reduce the institution of fresh cases in courts year after year ;

(ii) withdraw old cases from courts according to some accepted norms ; and

(iii) expedite the disposal of pending cases by simplifying the procedures.

We proceed to deal with these reforms in the following paragraphs.

Gram Nyayalayas

28.6 In Chapter XVI of our Second Report, we have recommended the institution of Gram Nyayalayas to deal with ordinary crimes as distinguished from serious and heinous crimes. The simple procedure prescribed for the conduct of proceedings before Gram Nyayalayas would ensure expeditious disposal of crimes brought before them. The diversion of such cases to Gram Nyayalayas would greatly relieve the workload presently borne by the Judicial Magistrates who would then have more time to deal expeditiously with the remaining categories of crimes of a more serious nature. The institution of Gram Nyayalayas as proposed by us would thus be a positive step for reducing the input of fresh cases for trial in regular courts.

Petty cases—ticketing system

28.7 A large number of petty cases, particularly those challaned under different provisions of the Motor Vehicles Act, form a good part of the cases pending in Courts for unduly long time for want of appearance of the accused or witnesses who get dispersed in distant places after the detection of the offence. In another chapter we shall be examining the special needs of the police set up in urban areas and would then be looking into arrangements for expeditious disposal of traffic violations detected by the police. The details of a 'ticketing system' which could be adopted for on-the-spot disposal of traffic offences of a specified category are being worked out and shall be explained in that chapter. The adoption of that system would also help in reducing the input of an appreciable volume of cases for trial in courts.

Compounding cases at the stage of investigation

28.8 Section 320 Cr.P.C. specifies the offences which can be compounded in courts and prescribes the procedure therefor. This section can be availed of only after the police have completed their investigation and laid the charge-sheet in court. Compounding processes start after the trial processes have commenced. We feel it would help a quicker disposal of cases of the compoundable category if the procedure is altered to enable the police themselves to take note of the desire of the parties to compound the offence even at the stage of investigation, and thereupon close the investigation and report the matter accordingly to the court, which will have the authority to pass final orders on the police report as in every other case in which the police submit their final report. This change in procedure would also help in eliminating unnecessary processes of trial in court in those cases which ultimately get compounded. To enable the police to submit a report to the court about the compounding of a case at the stage of investigation, we would recommend that a new sub-section (3A) may be added after the existing sub-section (3) of section 173 Cr.P.C. as indicated below: —

"(3A). If, however, in respect of offences enumerated in the Table in section 320, in the course of investigation, the person by whom the offence may be compounded under the

said section gives a report in writing to the officer-in-charge of the police station expressing his desires to compound the offence as provided for in the said section, the officer shall mention this fact in the police report prescribed in sub-section 2(1) and forward the compounding report from the person concerned to the Magistrate who shall thereupon deal with the case under section 320 as though the prosecution for the offence concerned had been launched before the Magistrate."

Prosecutions on weak evidence to be avoided

28.9 We have noticed a tendency among police officers in certain places to launch prosecutions on the conclusion of investigations irrespective of the strength of evidence for a reasonable expectation of conviction in court. There are also instances in which a very large number of accused are included in the charge-sheet irrespective of the strength of evidence against each individual accused. Trials of such cases usually get protracted and more often than not result in acquittal of a large number of accused, if not all of them. We would advise that the decision to launch prosecution should be based on a proper assessment of the evidence available and, generally speaking, prosecutions should not be launched unless the evidence warrants a reasonable expectation of conviction. There may be certain situations—particularly sensational cases which evoke a lot of public interest and attention—in which the launching of a prosecution may be considered desirable on the available evidence, even though it may not appear to be adequately strong for a reasonable expectation of conviction, because it might create confidence among the public and would be in line with their expectation to get the evidence openly tested in court irrespective of the result. But such situations would be exceptional, and the decisions in such cases should normally be taken at the level of Superintendent of Police.

Withdrawal of pending cases after periodic review

28.10 There should be a periodic review at the district level of every police case pendig in court for more than one year from the date of filing charge-sheet and a decision should be taken whether it would be in public interest or in the interest of justice to pursue the prosecution or whether the case may be withdrawn. Some possible criteria for deciding this matter are indicated below :—

(i) Property cases in which first offenders are involved or property cases in which the value of property concerned in the offence is less than Rs. 200 may be considered for withdrawal with the consent of the complainant, if the accused has remained in custody for more than one fourth of the maximum period of imprisonment to which he could be sentenced under the law, if found guilty. Before moving for withdrawal, the fact whether the accused is a first offender or not should be correctly determined by references to the Crime Record Bureaus recommended in Chapter XVII of our Second Report. While passing order on the withdrawal application, the court could pass appropriate orders for the disposal of the property on the merits of the case.

(ii) Cases involving rioting and ordinary hurt, excepting those arising from communal clashes, may be considered for withdrawal if the parties involved in the occurrence agree to the proposed withdrawal and the police are satisfied about the restoration of amicable relationship between them.

In addition to the criteria suggested above, some other appropriate criteria may also be evolved, having regard to the public order and crime situation in the district or State.

28.11 The above review should be conducted by the Superintendent of Police once in six months and may be preceded by a similar review at the level of sub-divisional officer, which would help an appraisal of all the relevant factors to be taken into consideration at the time of review by the Superintendent of Police.

Norms for disposal of cases by Magistrates and Judges

28.12 According to information available from some States, it is seen that the number of courts to deal with criminal cases has not substantially increased in the last 25 years. The statement furnished in Appendix-III may be seen in this connection. We see the need for establishing some norms for the disposal of criminal cases by Magistrates and Sessions Judges and increasing the number of courts accordingly. We recommend that a committee with members drawn from the judiciary and the prosecuting staff may be set up by the High Court in each State for evolving these norms, having regard to local conditions.

Inspections of courts

28.13 The progress of court trials gets blocked by a variety of reasons, some of which are correctible by administrative measures and some are relatable to the general attitude and approach shown by the prosecuting staff, defence counsel and the presiding Magistrate/Judge. We have known of badly delayed trials arising from causes like non-appearance of witnesses, lack of preparedness of the prosecuting or defence counsel to get on with the day's work in court, frequent adjournments granted on the slightest move for adjournment, prolonged cross-examination without regard to its relevance or need, taking unduly long time for perusing records or otherwise getting prepared for the case at different stages of trial, etc. We feel that several of these causes may be eliminated, if the president Magistrate/Judge adopts a positive approach to the daily proceedings in every case and adequately uses his powers under the Criminal Procedure Code and section 165 of the Indian Evidence Act for expeditious disposal of the case. There is need for evolving

a scheme of inspections at the level of High Court as well as Sessions Courts to ensure the business-like functioning of the subordinate courts. We would like to quote here the suggestion made by a former Chief Justice of Bihar at a seminar in 1969, when he observed as below :—

> "Before separation, the District Magistrate (assisted by his Additional District Magistrate) was required by the Patna High Court Rules to keep a watchful and intelligent control over the work of the subordinate Magistrates; mainly with a view to ensure speedy disposal of cases. After separation, this work has fallen on the District and Sessions Judge, who being very busy with his own judicial work has not been able to discharge this administrative duty properly. Junior Magistrates require proper guidance in the early stages of their official career regarding the method of conducting cases, controlling proceedings in courts, maintaining proper relationship with the local Bar and in the art of writing judgements. A senior judicial officer, below the rank of District and Sessions Judge, with sufficient time to devote to this kind of administrative work, is essential for making the scheme of separation a success. The high percentage of acquittals in Magistrates' Courts is due partly to their lack of experience in appreciating evidence. The periodical inspections done by the High Court once in two years, or by the District and Sessions judge, once a year or once in eighteen months are quite inadequate.
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> In the High Court also, the existing practice of entrusting all administrative work with one judge (known as Judge in charge of administration) may require alteration. The Madras pattern of entrusting with one judge, the administrative control over one district, is well worth a trial. The figures of the total pendency, average duration of a trial, and the percentage of convictions, show a better method of administration of criminal justice there, than in Bihar."

We are in agreement with the above observations and would recommend an inspecting arrangement as envisaged therein. A whole time functionary of the rank of a senior District and Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level.

Facilities for witnesses in courts

28.14 An important reason for the reluctance of the public to co-operate with the law enforcement agencies and actively associate themselves with proceedings in court is the fact that their attendance in court entails a lot of inconvenience and harassment. To describe the existing situation we can do no better than quote the following extract from a letter received from a senior District and Sessions Judge in one State.

> "The biggest single hurdle which inhibits the citizen from coming forward to help the police is the deplorable conditions prevailing in courts of law. The lot of witnesses appearing on behalf of State against a criminal is certainly pitiable. More often than not the case in which he is to appear is adjourned on one pretext or the other. This is invariably done at the fag end of the day after keeping the witnesses waiting for the whole day. While fixing the next date the convenience of all concerned, except the witness, is kept in view. If the witness fails to turn up on the next date coercive steps are taken against him. If he appears on the adjourned date, the chances are that the case will be adjourned again. When ultimately the evidence is recorded, the witness is browbeaten by an over zealous defence counsel or declared hostile or unreliable by the prosecutor. After undergoing this agonising experience the witness is not compensated for the loss of earning of the day. Even the out of pocket expenses incurred by him are seldom reimbursed. The most difficult problem faced by a witness in our Courts is a complete lack of any amenity or facility to make the long wait bearable. What to talk of drinking water and urinals etc., in most of the courts there is no place where a man can sit unless he forgets all about his dignity and squats on the floor of the verandah or under a tree. The sight of people sitting under the blazing sun or in torrential rains is also not so uncommon as it may seem to be. Chairs or benches for the convenience of the witnesses are no where available. It is small wonder then that disinterested persons fight shy of extending a helping hand to Police and only those persons agree to come to its aid who have an axe to grind. A man going to the railway station or a bus stand to catch a train or to board a bus has to spend an hour or so there. Yet he demands and gets the basic amenities like drinking water and a shady place to sit under but a man who has to wait for 5 or 6 hours in a court of law is not provided with any of these facilities. The plight of the witness is further aggravated by the fact that he is required to prick up his ears so as not to miss his name being called in a most unceremonious manner by the Court usher. With the experience of jails fresh in memory, our leaders are taking steps to ameliorate the conditions of prisoners in jails but nobody bothers about the unfortunate people who come forward to help the prosecution by giving evidence. A prisoner suffers for some act or omission but a witness suffers for no fault of his own. All his troubles arise because he is unfortunate enough to be on the spot when the crime is being committed and at the same time "foolish"

enough to remain there till the arrival of the police. It is for these reasons that people do not take the victim of a road accident to hospital or come to the help of a lady whose purse or gold chain is being snatched in front of their eyes. If some person offers help in such cases he is to appear as a witness in a court and has to suffer not only indignities and inconveniences but also has to spend time and money for doing so. Some time the witnesses incur the wrath of hardened criminals and are deprived of their lives or limbs."

The inspecting arrangements we have proposed in para 28.13, should also cover the above aspect of the matter and ensure the availability of adequate staying facilities for the witnesses and others who participate in court proceedings. The dissatisfaction of the public with the woeful lack of such facilities in court gets reflected in their hostile and critical attitude to the police whom they view as their first point of contact with the criminal justice system and whom they are in a position to criticise more freely and sharply than they can in regard to matters inside the court hall which, in their view, are protected by the legal rituals and formalities which pass off as part of the majesty of law !

Payment of daily allowance to witnesses for appearance in court

28.15 We would like to draw particular attention to the failure of courts to pay an appropriate monetary allowance to compensate the witnesses who attend court at the loss of their own work for every day of attendance. A sample survey made in 18 Magistrates' courts in one State has disclosed the following :—

(i) Out of 96,815 witnesses who attended courts during the test period, 6697 witnesses only were paid some allowance.

(ii) The procedure for disbursement of the allowance is cumbersome. The necessity to obtain approval of the Magistrate for each payment at the end of the day's work combined with the fact that the amount authorised for payment is very low induces witnesses to leave the court immediately after their deposition, without further wasting their time by hanging around the court for receiving the allowance.

(iii) The courts do not ask for and secure adequate funds for this expenditure.

(iv) The entire matter, in practice, is left to be handled by the police from their own resources which, in the absence of any authorised head of expenditure, leads to several malpractices.

We would recommend that the allowances payable to witnesses for their attendance in court should be fixed on a realistic basis and their payment should be effected through a simple procedure which would avoid delay and inconvenience.

Appointment of Special Magistrates

28.16 Section 13 and 18 Cr. P.C. empower the appointment of Special Judicial Magistrates and special Metropolitan Magistrates to deal with any specified classes of cases. According to information made available to us, such Special Magistrates have been appointed in Andhra Pradesh, Bihar, Kerala, Meghalaya, Tamil Nadu, Uttar Pradesh and West Bengal only and the number of Magistrates so appointed in all these States is only 265. There is obvious scope for appointing a larger number of Special Magistrates under the aforesaid sections of Cr.P.C., specially for dealing with cases under local and special laws, and we recommend accordingly.

Summary trial

28.17 Chapter XXI of the Cr. P.C. prescribes the procedure for summary trials of certain offences. We, however, find that very rarely are these offences tried summarily, and even if tried summarily their actual disposal is delayed because of the prolonged examination of witnesses. Section 260 Cr. P.C. which specifies the offences which can be tried summarily merely enables a Magistrate to resort to summary trial 'if he thinks fit'. There are no guidelines prescribed in the Cr. P.C. itself to enable the Magistrate exercise his discretion in a rational and reasonable manner whether or not to try a case summarily. It would, in our opinion, make for a much quicker disposal of several cases if the summary trial procedure is made mandatory for the offences specified in section 260 Cr. P.C. and for this purpose we recommend that the words 'may, if he thinks fit,' appearing in the aforesaid section be substituted by the word "shall".

28.18 We further recommend that all First Class Magistrates, Special Judicial Magistrates and Special Metropolitan Magistrates may be empowered to act under the above mentioned section, without necessarily having to be specially empowered by the High Court, as prescribed now.

28.19 It has been brought to our notice that in the system of reviewing the work done by Magistrates, the disposal of cases under the summary trial procedure is not given credit by the High Courts in certain States. We would recommend appropriate value being given to the volume of work handled under section 260 Cr. P.C. also while assessing the performance of a Magistrate.

Pleading guilty by written communication

28.20 Section 206 Cr. P.C., which prescribes the procedure for an accused to plead guilty through a written communication instead of appearing in person in court, was amended in December, 1978 to make it applicable to any offence compoundable under section 320 or any offence punishable with imprisonment for a term not exceeding 3 months. We recommend that

the State Government may avail the provisions of the amended section and notify all the Magistrates including Special Judicial Magistrates and Special Metropolitan Magistrates as empowered under this section. We further recommend that the maximum amount of fine that can be imposed under this section may be increased to Rs. 500 from the existing Rs. 100 to make it more realistic.

Accused to be asked about acceptance of prosecution documents

28.21 Section 294 Cr. P. C. requires the prosecution or the accused to admit or deny the genuineness of documents as and when they are filed in court. We recommend that the same principle be incorporated in a separate section in Chapter XIX of Cr. P.C. to enable the court to ask the accused before framing the charge as provided in section 240 Cr. P.C. whether the accused accepts any part of the prosecution evidence as furnished in the documents supplied under section 207 Cr. P.C.

Evidence of Medical experts

28.22 We find that several cases get adjourned over long periods for securing the attendance of Medical officers to give formal evidence regarding owned certificates issued by them. In the normal course government medical officers get transferred from place to place and their attendance in court in specified cases gets delayed if they happen to be stationed at distant places at the time of hearing. A committee appointed by the Uttar Pradesh Government to suggest reforms in the Criminal Procedure Code has recommended that section 291 Cr. P.C. may be amended to facilitate the acceptance of medical examination reports given by medical experts as evidence without insisting on their formal proof by summoning the expert. We recommend the adoption of the following amended form of section 291 as suggested by the above Committee :—

"291. *Medical and position of medical witnesses witnesses*

(1) The deposition of a Chief Medical Officer of the district (by whatever name called) or other medical witness taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) Any document purporting to be a report under the hand of an official medical expert upon medical examination of a person, or of the dead body of a person, may be used in any inquiry, trial or other proceeding under this Code without any formal proof as evidence of the facts stated therein.

(3) The Court may, if it thinks fit, summon and examine any such official medical expert or deponent as to the subject-matter of his report or deposition and in that event the report or deposition, as the case may be, shall form part of his examination in chief.

Explanation—In this section—

(a) the expression "official medical expert' means a Chief Medical Officer of the District (by whatever name called) or other medical expert who, at the time of the medical examination was either a member of the medical service of the Government or was otherwise authorised by the State Government by general or special order in that behalf to conduct such medical examination, and conducted the medical examination in discharge of his duties ;

(b) the expression "report of an official medical expert" includes a skiagram, and a radiologcial or pathological report".

Admission of experts' evidence through affidavits

28.23 We also endorse the recommendations of the Uttar Pradesh Committee for amending sections 293 and 296 Cr. P.C. regarding the evidence of experts and admission of evidence through affidavits. The amended form of these sections may be as suggested below :—

293. *Reports of certain Government scientific experts*

(1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used in any inquiry, trial or other proceeding under this Code without any formal proof as evidence of facts stated therein.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report and in that event the report shall form part of his examination in chief.

(3) Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely :—

(a) any Chemical Examiner, or Additional, Joint, Deputy or Assistant Chemical Examiner to the Government ;

(b) the Chief Inspector or an Additional, Joint, Deputy or Assistant Chief Inspector of Explosives ;

(c) the Director or an Additional, Joint, Deputy or Assistant Director of a Handwriting or Finger Print Bureau ; or the experts working with or under any of them ;

(d) the Director or an Additional, Joint, Deputy or Assistant Director, Haffkeine Institute, Bombay ;

(e) the Director or an Additional, Joint, Deputy or Assistant Director of Central Forensic Science Laboratory or of a State Forensic Science Laboratory ; or the experts working with or under any of them ;

(f) the Serologist or an Additional, Joint, Deputy or Assistant Serologist to the Government, or such other person as the State Government may appoint to perform the function of a Serologist ;

(g) the State Medico-legal Expert, or an Additional, Joint, Deputy or Assistant State Medico-legal Expert ;

(h) the State Pathologist or an Additional, Joint, Deputy or Assistant State Pathologist ;

(i) any Ballistics Expert; and

(j) such other experts as the State Government may, by notification specify.

* * * * *

296. *Evidence of formal character on Affidavit*

(1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(1A) In particular, and without prejudice to the generality of the foregoing provision, the evidence of a witness to prove--

(a) Inquest and its report;

(b) entries in the general diary of a police station and other records of the police ;

(c) the escort of a prisoner from time to time and from place to place;

(d) the safe custody and conduct of a case property from time to time and from place to place ;

(e) the conduct of a dead body or injured person from time to time and from place to place ;

(f) any other link evidence of like character ; or

(g) any other fact or document which, in the opinion of the court, may be so proved without causing prejudice to the parties ;

may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit and in that event the affidavit shall form part of his examination in chief.

Appearance of public servant in a summons case

28.24 Section 256 Cr. P.C. stipulates that in a summons case which is started on a complaint the Magistrate may acquit the accused if the complainant does not appear on hearing dates. It has been brought to our notice that this provision causes difficulty in cases where complaints are lodged by a public servant in his capacity as public servant under the provisions of some local or special law and it does not become possible for him to attend every date of hearing. We, therefore, recommend that section 256 may be amended to make it inapplicable to cases in which a public servant figures as the complainant in his capacity as public servant.

Withdrawal of prosecution

28.25 While examining the procedures for the conduct of trial in courts we have also looked into the existing arrangements in law for the withdrawal of prosecutions from court. Section 321 Cr. P.C. spells out the connected procedure according to which the Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offence for which he is tried. An important provision in this section is that a withdrawal cannot take place without the consent of the court.

28.26 Some recent rulings of the Supreme Court have emphasised the fact that while according consent to the withdrawal of a case the court should apply its mind to all aspects of the case to ensure that the withdrawal would be in the interests of justice and is not merely linked with a desire of the executive conveyed through the Public Prosecutor. The same rulings have also emphasised the independent statutory role performed by the Public Prosecutor while acting under the provisions of section 321 Cr. P.C. and that he should make his application to the court on his own subjective satisfaction of the justness of the proposed

withdrawal and not merely act at the behest of the executive authority (AIR 1976 SC 370 and AIR 1977 SC 2265).

28.27 The question of withdrawal of prosecutions from court has assumed significance in the recent years. It has become a practice for the Government to direct the withdrawal of criminal prosecutions arising from politically or otherwise motivated protest activities by organised groups like industrial labour, students and public sector employees, after the protest activities have concluded with a settlement accepted by all concerned. In fact one of the terms of such settlement in most situations would be the withdrawal of cases arising from the agitation. The relative case with which the withdrawal of such cases is secured by the persons who had earlier deliberately and wantonly violated some provisions of the law of the land tends to encourage militancy among participants in morchas, demonstrations and other forms of protest activities in public by organised groups. We consider it wholly undesirable that such a feeling is encouraged among different sections of the public regarding observance of the law of the land It would be necessary in the interests of public order to evolve a revised arrangement in law for the withdrawal of cases in court, to avoid the generation of a feeling that any law can be contravened with impunity and the offender can easily secure withdrawal of the case from the court under directions emanating from political or other extraneous considerations without regard to the interests of public order or justice.

28.28 Some factors which, in our opinion, would justify the withdrawal of a case are mentioned below by way of illustration :—

(i) Additional material may have come to the notice of the investigating agency after the charge-sheet was laid, and the evidence against the accused might have been rendered weak or untenable in the light of that material. Continuance of prosecution of the accused on such material might be considered waste of public time and money.

(ii) A particular accused may have been held in detention for an unduly long period for a joint trial with other more important accused, some of whom may be absconding. The evidence against the particular accused in custody may be very weak and may not justify continuance of prosecution in the interests of justice, having regard to the prolonged detention already undergone by him.

(iii) A criminal case arising from a village clash or any other conflict between organised groups may require to be withdrawn at a subsequent stage after the parties have come to a genuine compromise with restoration of amicable relations among all concerned. Continuance of criminal prosecution in such situations may be prejudicial to the maintenance of harmony in the affected area.

28.29 Though the present procedure detailed in secion 321 Cr. P.C. requires an application from the Public Prosecutor and the Court's order thereupon permitting the withdrawal of the case, we are aware that in practice the applications for withdrawal do not always spell out in great detail the reasons for the proposed withdrawal, and the Court's order does not always indicate a full examination of the case in all its aspects in the interests of justice. In our view of the matter, the arrangements in law for the withdrawal of a case should ensure the following :

(i) Having regard to the fact that the withdrawal of a case may have to be decided sometimes with reference to the appreciation of a local public order situation by the executive authority, it would be necessary to retain the power of the Government to initiate action for the withdrawal of a case. The Public Prosecutor should be empowered in law to act under directions from the Government for this purpose.

(ii) The application for withdrawal should mention in detail the reasons for the proposed withdrawal.

(iii) The court should be satisfied that the withdrawal would be in the interests of public order or justice.

(iv) The court's order should incorporate the reasons for according the permission for withdrawal.

(v) Any member of the public should have the facility to go in appeal against an order passed by the court permitting withdrawal of the prosecution in any specific case.

28.30 To secure the above arrangements in law, we recommend that section 321 Cr. P.C. be amended to read as under :—

321. *Withdrawal from prosecution*

(1) The Government or such other authority as may be authorised by it in this behalf may direct the Public Prosecutor or Assistant Public Prosecutor in charge of a case to present an application to the Court, at any time before judgment is pronounced, seeking permission to withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried.

(2) An application made under sub-section (1) shall state the reasons for the proposed withdrawal.

(3) On an application made under sub-section (1) the Court may, after hearing the prosecutor in charge of the case and the accused

and taking into consideration the evidence recorded in the case and the police diaries of the case, if it is satisfied that it would be in the interests of public order or justice to permit the withdrawal of the case, make an order permitting the withdrawal and recording the reasons for so doing.

(4) On an order made under sub-section (3)—

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences ;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

Explanation : For purposes of this section 'the Government' means 'the Central Government' in a case involving an offence which—

(i) was against any law relating to a matter to which the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 or

(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, and means 'the State Government' in all other cases.

28.31 To facilitate the filing of an appeal by any member of the public against a withdrawal order passed by a Court, we recommend that two new sub-sections (2A) and (2AA) be added after the existing sub-section (2) of section 397 Cr. P.C. as indicated below :—

397. *Calling for records to exercise powers of revision.*

(1) ** ** **
** ** **

(2A) The High Court or any Sessions Judge may act under sub-section (1) on an application made by any person in respect of an order made under sub-section (3) of section 321 by any inferior criminal court situate within its or his local jurisdiction for the purpose of satisfing itself or himself as to the correctness, legality or propriety of the order and may when calling for the record as provided in sub-section (1) direct that the execution of the order be suspended pending the examination of the record.

(2AA) If, after examining such record, the High Court or the Sessions Judge is satisfied that the making of the aforesaid order under sub-section (3) of section 321 was not in the interest of public order or justice it or he may direct the Court which had made the aforesaid order to proceed further with the case as if no application has been made under sub-section (1) of section 321 in respect of that case

28.32 We further recommend that important cases, *i.e.* cases triable by a Court of Session, which are withdrawn during a year in accordance with the principles detailed above, shall be mentioned in the Annual Report on the performance of the State police presented to the Legislature by the State Security Commission as suggested in para 15.48 of our Second Report.

Probation of Offenders Act and Children Act

28.33 We have looked into the implementation of the Probation of Offenders Act, 1958 and Children Act, 1960 as a correctional exercise for reforming the offenders on conclusion of court trials. In paragraph 14.10 and 14.11 of our Second Report we have already pointed out the absence of adequate infra-structure in the States for implementing the provisions of these two Acts. Despite the mandatory provisions in section 6(2) of the Probation of Offenders Act there are many instances in which juveniles *i.e.* persons under 21 years of age, have been sentenced to imprisonment without the court obtaining a report from a Probation Officer. In 1977 out of 75,026 juveniles involved in cases disposed of in courts during the year, as many as 22,564 juveniles were sentenced to imprisonment in all the States and Union Territories, while 10,688 were resorted to guardians, 3,192 were released on probation, 3,626 were sent to reformatory institutions and 34,956 were acquitted or discharged. The large percentage of juveniles sentenced to imprisonment instead of being put under the reformative umbrella of the Probation of Offenders Act or the Children Act deserves notice by the Social Welfare departments in the State Governments for appropriate corrective action. We would like to point out in this context the increasing trend of juvenile delinquency. The statement furnished in Appendix IV indicates the comparative position from 1966 to 1977. It may further be observed that juveniles come to notice in substantial numbers in crimes under local and special laws also besides offences under the Indian Penal Code. Their involvement in offences under the Gambling Act, Prohibition Act, Excise Act and the Suppression of Immoral Traffic Act is particularly significant as may be seen from the statement in Appendix V.

28.34 The statement in Appendix VI furnishes the number of Probation Officers and cases dealt with by them in different States in 1978-79. The weak infra-structure in several States is immediately brought out by this statement which also shows the widely varying

load of investigative and supervisory work borne by Probation Officers in different States. We recommend that the National Institute of Social Defence under the Ministry of Social Welfare at the Centre may take appropriate steps to evolve norms of workload in this regard. They may also consider evolving a suitable model of career structure for the personnel in the probationary services which would help them rise to higher levels of responsibilities including appropriate positions in the administration of jails and other correctional homes. It should be possible to evolve a unified career structure to cover all such institutions within each State.

28.35 Section 13 of the Probation of Offenders Act enables even a private individual or a representative of a privately organised society to function as Probation Officer. The statement in Appendix VI shows very few States having involved private agencies in this work. State Governments' attention may be drawn to this aspect of the matter and they may be advised to involve volunteer social welfare agencies in a much greater measure in implementing the Act.

28.36 We consider it would be useful to prescribe a procedure for the investigating police officer to collect some information and data relevant to probation work even at the stage of investigation of any specific case, and refer to them in appropriate columns in the charge-sheet prescribed under section 173 Cr. P.C. The actual headings of these columns may be determined in consultation with experts in the field of correctional services. Availability of this information in the charge-sheet itself would help the court to apply its mind to this aspect of the matter at a later stage during trial.

28.37 The Children Act (Central) envisages the following institutions :—

(*i*) Child Welfare Board	— to deal with neglected children.
(*ii*) Children's Home	— for the reception of neglected children.
(*iii*) Children's Court	— to deal with delinquent children.
(*iv*) Observation Home	—for the temporary reception of children pending inquiry.
(*v*) Special School	— for the reception of delinquent children.
(*vi*) After-care Organisations	— to take care of children after they leave the above-mentioned homes and school.

Similar institutions are envisaged in the Children's Act enacted in several States. Unfortunately these institutions have not been set up in full measure and therefore the Acts have remained ineffective, and the neglected and delinquent children have been denied the care and concern intended by those Acts. The statement in Appendix VII shows the position of these institutions in different States in 1978-79.

28.38 It may be noted that the Children Act provides for even private institutions to function as Children's Home, Observation Home, Special Schools and After-care Organization, but the involvement of volunteer social welfare agencies in fulfilling this purpose appears insignificant now. The attention of State Governments may be drawn to this matter for appropriate corrective action.

Juvenile Crime Squad

28.39 Juvenile Aid Police Units are reported to be functioning in some States, either as a part of the State CID or as a part of the local police set-up in Metropolitan towns and other urban centres. Their work is mostly in the nature of rounding up neglected children and getting them lodged in Children's Home, wherever available. They also generally deal with studies and analytical paper work arising from juvenile delinquency in their respective jurisdictions. Investigational work handled by them is relatively small. Most of the juveniles involved in crimes like burglaries and thefts, illicit liquor trade, etc., are dealt with by the regular uniformed police in their normal course of work, and are subjected to rough handling right from the moment they are caught till they are lodged in some custody authorised by the court. In most cases even this custody is to regular jails where juveniles are thrown together with hardened adult criminals and are exposed to innumerable acts of degradation and inhuman treatment. We have been told of some cases where juveniles were even subjected to unnatural offences during such custody. We find all this happening despite the mandatory provisions of sections 18 and 19 of the Children Act which forbid a child, *i.e.* a person less than 16 years of age from being held in custody in a police station or jail, and section 22 of the same Act which clearly prohibits the award of sentence of imprisonment to a delinquent child less than 14 years of age in any circumstances. At the level of police stations and even the trying magistrates' courts there is inadequate perception of the need for careful and soft handling of juvenile criminals. We recommend the establishment of Juvenile Crime Squads in urban areas to handle investigational work in a much more substantial manner than at present so that the police officers working in these squads may function after proper orientation and briefing and deal with all crimes involving juveniles. Crimes in which juveniles figure along with adult criminals may have to be dealt with by the regular police in the normal course, but even in their cases the Juvenile Crime Squad may keep itself informed of the background and circumstances in which the juvenile criminal came to be involved in the case. Our object in recommending more investigational work to be done by the Juvenile Crime Squads is to avoid the rough handling of juvenile criminals by the regular police in the course of their normal work which cannot be effectively corrected by more exhortations and circulars in the midst of the stress and strain of regular police work and the frequent interaction of the police with violent elements in society in their day-to-day work.

Adult promoters of juvenile gangs

28.40 It has been brought to our notice that the criminal activities of juveniles, particularly in urban centres, are sometimes actively promoted and aided by some adult criminals who remain in the background and exploit the poverty and helpless state of orphaned or otherwise neglected children and use them to commit crimes. There is presently no separate provision in law to deal with such adult promotors of juvenile gangs, except as abettors punishable under Chapter V of the Indian Penal Code. We consider that a more serious view should be taken of the activities of adult criminals who deliberately organise crimes by juveniles. We, therefore, recommend that an adult who is proved to have organised a gang of juvenile criminals or otherwise abetted the commission of crime by a juvenile should be held punishable under a separate section to be added to Chapter V of the Indian Penal Code which should provide for a more severe punishment than that stipulated for the main crime by the juvenile. The new section may also provide for the mandatory award of a minimum punishment, except for special reasons to be recorded by the Court.

Role of lawyers

28.41 We have already pointed out in para 28.13 the importance of the attitude and approach developed by the lawyer community as well as the judiciary in getting through the different processes in law for quick dispensation of justice. While the Advocates Act clearly specifies the role and responsibility of a lawyer towards his client, there does not appear appropriate emphasis on the lawyer's role for the overall dispensation of justice to society. In our view of the matter, a lawyer's responsibility towards his client has to be discharged within the framework of the overall requirements of justice to society. Any lawyer who deliberately adopts dilatory tactics to prolong the proceedings in court is, in our opinion, doing something against the interest of quick dispensation of justice to society. Similarly the conduct of any lawyer in becoming a party to the initiation of vexatious or malicious prosecution has to be viewed blameworthy from the point of view of justice to society. We feel compelled to make these observations because of some instances brought to our notice in which summonses and warrants were got issued from distant courts in one State to some persons residing in another State merely to involve them as parties to court proceedings and pressure them to secure the disposal of a private dispute with them. Even though the proceedings thus initiated may ultimately end in discharge or acquittal of the 'accused' party, he remains a victim of a lot of harassment and inconvenience during the pendency of protracted proceedings. From the information obtained from the Bar Council of India it appears that the number of instances in which disciplinary action has been taken against lawyers for professional misconduct is comparatively small, and the nature of misconduct mostly pertains to the transactions between the lawyer and his client and not to the lawyer's general conduct towards the criminal justice system as such. We recommend that the Bar Council of India may get this aspect examined and evolve some norms for determining a lawyer's conduct towards achieving the ultimate objective of the criminal justice system, namely the quick dispensation of justice not only to individuals but also to the society at large. It may even be desirable to amend the Advocates Act to specify the lawyer's role more pointedly for this purpose.

Criminal Justice Commission

28.42 In paragraph 14.14 of our Second Report we have already recommended the constitution of a Criminal Justice Commission at the Centre supported by a similar arrangement at the State level for monitoring and evaluating the performance of the criminal justice system as a whole. The arrangements for regular inspections of courts as mentioned in para 28.13 above and the satisfactory functioning of the Correctional Services *vis-a-vis* the Probation of Offenders Act and the Children Act in particular could be appropriately overseen by the proposed Criminal Justice Commission.

CHAPTER XXIX

PROSECUTING AGENCY

Cadre of Prosecutors

29.1 In the early years of development of the Indian police system, prosecution of cases in Magistrate courts was handled by select police officers, trained and employed as Prosecuting Sub-Inspectors or Prosecuting Inspectors. They were part and parcel of the district police set up. Prosecution of cases in Sessions Courts was handled by a functionary called Public Prosecutor appointed by the Government from the local Bar for a specified term. In due course a cadre of Assistant Public Prosecutors was developed to handle prosecution work before Magistrates. Persons qualified in law and having some experience at the Bar were recruited to this cadre and they functioned under the administrative control of the Superintendent of Police and the District Magistrate in each district. The Code of Criminal Procedure, 1973 has brought into effect a new scheme for the appointment of a Public Prosecutor at the State level for conducting any prosecution, appeal or other proceeding on behalf of the Government before the High Court, a Public Prosecutor and Additional Public Prosecutor at the district level for handling sessions cases and Assistant Public Prosecutors for conducting prosecutions in the courts of Magistrates. All these appointments are to be made by the State Government. The Central Government has concurrent power for appointing a Public Prosecutor to handle its cases before the High Court. Appointment of an experienced advocate from the Bar as a Special Public Prosecutor for the purposes of any particular case or class of cases by the Central Government or the State Government is also permissible under the Code.

Coordinated functioning of the Investigating staff and the Prosecuting agency

29.2 The ultimate success of police investigations depends on the efficiency of the prosecuting agency in marshalling the evidence and presenting it in court in a convincing and effective manner. The success of a prosecutor in handling this work depends on his mastery over the facts of the case as ascertained during investigation and his appreciation of the logical sequence and significance of the different bits of evidence for presentation in court. This calls for a good measure of cooperation and interaction between the investigating staff and the prosecuting agency when the case becomes ripe for laying charge sheet in court, and also during the entire process of trial in court. Their mutual cooperation and total involvement in the conduct of proceedings in court were effected easily when both were part and parcel of the district police set up in the old days. This relationship got somewhat loosened when a separate cadre of Assistant Public Prosecutors was created, but the overall supervision from the Superintendent of Police and the District Magistrate ensured continuance of cooperation and coordination between the two wings to a reasonable degree. With the coming into force of the Code of Criminal Procedure, 1973 a feeling appears to have grown among the prosecuting staff in States that they form an independent wing of the criminal justice system and do not come under the administrative purview of the police set up. This has led to a general weakening of the structure at the district level and lack of coordination between the subordinate prosecuting staff and the subordinate police officers actually concerned with the production of witnesses and marshalling of evidence in courts. An attempt was made in 1976 to clarify in the Cr.P.C. itself that the Government may bring the prosecuting staff under the administrative control of the Inspector General of Police. This amendment to Cr.P.C., though passed by the Rajya Sabha, ultimately did not become law because the then Lok Sabha was dissolved before it could consider the amendment. The amendments later passed by the next Lok Sabha in December, 1978 did not include this particular provision.

29.3 During our tours in States and discussions with judges, magistrates, general administrators, police officers, members of the bar and representative sections of the public, a point that was uniformly stressed by all was the growing lack of cooperation between the investigating officers and the prosecuting staff frequently resulting in the unpreparedness of the prosecuting staff to handle cases in court and the consequent delay in proceedings. Investigating officers and the prosecuting staff tend to blame each other for lack of interest in piloting cases properly in court. The present rate of conviction of important categories of offences prosecuted in courts is on the low side as may be seen from the statement in Appendix-VIII. From what we have seen and heard in several States we are convinced that an important reason for the failure of some cases in court is the existing lack of cooperation and team spirit between the investigating staff and the prosecuting agency. We are further convinced that this malady has remained despite exhortations and instructions from the Government and the administrative heads concerned through departmental manuals and circulars. We find it necessary to evolve a new arrangement and institutionalise it on a proper footing to secure the required measure of coordinated functioning of both the wings for the successful conduct of prosecutions in court.

Service Conditions

29.4 The generally unsatisfactory performance of the prosecuting staff is also linked with the fact that their service conditions are not good enough to attract

good talent from the Bar to join the cadre of Assistant Public Prosecutors, and the lack of facilities like accommodation, library and clerical assistance for handling a variety of work connected with prosecutions in court. There is also no efficient system of supervision at the district level over the day to day work of Assistant Public Prosecutors. Appointments to the level of Public Prosecutor from the local Bar are mostly made under directions from the political executive, and the Public Prosecutors so appointed do not always carry with them adequate professional ability and competence to enthuse the subordinate prosecuting staff with appropriate advice and guidance in specific cases. We notice in this context that the amendment to Cr.P.C. effected in December, 1978 will now ensure the appointment of Public Prosecutors by promotion from the cadre of Assistant Public Prosecutors and therefore the system of short term appointment of Public Prosecutors from local lawyers would cease when the present incumbents complete their term. We consider this a welcome reform.

29.5 We proceed to detail in the following paragraphs the important requirements of the prosecuting agency set up to avoid the existing deficiencies as mentioned earlier.

Prosecuting agency—New set up

29.6 The post of Assistant Public Prosecutors, Additional Public Prosecutors and Public Prosecutors should be so designed as to provide a regular career structure for the incumbents for the entire State as one unit.

29.7 The Public Prosecutor in a district should be made responsible for the efficient functioning of the subordinate prosecuting staff in the district and he should have the necessary supervisory control over them for this purpose. He should also be provided with appropriate office accommodation, library and a small ministerial staff to perform this supervisory role effectively.

Prosecutor's role as Legal Adviser

29.8 The Public Prosecutor and the subordinate prosecuting staff should be made responsible not only for conducting prosecution in courts but also for giving legal advice to police in any matter, general or special, arising from investigations and trials. For the latter purpose, the role of the prosecuting staff will be that of a Legal Adviser. This role may be emphasized in departmental instructions governing the working of the prosecuting staff. If considered necessary from the legal point of view, a suitable section may also be incorporated in the Cr.P.C. to specify this role.

Supervisory structure

29.9 A supervisory structure over the district prosecuting staff should be developed with Deputy Directors of Prosecution at the regional level and a Director of Prosecution at the State level. While we consider it necessary to mesh the prosecuting agency set up with the police set up to ensure active cooperation and coordinated functioning in the field in day to day work, we also consider it important that the assessment of evidence collected during investigation and the handling of prosecution work at the district level should be as much detached and objective as possible and free from local departmental or other pressure which might arise from a variety of considerations. We, therefore, recommend that the meshing of the two hierarchies may be effected from the regional level upwards, with the Deputy Director of Prosecution placed under the administrative purview of the Range Deputy Inspector General of Police, and the Director of Prosecution at the State level functioning under the administrative control of the Inspector General of Police. In fact, the Director of Prosecution should function as the head of the legal wing of the State police set up. We are convinced that such an arrangement is absolutely necessary to bring about close coordination and cooperation between the prosecuting staff and the investigating staff down the line and also enable a joint monitoring and evaluation of their performance from time to time. The arrangement as envisaged above would also ensure professional accountability at all levels.

29.10 To bring about an additional measure of objectivity and detachment in the functioning of the legal wing, it may be laid down that the post of Director of Prosecution shall be filled on deputation basis for a specified term by drawing officers of appropriate rank on deputation from the law department or the State judiciary. There can be an additional post at the State level called the Additional Director of Prosecution which will be the highest career post available for the regular prosecuting cadres to reach by promotion.

Recruitment

29.11 The posts of Assistant Public Prosecutor may be categorised under two grades, I and II. In the initial few years of the new scheme direct recruitment may have to be made at the levels of Assistant Public Prosecutor Grade II and Deputy Director of Prosecution. After the recruits gain experience in handling different types of prosecution and other legal work, direct recruitment may ultimately be confined to the level of Assistant Public Prosecutor Grade II, and thereafter posting will be by promotion to the ranks of Assistant Public Prosecutor Grade I, Public Prosecutor (including Additional Public Prosecutor), Deputy Director of Prosecution and Additional Director of Prosecution.

29.12 The minimum qualification and experience that may be prescribed for various categories of prosecutors and suggested below :—

Sl. No.	Name of the post	Minimum years of practice or experience
1.	Assistant Public Prosecutor, Gr. II	Three years of experience at the Bar.
2.	Assistant Public Prosecutor, Gr. I	Five years practice at the Bar or five years experience as a judicial officer.

Sl. No.	Name of the post	Minimum years of practice or experience
3.	Additional Public Prosecutor	Seven years practice at the Bar or seven years experience as a judicial officer.
4.	Public Prosecutor	—do—
5.	Deputy Director of Prosecution	Seven years practice at the Bar or seven years experience as a judicial officer of which at least three years should be as a Sessions Judge or three years experience as Additional Public Prosecutor or Public Prosecutor.
6.	Director of Prosecution and Additional Director of Prosecution	Ten years practice at the Bar or ten years experience as a judicial officer of which at least five years should be as a Sessions Judge or three years experience as Deputy Director.

29.13 Pay scales and service conditions of the prosecuting staff may be so determined as to be sufficiently attractive for good talent from the Bar to seek appointment in the cadre. The scope for promotional rise to the top post at the State level *i.e.* Additional Director of Prosecution would prove a good attraction. The police ranks to which the different ranks in the prosecution set up may be held comparable are indicated below :—

Director of Prosecution	Special Inspector General of Police or Additional Inspector General of Police.
Additional Director of Prosecution	Deputy Inspector General of Police.
Deputy Director of Prosecution	Superintendent of Police (Selection Grade).
Public Prosecutor (at the district level)	Additional Superintendent of police.
Assistant Public Prosecutor, Gr. I	Deputy Superintendent of Police.
Assistant Public Prosecutor, Gr. II	Inspector of Police.

Training

29.14 Apart from the initial training of Assistant Pubic Prosecutors which should include adequate instructions to enable them understand the details of police working, particularly in regard to investigations, there should also be periodic in-service training to make them upto date in their knowledge of police methodology and case law.

29.15 The prosecuting staff would normally become aware of the facts of case when it gets ripe for laying charge sheet and the prosecuting staff are consulted for that purpose. At that stage it shall be the duty of the prosecuting staff to scrutinise carefully the course of investigation, assess the evidence gathered, identify points that may require further clarification by securing additional evidence which may be available and generally ensure the completeness of the investigational work. While the prosecuting staff will be entitled to give their advice and opinion freely in specific cases, the decision regarding the laying of charge sheet in the case shall be the responsibility of the investigating agency.

29.16 Apart from the availability of the services of the prosecuting staff to scrutinise the evidence and tender advice, if any, regarding further investigation when the case gets ripe for laying charge sheet, there would be need for a whole time functionary of the rank of Assistant Public Prosecutor Grade I free from prosecution work in courts to function as the legal adviser to the Superintendent of Police in each district for giving him legal opinion and advice in specific cases as also other general matters relating to criminal work in the district from time to time. The Deputy Director of Prosecution at the regional level and the Additional Director of Prosecution and the Director of Prosecution at the State level shall perform a similar role to aid and advise the Deputy Inspector General of Police and Inspector General of Police respectively.

Amendment to Section 25 Cr. P.C.

29.17 The constitution of the prosecuting cadres into a separate legal wing to function under a Director of Prosecution as an integral part of the State police set up as envisaged in the above scheme might require an amendment of section 25 Cr. P.C. on the lines adopted in the Criminal Procedure Code (Amendment) Bill, 1976 that was passed by the Rajya Sabha. We recommend that after the existing sub-section (3) in section 25, the following may be added as sub-section (4) :—

> "(4) Nothing contained in this section shall preclude the State Government from conferring on the Inspector General of Police and Deputy Inspectors General of Police the powers of administrative control and supervision over the Public Prosecutor, Additional Public Prosecutor and Assistant Public Prosecutors appointed by it."

We understand that the Uttar Pradesh Government has already enacted a similar amendment as a local amendment for the State.

CHAPTER XXX

INDUSTRIAL DISPUTES

Labour Legislation

30.1 India has a record of very progressive labour legislation dating from pre-Independence days. The Workmen's Compensation Act 1923, Trade Unions Act 1926, Payment of Wages Act 1936, Industrial Disputes Act 1947, Factories Act 1948, Minimum Wages Act 1948, Employees State Insurance Act 1948, Payment of Bonus Act 1965, Contract Labour (Regulation and Abolition) Act 1970 and Bonded Labour System (Abolition) Act 1976, may be mentioned among the important labour laws meant to protect the labour from exploitation, secure their interests and ensure their welfare. The Industrial Relations Bill which was introduced in Parliament in August 1978 and is now under consideration is meant to provide a comprehensive labour legislation to meet the requirements as gauged from the experience in the recent years. Cordial relations between the management and the labour are as important as material economic inputs for the growth of industry with increased production of goods of improved quality to benefit the community at large. In the evolution of industrial relations in a socialist democracy there has to be a proper balancing of the interests of labour, owners of industry and the consumer so that there can be quick economic growth accompanied by an even flow of benefits of such growth to all the three parties. It has, however, happened that the industrial development in the country has witnessed increasing number of conflict situations between the management and the labour, each tending to take a rigid stand to promote the interests of one to the exclusion of the other, instead of consensus situations which would promote the interests of both as well as the community at large.

Industrial dispute—Strikes and lock-outs

30.2 An 'Industrial dispute' as defined in the Industrial Disputes Act, 1947 means 'any dispute or difference between employees and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person'. This Act provides several agencies like Works Committees, Conciliation Officers, Boards of Conciliation, Courts of Inquiry, Labour Courts and Tribunals to resolve a variety of industrial disputes. But in the perception of the labour, the formal and legal exercises before such bodies are viewed as time consuming and cumbersome where the management is at an advantage with assistance and advice from legal experts and can also afford a prolonged legal battle without any financial difficulty. This circumstance makes the labour feel that they have a better alternative to secure their objectives quickly by coercive and pressure tactics in the form of strikes or other demonstrations and agitations supported by their muscle power. The multiplicity of trade unions also induces minority groups to adopt militant postures to secure bargaining powers which may not be available to them on the strength of their mere numbers. Industrial disputes have, therefore, increasingly tended to become focal points for trial of strength between the lobaur and management and also between the labour unions. The pattern of strikes and lock-outs arising from such disputes may be seen in the Statement in Appendix IX. Labour unrest following strikes and lock-outs has also tended to result in violence, ultimately affecting the very maintenance of public order in the locality concerned. When an industrial dispute crosses the limits of democratic and accepted legal forms and gets into areas of violence and breaches of public order, it immediately atracts police attention under the law, and the police are required to respond to the situation for effective maintenance of law and order.

Police intervention—Norms

30.3 Police intervention in a situation of conflict between the labour and the management, even though it be for the sole purpose of maintaining public order as such, is viewed by the labour as an act meant to stifle their legitimate trade union activity and to protest the interests of the management. On the other hand the management are inclined to feel that police action is not sufficiently effective to secure for the management the protection they feel they are entitled to under the law. Police response in all such situations has therefore to be very carefully determined and then put into operation in a manner which would command the confidence and trust of both parties to the dispute. While evolving norms for determining this response we have to remember that the ultimate objective of all the conciliation exercises envisaged in various labour laws is to promote industrial harmony. This harmony cannot be satisfactorily brought about by any action which makes one party feel that the other party has contrived to gain an undue advantage by adopting militant postures and resorting to coercive and pressure tactics. Maintenance of order accompanied by quick and effective prevention of crime, particularly crimes involving violence, in a conflict situation is very necessary for removing the elements of coercion and pressure from the conflict atmosphere. By the removal of such factors the ground would get cleared for the parties concerned to discuss the issues involved in a calm and free atmosphere where concern and consideration would replace anger and distrust. Police role and responsibility for maintaining law and

order in labour dispute situations should, in our view, be largely guided by the above objective to bring the agitated contending parties to normal levels of thinking in which they would be able to evolve a constructive approach for settlement of their disputes to mutual satisfaction. We proceed to identify some typical labour dispute situations which may call for police intervention and set out the norms for determining police response in such situations.

Intelligence

30.4 A fundamental requirement for proper planning of police action in any industrial dispute situation is the availability of a variety of basic data at the district level relating to all industrial establishments in the district. These data should include the total number of industrial establishments in the district, their individual identity, the layout of the establishments and the location of vital and sensitive installations therein, the number of workers in each establishment, number of unions with their membership, the political and social affiliation of the unions, the identity of union leaders, a historic account of past strikes and other forms of agitations in the industrial establishment, an up-to-date account of agreements entered into or the awards enforced in these establishments, an account of the important court proceedings embarked upon by the labour and management, etc. Besides such information relating to the personnel, it would also be necessary to compile information about the nature of products manufactured by the industrial establishments, the normal channels of their transport and the end point of their release for use by consumers or some other industry or for export, the sensitive nature of the products from the point of view of the security needs of the country, etc. The police should have all this information on an on-going basis so that in the event of an industrial dispute they would have a full picture of what they are expected to protect and whom they are expected to deal with. Responsibility for compiling these basic data and information should be taken on by a special cell of the Intelligence wing at the district level under the Superintendent of Police. A similar cell in the Intelligence branch of the CID at State headquarters should cover major industrial establishments which may give rise to industrial disputes having ramifications over more than one district. Industrial establishments in the public sector, both Central and State, should also be covered by these cells for this purpose. The most important point in the working of these cells would be the constant updating of the information collected from time to time and, what is more, their dissemination to the various operative units at the sub-division, circle and police station level at regular intervals.

30.5 Besides collecting the basic data and information as detailed above, these cells should also collect intelligence about matters that arise in the day-to-day working of the establishments which generate friction between the labour and management. Timely knowledge of such matters would help the police to anticipate crisis situations and be adequately prepared to deal with them. It is, however, important to note that collection of intelligence on such matters is not meant to secure police intervention as such in these disputes unless there is a distinct public order angle. Intelligence gathered in such matters from time to time should be passed on to the appropriate labour authorities to enable their timely intervention for sorting out the problems within the framework of various labour laws before they explode into violent confrontations.

30.6 When a specific labour dispute arises and tension begins to build up it would be necessary to augment the above-mentioned intelligence cells with special teams at the local level for collecting intelligence in depth about the likely agitationist plans of the organisers. Intelligence collected by the local teams would be of great help when the need arises for actual police intervention at some point of time in the course of the dispute.

Gate meetings

30.7 Gate meetings frequently provide occasion for union leaders to address the workers on specific issues and exhort them to agitate in different forms. Trade union rivalry also gets reflected at the forum of these meetings when one union attempts to draw more workers to its side by criticising and belittling the performance of other unions. Management also get frequently criticised at such meetings in abusive and provocative terms and they would, there, be inclined to seek police intervention to prevent such meetings. Since the propagation of views and ideas at such meetings is an accepted part of the normal trade union activity, it would not be proper for the police to interfere with such meetings to the extent of totally prohibiting them, unless there are well documented reasons for taking such an extreme step. In the normal course police presence at such meetings should be for the purpose of keeping themselves informed of the trends of ideas expressed and the measure of support extended by workers, and to prevent the commission of any cognizable offence on the spot. Police presence at such meetings should be in sufficient strength to achieve this preventive effect.

Collection day

30.8 The same principle should be followed in dealing with situations arising from collection of subscriptions by different unions on the collection day. Police action should not be seen as promoting or discouraging the collection of subscriptions by one union or the other.

30.9 When specific crimes are committed in the course of gate meetings or collection of subscriptions, the normal processes under the law should be set in motion immediately and the offenders should be brought to book. Police should take care that their action in such specific cases does not draw the criticism that they are soft towards one union and harsh towards another. A high degree of impartiality and objectivity should attend police action in all such cases.

Security in workers' colonies

30.10 Workers' colonies exist as a separte housing complex in several large industrial establishments. In a situation arising from strikes or other forms of

agitations, a feeling of insecurity is likely to develop in the workers' colonies, particularly when the strike gets prolonged and the families of workers get pressured by intimidatory tactics by one or the other of the rival groups including the management. A similar situation might arise around the residences of individual members of the management which may be located near the workers' colonies of nearby town area. While a situation within the precincts of a factory might be deemed to be directly connected with legitimate trade union activity and would, therefore, require to be treated on a special footing as far as police response is concerned, maintenance of order and a feeling of security among the residents in workers' colonies or the residences of individual members of the management should be treated as a public order problem as in any other locality and appropriate police action taken to deal with mischief makers. Here again, police presence should be in sufficient strength to achieve the desired preventive effect.

Security of vital installations

30.11 Providing security to the property of industrial establishments in a strike situation may pose some problems for the police. Citing this need the management of the industrial establishment might try to bring about large police presence at a certain point within the factory to make it appear that the police are available at the call of the management to deal with the recalcitrant labour. While it is important to ensure the security of sensitive and vital installations within the establishment damage to which might eventually mean a big public loss, it is equally important to avoid unnecessary police presence in those areas of the establishment which are not sensitive from this angle, because it might give the impression of undue police proximity to the seat of management in the establishment. For example, the blast furnace in a factory might be a sensitive point from the security angle while the office of the Plant Manager might be deemed sensitive by the management from their point of view of maintaining a command over the labour. While police presence to provide security for the blast furnace would be fully justified from the public point of view, undue presence of police near the office premises might be misconstrued by the labour as an action to provide moral and physical support to the management as against the labour. Posting of police personnel for providing security to specified installations in an industrial establishment in a strike situation should, therefore, be carefully determined by the police themselves on the basis of their own intelligence and appreciation of public interest.

Picketing

30.12 Picketing is recognised as a legitimate part of trade union activity in a strike situation so long as it is confined to verbal persuasion and appeal to workers to stay away from work. But when picketing is accompanied by violence, obstruction, intimidation or overt interference, it becomes an offence punishable under section 7 of the Criminal Law (Amendment) Act, 1935, and the police usually resort to this section for dealing with picketeers who indulge in violence. On general question whether police should give protection to any worker or group of workers who wish to work without joining the strike, our view is that the police are duty-bound to give this protection to any worker who expresses the desire to work and seeks protection to do so. Police action in this regard should, however, be related to the desire expressed by the worker himself and not to his reported willingness as communicated to the police by the management. Police presence in such a situation should be in adequate strength and spread to create confidence in the availability of protection to individual workers who desire to work and seek protection as above. The need for such protection would be most keenly felt at the point of entry into the factory and exit therefrom, and police should specially ensure protection at those points.

Recruitment of new workers

30.13 In a prolonged strike situation, the management may some times resort to the recruitment of new workers in an attempt to break the strike. While we recognise that any person, whether a new recruit or old worker, has the right to seek opportunity for doing work of his choice, we consider that any action taken by the police to give protection to new recruits for exercising this right in a strike situation might operationally amount to undue police interference in favour of the management to break the strike. We are, therefore, of the view that when the management try to bring in new recruits police action should not be in the nature of giving them individual protection to enter the factory but should be confined to action under the law if and when specific offences get committed in the confrontation that might ensue between the striking workers and the new recruits.

Removal of goods

30.14 The management may some times attempt to remove finished or unfinished goods from the factory premises in a strike situation and this may be resisted by the striking workers. Some grounds advanced by the management for removing goods from the factory are furnished below :—

(a) The finished goods are required to be exported to fulfil contractual obligations and to keep up the export earnings of the industry and the country.

(b) The goods sought to be removed are essential either by themselves or as inputs for the defence needs of the country.

(c) The goods are of a perishable nature and unless they are taken out and disposed of they would be damaged, causing considerable loss to the industry.

(d) If some goods which are essential inputs for other industries are not removed from the factory and are not made available to other units, then those establishments would also cease to function and thus create problems for the workers of such establishments.

30.15 The Kerala Police Reorganisation Committee (1960) which had examined this question at some length had concluded that "the existing law conferring the right on employers to remove the goods should continue". We are in agreement with this view and would recommend that police action in such situation should ensure adequate protection for the removal of goods, provided one or the other of the grounds mentioned in para 30.14 above is satisfied. If, however, under the cover of removal of goods, the management attempt to remove substantial parts of the machinery or other equipment in order to revive their activity elsewhere, it would be beyond the norms mentioned above and, therefore, police action in such a situation should not be in the nature of preventive or protective action but should be related to specific offences, if and when they occur in the course of removal of such machinery or other equipment and the obstruction thereto by the striking workers.

Sit-in strike

30.16 Sometimes workers indulge in wild-cat strikes and peremptorily lay down tools while actually working during a shift inside the factory. While their continued presence within the factory premises during their shift period may not by itself provide ground for police action in the strike situation, the refusal of such workers to leave the factory premises even after their shift period is over should be deemed as criminal trespass and they should be dealt with by the police accordingly under the law.

Gherao

30.17 Gheraos, which generate considerable tension in industrial disputes, are increasingly resorted to by striking workers, particularly when strikes are prolonged and the contending parties do not show any inclination to compromise. In the case of Jay Engineering Works Ltd., and others *vs.* State of West Bengal and others dealt with by the Calcutta High Court (AIR 1968 Calcutta 407) "gherao" has been defined as a "a physical blockade of a target, either by encirclement intended to blockade the egress and ingress from and to a particular office, workshop, factory or even residence, or forcible occupation. The 'target' may be a place or a person or persons, usually the managerial or supervisory staff of an industrial establishment. The blockade may be complete or partial and is invariably accompanied by wrongful restraint, and/or wrongful confinement and occasionally accompanied by assault, criminal trespass, mischief to person and property, unlawful assembly and various other criminal offences."

Police response to gherao

30.18 The main purpose of a band of workers encircling a member of the management is to compel him to concede their demands on the spot. A large body of men confining an individual in a small room, often without food or water or without any facilities for communicating with the outside world for long spells of time creates considerable anxiety, tension and a serious apprehension regarding his personal safety in the mind of the person concerned. The encircled person practically remains entirely at the mercy of those around him and is deprived of his personal liberty. Several cognizable offences like wrongful restraint wrongful confinement, etc., are committed in the course of a gherao and, therefore, a gherao should be deemed a cognizable crime. In the case referred to above, the Calcutta High Court held that executive instructions issued by the Government to the police regarding the handling of gheraos cannot in any way restrict or circumscribe the responsibility of the police to act as required under the law in regard to cognizable offences arising from the gherao. (A copy of this judgment in full is furnished in Appendix V of our Second Report). We have been told that in spite of this clear position in law, there are occasions when police show hesitancy in dealing with gheraos either because they have informal instructions not to act in given situations, or they feel that their action might create complications and prolong the labour dispute. We would like to emphasize here that in a gherao situation the police should unhesitatingly discharge their duty as laid down in law.

30.19 Police action in respect of gheraos as also in respect of sit-in strikes as mentioned in paragraph 30.16 above would consist of the following two parts :—

(i) Registering a First Information Report in respect of the cognizable crimes committed and documenting the investigation thereon.

(ii) Lifting the gherao by the physical removal of persons doing the gherao or eviction of the sit-in strikers as the case may be.

The first part would present no difficulty, but the second part would require careful operation in the field. In exercise of their powers under section 149 Cr. P.C. for preventing the commission of any cognizable offence, the police may physically remove the persons doing the gherao. They may even arrest the persons who have committed specific offences in the gherao situation and remove them for production before a Magistrate. In some cases, when faced with violent defiance, it may even become necessary for the police to declare the gathering of persons doing the gherao as unlawful and proceed to disperse them as members of an unlawful assembly. Before embarking on the operation of removal, arrest or dispersal of unlawful assembly as might be warranted by the situation, the police should, subject to the exigencies on the spot, satisfy themselves that all other processes of persuasion, appeal and conciliatory measures have been tried and exhausted.

Withdrawal of cases from Court

30.20 Specific cognizable crimes committed in the course of an industrial dispute may later got prosecuted in court on conclusion of investigation by police. It has become a practice with the administrators to withdraw such cases from court after the industrial dispute is settled. In fact, in many instances the very agreement to withdraw cases would form part of the

settlement. We have already expressed our views on the general question of withdrawal of criminal cases from court in paragraph 28.29 of this Report, and recommended a revised arrangement in law for the withdrawal of a criminal case to be sought only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. We believe that the revised procedure would ensure that criminal cases arising from industrial disputes are not light-heartedly withdrawn from court on extraneous considerations. There is urgent need to stop the growing feeling among the agitating sections of the public that they can commit crimes with impunity an later get away without any punishment by seeking executive interference on their behalf.

Conduct of police officers

30.21 We have already pointed out the need for police action in industrial disputes to conform to the highest standards of objectivity, impartiality and integrity. In this context, it is important that police officers, particularly the senior officers at the commanding levels, avoid doing anything which may give the impression to the labour that the officers are unduly obliged to the management on account of facilities like transport, guest house and other entertainment freely provided by the management and readily accepted and enjoyed by the officers.

Essential services

30.22 Strikes and lockouts in a public utility service as defined in Section 2(n) of the Industrial Disputes Act, 1947 are subjected to more restrictions than applicable to strikes and lockouts in other industrial establishments. Yet, strikes in public utility services have become a common feature in the country. When the maintenance of an essential service like communications, transport or supply of electricity/water is threatened by an impending strike by the workers concerned, Government ususally resorts to a special law or ordinance for totally prohibiting a strike in the service concerned. When once the strike in a service gets totally prohibited under the law, the police role and respopnsibility for dealing with the strikers will have to conform to special norms different from what has been explained above in regard to normal industrial dispute. Police action while dealing with strikers in an essential service in which strikes are totally banned would include—

(i) preventive action against organisers of the strike,

(ii) prompt registration of cases arising from cognizable crimes and the arrest of the offenders concerned.

(iii) giving protection to loyal workers, and

(iv) giving protection to fresh recruits or the personnel drawn from other units like the territorial army, home guards etc., for the performance of essential jobs.

The primary objective before the police in such situations should be to keep the essential services going and they should not hesitate to take whatever action is permissible under the law to secure this objective.

Public Sector

30.23 Employees covered by public sector undertakings have increased in number considerably in the recent years. While they formed 60.02% of the total work-force in the private sector and public sector put together in 1968, their percentage rose to 67.2 in 1978. Strikes by employees in public sector have also shown an increasing trend. There were 368 strikes/lockouts in public sector in 1968 which formed 13.9% of all strikes/lockouts. The corresponding figures in 1978 were 947 and 29.7%. We would like to observe that the norms for determining police response to an industrial dispute should be the same whether it relates to the public sector or private sector. A change in the norms would be justified only when a particular service whether in the public sector or private sector gets declared as an 'Essential Service' under a special law and strikes in that service get totally prohibited under the law. The changed norms are indicated in paragraph 30.22 above.

Central Industrial Security Force

30.24 The Central Industrial Security Force (CISF) has a statutory role and responsibility for the security of the machinery and other equipment and property in certain public sector undertakings which are covered by this force. In a labour dispute situation in such a public undertaking, the police may, in the normal course, be able to take the assistance of the CISF personnel to provide guards for the sensitive vital installations in the establishment. Where, however, the personnel of the CISF themselves become a party to a strike situation or are likely to be wantonly negligent or indifferent in the performance of their duties because of their sympathy with the other striking workers, the police will have an additional responsibility to provide security to the sensitive and vital installations of the establishment. The nature and extent of security cover for such installations to be provided by the police in replacement of the CISF should be decided sufficiently in advance by mutual consultations between the police and the management of the undertaking, also taking into account the intelligence gathered by the police themselves regarding the attitude and involvement of the CISF in this regard.

Policemen's associations

30.25 In laying down norms for police response to industrial dispute situations we have also to take into account the fact that the formation and functioning of Policemen's Associations in the recent years are likely to influence and condition the attitude of police personnel towards striking workers. A general feeling of sympathy might be generated among the policemen towards the striking workers and a feeling might get induced that nothing should be done to weaken the power of strike as a weapon for collective bargaining. To secure uniformity and effectiveness of police approach to the problem of handling labour dispute situations, it would be necessary for the senior officers at commanding levels to apprise the police personnel

individually and also collectively through their Associations wherever they exist about the norms as detailed above in our recommendations and ensure their understanding by the police system as a whole for maintaining their position and prestige as a law enforcement agency. Any attempt made to involve the police personnel in an *ad hoc* disposal of a labour dispute situation in an illegal or irregular manner without conforming to accepted norms is likely to complicate matters and weaken the command structure of the police. We would like to stress the importance of this point while concluding this Chapter.

CHAPTER XXXI

AGRARIAN PROBLEMS

Agrarian Scene

31.1 Agrarian problems have increasingly tended to draw police attention from the angle of maintenance of public order, particularly from the sixties. Persistence of serious social and economic inequities in the rural areas has frequently generated tensions between different classes and posed problems for the police. Several political parties have shown interest in agrarian agitations for extending their areas of influence. Activities of a group of extremists—who later came to be called Naxalites—started in West Bengal in 1967 as a violent movement for the forcible occupation of the land of Jotedars in Naxalbari. Land grab agitation was organised on an all India basis by a political party in 1970-71. Country-wide developments in the recent years have seen the peasantry establishing their identity and emerging as a strong force with potential for channelising political appeal and influencing the course of elections. Their increasing involvement in political battles has also been creating conflict situations on the agrarian scene.

Cultivators and agricultural labourers

31.2 The working population of India according to 1971 census was about 18.05 crores of which 10% was in the organised sector and the rest in the traditional sector. Cultivators and agricultural labourers form the bulk of workers in the traditional sector—43.38% and 26.32% respectively.

The following table gives the break-up of the working population according to activity :—

DISTRIBUTION OF WORKING POPULATION
(1971 CENSUS)

Category	Number (In lakhs)	Percentage share in total population
Total population	5,482	100.00
A. Population of workers	1,805	32.92
(*i*) Cultivators	783	14.28
(*ii*) Agricultural labourers	475	8.66
(*iii*) Livestock, forestry, fishing, hunting and plantations, orchids and allied activities	43	0.78
(*iv*) Mining and quarrying	9	0.17
(*v*) (*a*) Household industry	63	1.16
(*b*) Other than household industry	108	1.96
(*vi*) Construction	22	0.40
(*vii*) Trade and Commerce	101	1.83
(*viii*) Transport, storage and communications	44	0.80
(*ix*) Other services	157	2.88
B. Population of non-workers	3,677	67.08

NOTE :—According to the census publications—

(*i*) 'Worker' is a person whose main activity is participation in any economically productive work by his physical or mental activity. Work involves not only actual work but also effective supervision and direction of work.

(*ii*) 'Non-worker' is a person not categorised as a 'worker' as defined above and includes persons basically engaged in unpaid house-hold duties, students, persons who have retired from servic and are doing no other work, dependents and the like.

Most of the legislation enacted by the Government for the welfare of workers relates to workers in the organised sector. A number of Social Security Schemes are also in operation for these workers. A few Acts like the Minimum Wages Act, 1948 have also been framed for the unorganised sector but the workers of this sector are handicapped by lack of sufficient knowledge about such legislation to secure all the intended benefit therefrom.

Land Policy

31.3 The two main and inter-related objectives of the State land policy as laid down in the First Five Year Plan and reiterated in the subsequent Plans were—

(a) to remove such motivational and other impediments to increase in agricultural production as arise from the agrarian structure and to create conditions conducive to an agricultural economy with high levels of efficiency and productivity; and

(b) to eliminate elements of exploitation and social injustice within the agrarian system so as to provide a sound basis for the evolution of a democratic society in the rural areas.

In the Fourth Five Year Plan the emphasis was on all-out support for the new strategy of production in agriculture by ensuring complete security for the tenant and the share-cropper and enabling him to participate effectively in the agricultural production programmes, and by making concerted efforts towards enforcement of ceilings on land holdings.

Land reform legislation

31.4 In pursuance of this broad policy approach, land reform legislation has been put through in most States to secure the following :—

(1) Abolition of intermediary tenures.

(2) Reform of the tenancy system including—

(a) fixation of fair rent at 1/5th to 1/4th of the produce ;

(b) security of tenure for the tenant ; and

(c) measures for enabling the tenant to come in direct relationship with the State and acquire ownership of land.

(3) Ceiling on land holdings.

(4) Re-settlement of landless agricultural workers.

(5) Consolidation of fragmented holdings and reorganisation of the small farm economy.

However, in the actual implementation of land reform legislation several loopholes were taken advantage of by vested interests to perpetuate the existing inequities. The land owning community retained large tracts of land under their effective control under the guise of resuming land for self-cultivation which was permissible in law, and self-cultivation for this purpose was deemed to include cultivation through hired labourers. The law of ceiling on land holdings by individuals was effectively circumvented by the partitioning of landed property among members of the same family and dependent relatives, with the result that no land emerged as surplus for disposal outside the family domain. According to the Twenty-sixth Round of National Sample Survey (July, 1971—September, 1972), 54.91% of households in the country owned land of area less than 1 acre per household, and the total area owned by them constituted 2.21% of the total area of holdings in the country, while 4.38% of households held areas of more than 15 acres each and the total area held by them amounted to 39.43% of the total area of holdings in the country. It has to be admitted that the land reform measures so far spelt out and implemented have not had the desired impact for the removal of inequalities and injustice on the agrarian front. This is mainly because those administering the reforms had no interest in doing so and were very much in favour of maintaining the *status quo*. The reforms were only lip-service to an ideology which had to be professed for political purposes. In this context we would like to quote from the Report of the Task Force on Agrarian Relations set-up by the Planning Commission in 1972 for appraising the progress and problems of land reform and working out the Fifth Plan proposals. Referring to the implementation of land reform, the Task Force said :

'The programmes which could have led to a radical change in the agrarian structure and the elimination of some of the elements of exploitation in the agrarian system and ushered in a measure of distributive justice were those of tenancy reform, ceiling on agricultural holdings and distribution of land to the landless and small-holders. As already pointed out these programmes cannot be said to have succeeded. Highly exploitative tenancy in the form of crop-sharing still prevails in large parts of the country. Such tenancy arrangements have not only resulted in the perpetuation of social and economic injustice but have also become insurmountable hurdles in the path of the spread of modern technology and improved agricultural practices. Thus the overall assessment has to be that programmes of land reforms adopted since Independence have failed to bring about the required changes in the agrarian structure'.

(Paragraph 1.7)

'Enactment of progressive measures of land reform and their efficient implementation call for hard political decisions and effective political support, direction and control. In the context of the socio-economic conditions prevailing in the rural areas of the country, no tangible progress can be expected in the field of land reform in the absence of the requisite political will. The sad truth is that this crucial factor has been wanting. The lack of political will is amply demonstrated by the large gaps between policy and legislation and between law and its implementation. In no sphere of public activity in our country since Independence has the *hiatus* between precept and practice, between policy-pronouncements and actual execution, been as great as in the domain of land reform. With resolute and unambiguous political will all the other shortcomings and difficulties could have been overcome ; in the absence of such will even minor obstacles became formidable road blocks in the path of Indian land reform. Considering the character of the political power structure obtaining in the country it was only natural that the required political will was not forthcoming'.

(Paragraph 2.1)

'The attitude of the bureaucracy towards the implementation of land reform is generally luke-warm, and often apathetic. This is, of course, inevitable because, as in the case of the men who wield political power, those in the higher echelons of the administration also are substantial landowners themselves or they have close links with big landowners. The village functionaries like Patwaries, karmacharies, karnams, samogs, Talatis, etc. are invariably petty landowners. They are also under the away of big landowners. No State has taken necessary steps to forge a suitable administrative organisation and keep it in proper trim by systematic in-service training and periodic orientation courses. Nor has any conscious effort been made to post able and dedicated men with faith in land reform to key positions in the administrative set-up. As a matter of fact there have been cases where administrators who tried to implement land reform laws honestly and efficiently were hastily transferred elsewhere. In the result, practically in every State, the administrative organization has proved to be an inadequate instrument for

the speedy and efficient implementation of land reforms'.

(Paragraph 2.3)

Agricultural Labour—Scheduled Castes

31.5 Agricultural labour is mixed with such occupational categories as share-croppers, cultivators, construction workers and other unskilled rural labour. Socially, it cuts across all peasant groups in villages, but consists mainly of two dominant social groups, Scheduled Castes and Scheduled Tribes. According to a study conducted by the Research and Policy Division of the Ministry of Home Affairs in 1969, out of the population of 64.4 million Scheduled Castes as many as 57.6 million live and work in rural areas ; similarly out of 29.8 million Scheduled Tribes, 29.1 million work and live in rural areas. The Scheduled Castes do not form a resident majority group in any part of the country but live interspersed with other sections of the population. They constitute more than 20% of the population in 666 talukas. On the other hand, the Scheduled Tribes live as majority groups in 329 talukas. In fact, there are three States of Nagaland, Manipur and Meghalaya and three Union Territories of Arunachal Pradesh, Dadra and Nagar Haveli and Mizoram where the overwhelming majority of the population belongs to Scheduled Tribes. While a large number of Scheduled Castes earn their livelihood by working as agricultural labourers, the Scheduled Tribes are by and large a self-cultivating class. Agrarian problems of the Scheduled Castes are related to insecurity of employment low wages and grossly unjust treatment at the hands of the land owning community in a variety of ways. The problems of the Scheduled Tribes arise from the intrusion and exploitation by non-tribals for expropriating lands from the possession of tribals, and the economic hold over the tribals by non-tribal money-lenders and the like.

31.6 The proportion of agricultural workers from Scheduled Castes and Scheduled Tribes varies from State to State. Scheduled Caste workers preponderate in Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The percentage of Scheduled Caste population in these States and the percentage of agricultural workers belonging to Scheduled Castes may be seen in the following table :—

State	Percentage of Scheduled Caste Population	Percentage of Scheduled Caste Agricultural workers
Punjab	20.4	71.92
Rajasthan	16.7	45.07
Tamil Nadu	18.0	47.15
Uttar Pradesh	20.9	56.67
West Bengal	19.9	56.80

Animosities and tensions arising from the inter-play of caste prejudices have also tended to foul the relationship between landowners and the agricultural labourers owing to the latter's caste composition as indicated above.

Agrarian distress and tension-causes

31.7 The basic causes that have contributed to growing agrarian tensions are the economically distressed and socially depressed position of share-croppers, under-tenants and small cultivators and denial of their basic rights whether in regard to tenurial security or their share in the produce or payment of fair wages, and the grossly ineffective implementation of the schemes announced with fanfare and publicity for allotment of land to the landless and poor peasants. According to the study mentioned in paragraph 31.5 above, about 82% of the total number of tenants, mainly in the States of Andhra Pradesh, Assam, Tamil Nadu, Bihar, Punjab, Haryana and West Bengal do not enjoy fixity of tenure. They are either tenants-at-will or subject to landlords' right of resumption, or enjoy temporary protection only. In fact, the social and economic inequities and imbalances that were inherent in the old system of land tenure with a number of intermediaries like Zamindars, Jagirdars, Inamdars, etc., have continued to exist because of pressure from the vested interests among the landed gentry, though the aforesaid intermediaries have been statutorily abolished. The Green Revolution has helped the rich landlords to become richer by the increased production from land with aid from technological and scientific inputs in agricultural work, while the small cultivators and the landless agricultural labourers have not been able to reap any such benefit.

Pressure on land

31.8 The economic distress of the landless agricultural labourer is further accentuated by the growing pressure on land in rural areas owing to rise in population without a corresponding increase in the area available for cultivation. From the following table it may be seen that compared to the position in 1951, the population in 1976 had increased by 61.3% while the net area of land sown increased by 19.8% only.

	Rural population	Percentage increase over 1951 figure	Net area sown (crore hectares)	Percentage increase over 1951 figure
1951	298,509,400	—	11.87	—
1961	360,142,827	20.65	13.27	11.79
1971	438,855,500	47.02	14.04	18.28
1976	481,489,000	61.30	14.22	19.80

Source :—'India—A Reference Annual' for 1959, 1964, 1976 and 1979.

Rural indebtedness

31.9 From the All India Debt and Investment Survey, 1971-72 conducted by the Reserve Bank of India—*vide* their publication of November, 1978, it is seen that the borrowings of an average cultivator/agricultural labourer were very much more from sources like professional money-lender/agriculturist money-lender/trader/landlord than from Government or Co-operative Societies/bank. Detailed statistics

from the publication of the Reserve Bank of India are furnished in Appendices X to XII. This analysis highlights the economic hold the landlord and other richer sections of the village continue to have on the cultivator and the agricultural labourer.

Agrarian unrest

31.10 Indian history has recorded agrarian unrest in some form or the other even from the Moghul days. The creation of a number of Jagirdars by Aurangzeb led to a revolt by the peasants at that time. When attempts were made under the British rule to effect a survey and settlement of lands in some form conducive to a systematic and efficient revenue administration, it led to protests from certain sections of the landed gentry against payment of revenue demanded from them. Ghadkari revolt of Kolhapur in 1844 occurred in this context, and so was the rebellion of the Khends in Orissa in 1846 on an apprehension that the British would be appropriating their land. The large scale intrusion of non-tribals for acquiring landed interest in the tribal area led to the revolt of the Santhals in 1855-56. In the days of freedom movement, the Champaran struggle in Bihar in 1917 organised under the leadership of Mahatma Gandhi was in protest against an unjust tenure system adopted by the Indigo planters. In 1946 the Communists organised a large scale peasant uprising in the Telangana area of Andhra Pradesh. West Bengal witnessed the violent movement organised by Naxalites in 1967 for the elimination of Jotedars and violently capturing land for occupation and use by the tillers. Activities of extremists in fomenting agrarian unrest and organising agitations have come to notice in several States, notably West Bengal, Bihar, Andhra Pradesh, Tamil Nadu and Kerala.

Violence

31.11 While the agitations in the earlier period were mostly in the form of resistance to tyranny and oppression, the agitations towards the close of the British rule and after Independence have tended to focus around the tillers' right to own the land and to be freed from the exploitative practices that have prevailed in the rural areas for a long time. These agitations have tended to become increasingly violent in the recent years. Large-scale riots, accompanied by arson, violence and murder have been witnessed in certain States in the recent past, reflecting the growing tensions between the depressed landless rural poor and the land-owning farmer community. Incidents at Kilavenmani (December, 1968) in Tamil Nadu, Belchi (May, 1977), Parasbigha (February, 1980) and Pipra (February, 1980) in Bihar are instances of this kind. Attempts made by the landless poor to organise themselves for securing a fair share of the economic benefits accruing in the village are immediately met by a violent and ruthless counter-action from the land owning community resulting in further distress for the poor. In this context the police have a special responsibility to guard against outbreak of such violence and ensure order and security for the village community as a whole. We proceed to identify some typical situations that may arise from agrarian problems and indicate guidelines for police response.

Scheme for allotment of land to the landless and poor

31.12 An important cause for agrarian distress is the failure of implementation of the existing schemes for allotment of land to the landless poor either from Government land or from land that should become surplus by the application of land ceiling laws to individual big holdings. We have already pointed this out in Chapter XIX of our Third Report while dealing with 'Police and the Weaker Sections of Society' and recommended that the allotment of land to the landless poor, particularly the Scheduled Castes and Scheduled Tribes, should be effected through a separate comprehensive legislation which should have provision for effectively handing over possession of the land to the allottee and, what is more, for promptly evicting the unauthorised occupants or trespassers who may subsequently try to nullify the allotment order. We have also recommended a role for the police in collecting intelligence about forcible dispossession of the poor from lands allotted to them, and getting the matter set right with the help of the revenue authorities concerned. The arrangement recommended by us would, in our view, help in giving some effective relief to the landless poor and to that extent reduce agrarian distress and tension. We are, however, aware that this by itself may not take us far since there is not sufficient land in any case to meet the entire requirements of the rural poor with our steeply rising population. There is, therefore, side by side with land reforms, urgent need for providing alternative sources of employment in rural areas for the rapidly growing rural population. For this purpose measures have to be taken in hand early for bringing about the requisite infra-structure of communications, power and water in the rural areas. The danger of fragmentation of holdings as a result of the operation of the inheritance laws of the country, should also not be lost sight of.

Conciliatory processes

31.13 Under the Industrial Disputes Act, several agencies like Conciliation Officer, Board of Conciliation and Tribunal exist for adjudicating disputes between the labour and management in an industrial establishment. But when disputes occur in rural areas between the landlord and the cultivating tenant or the agricultural labourer regarding share of produce or payment of wages, there is no special agency in a district to adjudicate the matter quickly and effectively. The matter is usually dealt with in the normal course by the revenue authorities. It would make for speedier settlement of such disputes if the District Civil Rights Cell recommended in paragraph 19.14 of our Third Report could be given some staff support to perform this role. It would also help the police to secure relevant information through this Cell, while dealing with criminal cases arising from such disputes. Police action in such situations should be primarily directed towards removing elements of violence and pressure, and enabling the parties to seek a peaceful settlement through the agency of the aforesaid Cell or the local revenue authority as the case may be.

Record of rights

31.14 When disputes arise regarding ownership rights, cultivating rights, irrigation rights, etc., local authorities have normally to go by the documentation in the record of rights maintained by the revenue authorities. We understand that the arrangements for the maintenance of this record and its periodic scrutiny by the inspecting officers for ensuring its accuracy are not satisfactory in several places. It is said that these records are very much susceptible to manipulation and interpolation to the disadvantage of the poor and ignorant cultivators. The Task Force mentioned in paragraph 31.4 observed : 'The position regarding record of tenancy, particularly in the matter of entries relating to rights of share-croppers, is not satisfactory anywhere in the country, and no record exists in some areas. The absence of up-to-date land record is a serious obstacle in the implementation of land reforms'. We recommend that the existing arrangements in States for the maintenance of this basic record in villages or groups of villages may be checked and revised to ensure their factual accuracy, besides making them proof against malafide manipulation and interpolation.

Preventive action

31.15 When disputes arise and tensions build up between two groups of the land owning community in a village regarding ownership or right of use of any land or irrigation facility, police should not hesitate to take effective preventive action against the leaders on both sides by resorting to section 107 Cr.P.C. and also making peventive arrests where called for.

Farmers' agitation against Government

31.16 Recent years have witnessed another type of agitation on the agrarian front in which farmers organise themselves to protest against the Government and allied agencies on such issues like charges for power supply for pump sets, grant of loans and subsidies, writing off arrears of loans, etc. The issues raised in such agitations are of a nature which would interest all sections of land owning community, big and small. The agitation is, therefore, easily joined in by large sections of the rural community and quickly tends to become aggressive. In an agitation of this kind in one State, public life in and around some urban centres was practically paralysed by the drawing up of bullock carts in a big way and total blocking of all kind of traffic for a long time. Since these agitations are primarily directed against the Government and do not involve two opposing groups among the public themselves, it becomes easier for the organisers to whip up emotions and instigate violence. Police should handle this type of agitations as a matter of maintenance of public order and take all permissible steps under the law including preventive arrests to contain the situation in public interest.

Intelligence

31.17 A fundamental requirement for planning police action in any public order situation is the timely collection of intelligence on the growing developments prior to the situation and the likely course of events when the situation arises. Apart from the intelligence wing of the police at the district level, the village police as organised on the lines recommended in Chapter XX of our Third Report should be actively involved in gathering advance intelligence in this matter which would be of great help to the local police in effectively anticipating local situations in time.

Reorganisation of rural police

31.18 An old Gandhian, Professor K. B. Waswani, while addressing the Seventh Indian Agricultual Economists Conference in 1947 had said : 'If the economic problems of the innumerable agriculturists in India, the problem of the landless, the problem of the rack-rented, the problem of the indebted, the problem of the suppressed or oppressed landless, are not immediately attended to, are not adequately dealt with, the proverbially patient peasant is likely to lose his patience; he is at the end of endurance and in anger, in his long-suppressed agony he is prone to seek to solve his problems in a violent, vigorous, excited revolutionary way, specially when grim voices of the communists are endeavouring to reach his side. They wait and watch and like an angry tiger, they will leap and tear into shreds the existing unequal, oppressive structure—economic and political—which they find uncongenial, uncomfortable, complex and incomprehensible'.*

31.19 The developments since then and the increasing violence resulting from the continuing social degradation and the economic distress of the landless poor in rural areas would make it appear that Professor Waswani was very prophetic when he uttered this warning 33 years ago. In paragraph 20.15 of our Third report we have already pointed out that the existing spread of the police in the rural areas is very thin and it has to be suitably increased to enable the police to meet adequately the requirements of the fastly changing rural situation. The norms for locating police stations in rural areas and their staffing pattern with reference to area to be covered, population to be served and the tasks to be performed are being worked out and will be furnished in a separate Chapter. The re-organisation and strengthening of rural police calls for immediate attention from the Government in the context of present developments as detailed earlier.

*Group report on 'Agrarian Unrest' presented at the Seminar on Law and Order at the National Academy of Administration, Mussoorie in May-June, 1971.

CHAPTER XXXII

SOCIAL LEGISLATION

Social reform

32.1 There are several ways in which changes in social value and patterns of social behaviour may come about or be brought about. Social reform is one such way and legislation is one important channel through which social reformers have generally sought to bring about social change. Indian social reformers of the nineteenth and early twentieth century seem to have attached a great deal of importance to legislation for this purpose. Legislation abolishing the practice of suttee, removing disabilities arising out of inter-caste marriage and restraining child marriage was urged for and enacted in the hope that these laws would abolish erstwhile social evils or facilitate some desired change. The Gains of Learning Act also made for a change the law relating to rights of coparceners of a Hindu Joint Family to their individual incomes. Since Independence the Hindu marriage and family laws have been further amended by enforcing monogamy, providing for divorce, giving daughters a share in ancestral property, and forbidding the payment of dowry at marriage. Some of the labour legislation also began as welfare legislation to secure the well-being of industrial workers. Our Constitution makers and Members of Parliament have also shown the same faith in the legislative path to social reform and change. The Constitution declared that untouchability stood abolished and when that was found not enough, Parliament passed the Untouchability Offences Act in 1955 and later amended it as a Protection of Civil Rights Act in 1976, with more severe provisions to deal with violations thereof.

Social legislation—classification

32.2 Social legislation may be broadly classified into two categories for appreciating the problems that arise in the enforcement of the legislation. The first category may be called the permissive type of legislation in which the reformative law merely seeks to enlarge the freedom of social action and interaction in certain fields and protect the person so acting from any disability that might fall on him but for the law. For example, legislation concerning inter-castes marriages and divorce proceedings is of this type. The second category may be called the proscriptive type of legislation which seeks to restrict certain social practices and penalise any conduct that is specifically prohibited in law. Laws relating to suttee, child marriage, polygamy, dowry, and untouchability are examples of this category. Enforcement of this category of social legislation meets with resistance from groups which are interested in the continuance of the old practices.

Measure of success

32.3 In a general way we may observe that the legislation against the evil of suttee has succeeded while the legislation against the practice of untouchability has not fully succeeded. The law against polygamy has by and large succeeded but the law against child marriage is still flouted in many cases, especially in the uneducated, lower caste groups and some sections of the rich. It will probably be conceded that both in the case of suttee and polygamy where the proscriptive law has succeeded the original practice was itself somewhat limited in geographical area and in the class of people where it was practised. Both these practices were a characteristic, to the extent that they existed, of the upper caste and propertied groups. The social reformers of the nineteenth and early twentieth century came from these very groups and were able to communicate with and reach them through their newspapers, novels, dramas, lectures and all the media accessible to them. While the changes that they sought to bring about did involve a change of values and change of life practices, they did not involve any basic conflict of interests. The expectation of the social reformers that a law would strengthen their hands and help them tackle a recalcitrant minority was well-founded in that situation.

32.4 The legislation against child marriage has succeeded so far as the educated, white-collar groups are concerned, though it has not made any appreciable dent among the uneducated, rural working class. The reason for its success in the white-collar groups lies largely in the prolongation of the period of education and occupational preparation and in the new norm of the middle class that a man must be able to support himself and his family before he enters upon marriage. If the Sarda Act has not materially changed the attitudes of the uneducated, rural segment it is also because their occupational life has not changed much in terms of the average age of entry to an occupation in life or the preparation required for it. Most rural occupations are still inherited, a son begins to earn even as a child and the expectations of economic well-being are still relatively modest. The rural poor see no compelling reason why marriages should not take place at an early age.

32.5 The lack of success of the untouchability legislation in the rural areas and its partial success in urban areas has to be understood in terms of yet another factor. So far as the practice of untouchability within one's own home is concerned, it is doubtful whether the urban home is genuinely and generally more liberal in its actual day-to-day practice, but it is true that at the verbal level and in public places in

urban areas untouchability is less likely to be practised than in rural areas. This is due partially to greater education and, may be, to a real value change among some of the urban educated. It is also possible that the lack of education and the hold of tradition explain in some part the continuance of untouchability practices in the country side. Of equal importance, however, is the economic aspect of the practice of untouchability in rural areas. Belief in untouchability seems to provide the legitimation of the oppressive employment practices of the landowners toward their landless labourers. It is based on this belief that the upper-caste/upper-class Indian in the village gives his farm servants a bad name with which he seeks to justify his ill-treatment of them.

Roll of legislation in effecting social reform

32.6 The chance of success or failure in achieving social change through legislation depends upon several factors. At least three of these can be identified from the discussion in the earlier paragraphs : (1) the degree of value change that reformers may have already succeeded in bringing about in society through their educational efforts, (2) the supportive aspects of changes in the objective situation, and (3) the existence or non-existence of a threat to basic group interests as a result of change. There may be many additional factors which could be identified by a further examination of the success or failure of individual pieces of social legislation. However, even without such an examination it should be clear that legislation by itself is not the easy road to social change. Any attempt to legislate a social change without a prior value change in society amounts to the use of authority and the coercive power of the State to enforce a new value framework. Unless there is a measure of consensus among the generality of people about the desirability of the change that law seeks to achieve, it would result in our seeking a social change in a manner which might simultaneously generate social hatred and hostility. Social legislation of this kind, that is the proscriptive type as mentioned earlier has, therefore, to be preceded by a measure of debate, discussion and propaganda which would convince the people in general and prepare them to accept the proposed change. If legislation goes far in advance of the preparedness of the people for the proposed change, enforcement of such a legislation will task people's support and, therefore, will generate a situation of conflict between the people and the enforcement agency.

32.7 The police, as the premier law enforcement agency in the country, are frequently involved in the enforcement of a variety of laws aimed at social reforms. The normal role of the police as expected by the people is in the field of laws relating to the protection of life and security of property. The Indian Penal Code is the basic criminal law of the country for the police to perform this role. Public understand this role well and willingly cooperate with the police in individual cases but the position becomes different when the police are involved in the enforcement of a social reform law which the public at large are not yet prepared to accept. It is, no doubt, true that we cannot wait for a total acceptance of a proposed reform by the entire public before bringing up a law to spell out that reform. But the timing of enactment of a law of social reform and the degree of involvement of police in its enforcement have to be finely adjusted and regulated so that public support for its enforcement will not be prejudiced. We are aware of the tragic repercussions of police involvement in the enforcement of family planning measures in certain States in 1976. Sterilisation for family planning and birth control, which would have normally been adopted by the people at large after adequate education and propaganda, became totally repulsive when they found the police enforcing it with all the severity of a criminal law. It will be interesting to recall here what the Indian Police Commission of 1902 observed 75 years ago. In their report they pointed out "the unwisdom of employing constables in duties which tend to make the police unnecessarily unpopular, such as collecting children for vaccination". In 1902, vaccination was not yet accepted by the people at large. Police involvement in getting through that measure made the police undeservedly unpopular. Vaccination has now come to be accepted as something very normal and the police are no more required to perform a role they did unwisely 75 years ago. In depth education and persuasive propaganda must receive due attention for effecting a social reform and cannot be substituted by the mere rigid enforcement of a connected law. Our object in making these observations is to underline the point that legislation by itself would not be effective for bringing about a change in the social value system and, therefore, the police may not be looked upon as a primary instrument for effecting a social change.

Enforcement of social legislation police involvement

32.8 Having stated our views on some general aspects of social legislation, we will now take up the question of police involvement in the enforcement of social laws. Supervisory ranks in the police strongly feel that this leads to unpopularity which the police do not deserve and, what is more, enlarges the scope for corruption in police. As against this view, social reformers feel equally strongly that unless they have the support and backing of the police they will not be able to achieve the desired objectives of social reform.

32.9 In paragraph 14.40 of our Second Report we have already stated our view that as the primary law enforcement agency available to the State, police cannot escape involvement in the enforcement of social laws also in some form or the other. Police have a duty to enforce these laws but the manner of enforcement can be regulated and controlled to avoid some possible evils that may arise from this involvement. We proceed to identify some of these evils and recommend appropriate remedial measures.

Malpractices in enforcement

32.10 Offences under certain types of social legislation like the Protection of Civil Rights Act and the Bonded Labour System (Abolition) Act, involve victims as such who will be anxious to complain about the offence and set in motion the processes of law for

their relief. Certain other types of social legislation like the Prohibition Act, Gambling Act and Suppression of Immoral Traffic Act involve crimes of vice and draw attention from the police mostly on their own intelligence and not on a specific complaint as such from an aggrieved individual. In this category of laws there is much larger scope for harassment, corruption, and allied malpractices than in the former category. It is this aspect that has been forcefully brought before us by the Chiefs of Police who strongly feel that the case and quickness with which corruption spreads in the department on this account have brought down the department's prestige badly in the eyes of the public. We, therefore, feel that some way has to be found by which the scope for harassment and corruption in the enforcement of such social legislation is minimised, and police involvement in the enforcement is effectively regulated and controlled.

Conditional cognizability

32.11 Investigational power and responsibility of the police are now confined to cognizable offences which are specified as such in law. In their anxiety to secure effective enforcement of a new social law, social reformers and legislators are inclined to declare all offences under such a law as cognizable and leave the matter there in the belief that strict and severe enforcement thereof by the police would achieve their purpose. It is here that we feel there is scope for introducing some refinements in law which would greatly reduce the scope for malpractices when the offences are taken cognizance of by the police. Even now there are several cognizable offences in which, after completion of investigation by the police, there are restrictions at the stage of the court taking cognizance of the case for commencing trial. All offences under Chapter VI of the Indian Penal Code and offences under Sections 153A, 153B, 188, 295A, 471 and 505 of the same Code are examples of this kind where the court can take cognizance only on a complaint from a specified individual or on sanction from a specified authority. We are of the view that there is scope for extending this concept of conditional cognizability even at the earlier stage when the police register the case and commence their investigation. The conditions can be suitably determined to reduce the scope for harassment and corruption as mentioned eariler.

Categorisation of social laws for determining police response

32.12 For this purpose, social legislation may be categorised under five groups as indicated in the following paragraphs and we recommend that the nature and extent of police involvement in the enforcement of each group may be as indicated therein.

First Group

32.13 (i) This group would cover laws regulating social institutions like marriage, divorce, adoption, inheritance, etc.

(ii) Police should have no role at all in the enforcement of these laws. It should be left to the affected parties to take matters direct to courts and get their disputes resolved through judicial adjudication.

Second Group

32.14 (i) This would cover laws dealing with some social problems like prevalence of dowry, discrimination against women, begging, vagrancy, etc.

(ii) Police should not have any role to play in the enforcement of these laws, excepting some which may have a public order or crime prevention aspect. For example, if there is a law prohibiting begging in specified public places, police should have the powers to enforce the relevant provision, solely from the point of view of maintaining public order at the specified place. Police should not be involved in rounding up individual beggars and marching them to a rehabilitative home or any such institution. That job should be left to the Municipal agencies.

Third Group

32.15 (i) This group would cover laws aimed at promoting the health of the people in general and, in particular, prohibiting the consumption of intoxicating drinks and of drugs which are injurious to health.

(ii) Offences under these laws which involve commercially organised activity (for example: trafficking in drugs) or disturbance to public order should be made fully cognizable by the police. Offences which do not have any such angle but involve individual behaviour and conduct without creating any public order situation may be made cognizable by the police only on a specific complaint from a person alleging annoyance or injury caused to him by such behaviour and conduct, and not on any intelligence gathered by the police themselves. In regard to the enforcement of prohibition, we would be detailing in the next chapter the modalities, including amendments in law, for bringing about limited cognizability by the police.

Fourth Group

32.16 (i) This would cover laws aimed at prohibiting or regulating certain pastimes which are likely to operate to the detriment of the earnings of poor families and result in the drain of their meagre financial resources.

(ii) Laws which regulate gambling, horse racing, lotteries, cross-word puzzles, etc., fall under this category. Police cognizability of offences under these laws should be limited to those which have a public order aspect. For example, gambling in a public place is likely to promote disorderly behaviour and disturbance to public order and should therefore be made fully cognizable by the police. Offences which do not involve this public order aspect may be made cognizable only on a specific complaint from an affected party.

Fifth Group

32.17 (i) This group would cover laws which are meant for protecting and rehabilitating the handicapped and weaker sections of society, and preventing exploitation of their economic weakness or otherwise distressed situation.

(ii) Police should be fully involved in the enforcement of these laws. Protection of Civil Rights Act and the Suppression of Immoral Traffic Act are examples of laws under this group. Offences under these laws should be made cognizable and the general police should have full powers of enforcing them.

Arrest

32.18 In the investigation of offences which are made conditionally cognizable as recommended above, the police need not have the power of arrest. They may, on conclusion of investigation, put the matter before a court if evidence warrants such a course of action, and take from the accused person a bond for his appearance in court when summoned.

Amendments to law

32.19 Appropriate amendments to several pieces of social legislation would be required to implement the above recommendations regarding conditional cognizability by the police and the restriction on their powers of arrest in certain cases. We recommend that the various social laws may be individually examined from this angle and appropriate amendments evolved by the Social Welfare Departments of the State Governments in consultation with the State police agencies.

Strengthening of staff

32.20 Even the graded enforcement of social legislation on the lines indicated above would involve increasing burden of investigational and allied field work for the police, as the pace of social legislation increases. Effective enforcement will be badly handicapped if adequate staff are not available to handle the investigational work. We therefore, recommend that, apart from increasing the existing staff to the required level for dealing with the present volume of enforcement work under this head, Government should, on every future occasion when a social legislative measure is adopted, assess the requirements of additional staff in consultation with the Chief of Police and sanction them in time, for enforcement work to proceed smoothly and effectively right from the beginning.

Special squads

32.21 We have also examined a suggestion that a separate police wing might be set up for the enforcement of all social legislation. The main reason advanced for this suggestion is that the enforcement of social legislation requires a certain operational approach and attitude of mind on the part of the enforcement personnel which can be brought about only by specialisation and training. While there may be an advantage in this arrangement, we have to take note of the fact that offences under certain social laws, particularly those coming under the Fourth and Fifth groups mentioned in paragraphs 32.16 and 32.17 above, are likely to involve the activities of bad characters, goondas and professional criminals connected with traditional crimes relating to person and property. It is therefore not desirable to dissociate the general police from the enforcement of social legislation of this type. When once it is conceded that the general police should have powers in regard to certain types of social legislation, it does not appear necessary to think of a separate police wing with a State wide jurisdiction for dealing with the other types of social legislation only. In our view the general police should be involved in the enforcement of all social legislation subject to the restrictions recommended above. However, in metropolitan cities and important urban centres where certain types of offences under the social laws are known to be rampant, it might be advantageous to have special squads to deal with them under the supervision of the City Police Chief.

CHAPTER XXXIII

PROHIBITION

Prohibition—National Policy

33.1 Prohibition as a national policy received specific attention at the All India Congress Committee meeting in 1921 when it was emphasized by Mahatma Gandhi that prohibition should be the first step for ameliorating the conditions of the poor masses who, in particular, had long been suffering from the evil effects of drinking. In pursuance of this policy declaration, prohibition was introduced for the first time in 1937 in limited areas of the then Presidencies of Bombay and Madras where Congress Governments assumed office under the Government of India Act, 1935 in the scheme of Provincial Autonomy under the British Raj, and was also introduced in some districts of Madhya Pradesh and Karnataka in 1938. It was suspended during the war years in 1939—45 and was reintroduced in Madras in 1946-47 and in Bombay and parts of Uttar Pradesh in 1947—49.

33.2 After Independence, prohibition was adopted as a Directive Principle of State policy by being incorporated in Article 47 of the Constitution which lays down that 'the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health'. In pursuance of this principle, some State Governments enacted prohibition laws and attempted their enforcement for certain periods with varying degrees of success. Presently, total prohibition is in force in Tamil Nadu, Maharashtra and Gujarat. In fact, it is only these three States which have long experience in the enforcement of prohibition laws and are familiar with several problems arising therefrom.

Tek Chand Committee

33.3 In 1963 the Government of India appointed a Prohibition Study Team under the Chairmanship of Shri Justice Tek Chand, a retired Judge of the Punjab High Court, to make a detailed inquiry into the working of the prohibition programme and also to cover problems connected with the enforcement of Prohibition and Excise laws. This Study Team gave its report in April 1964 recommending, *inter alia*, that--

(i) enforcement of prohibition should be the responsibility of the police,

(ii) staff at the station house level and Circle Inspector level should be increased by 10% to handle the additional field work arising from prohibition enforcement,

(iii) mobile police squads should function from the level of Inspector of Police upwards to supplement the field work of police station staff for detection of prohibition offences and also act as a check to expose the offenders who might manage to corrupt the staff at the police station level and escape detection,

(iv) enforcement officers should be conferred with powers to destroy the stills and other paraphernalia connected with prohibition offences, without having to obtain permission from the Magistrate,

(v) prohibition offences should be made non-bailable and summarily triable except in cases of grave charges,

(vi) trial of prohibition offences may be entrusted to Judicial Panchayats and Honorary Magistrates,

(vii) the Law of Evidence be amended to facilitate judicial notice being taken of certain facts and certain presumptions being drawn during trial of prohibition offences,

(viii) deterrent sentences should be awarded for repeated commission of offences, and minimum jail sentences should be provided in law, and

(ix) law should provide for collective fine, externment of the accused and also imposition of special tax in areas where illicit distillation is rampant.

33.4 Besides making recommendations as above, the Tek Chand Committee made the following significant observations :—

(a) No system of law can effectively combat an illicit trade so long as conditions exist under which the profit margin ranges from 200 to 1000%.

(b) Enforcement of prohibition will require an integrated set of legal, administrative, educational, publicity and economic measures aimed at containing and eliminating illicit distillers and other law breakers, and slashing their profit margins.

(c) Owing to the inadequacy of staff at the station house level and the increasing volume of court work in connection with prohibition offences, field work is tending to be neglected by the police.

(d) In their anxiety to prove that there is no diminution in vigilance, police pay greater attention to comparatively easier cases of drinking and possession than to the more difficult cases of illicit distillation and transport.

Quality of enforcement

33.5 A study of the disposal of cases in court in Gujarat in 1975—78 has disclosed the following position :—

	1975		1976		1977		1978 (upto 31-8-78)	
	Convicted	Acquitted	Convicted	Acquitted	Convicted	Acquitted	Convicted	Acquitted
Distillation	842	4478	946	5370	668	3925	106	106
Possession	5563	24062	5326	22074	3588	14999	829	1030
Transport	214	169	185	83	53	38	102	2
Sale	75	722	44	865	3	3162	134	1384
TOTAL	6694	29431	6501	28392	4312	22134	1171	2522
Percentage of conviction	18.53		18.63		16.30		31.71	
Drunkenness	17851	4347	19170	3768	16700	1938	4028	181
Other offences	1893	3287	1691	2662	1272	1283	800	186
Grand Total	26438	37065	27362	34822	22284	25355	5999	2889
Percentage of conviction	41.63		44		46.78		67.5	

It is significant that while the overall percentage of conviction in court has averaged 45% in this period, the success achieved in really important cases dealing with distillation, transport and sale of illicit liquor is 18.4% only. This highlights the point noted by the Tek Chand Committee in item (d) in paragraph 33.4.

Tamil Nadu Police Commission

33.6 The Tamil Nadu Police Commission in its Special Report on Prohibition Enforcement (January 1971) made the following significant observations :—

(i) The incidence of liquor consumption in Tamil Nadu has risen (notwithstanding all the efforts of enforcement of the prohibition law) to a level which is substantially higher than the minimum level obtaining in the wet States of India.

(ii) The relative propoprtion of liquor consumers to total population may be expected to increase in future years to a higher level than at present.

(iii) There is a state of corrupt collusion and collaboration between the police stations and the underground organisation of production and distribution of illicit liquor against which they are supposed to be waging war. It is a state of affairs which causes demoralisation and undermines discipline within the police force. The public forms a poor opinion of the police and, to that extent, the capacity of the police to perform their normal functions effectively is impaired.

(iv) In some places, local factions tend to reflect differences between different social groups in their attitude to illicit liquor consumption. In such localities, the police station tends to get identified with the wet faction and alienated from the dry faction. If this tendency were to develop—and it is bound to develop unless effective action is taken without further delay—the entire structure of law enforcement will be undermined and weakened. This is what is known to have happened in other countries and might happen even in such a normally law-abiding State as Tamil Nadu.

(v) Prohibition work absorbs about 30% of the time and labour of police station staff and occupies about 40% of the time and labour of all subordinate criminal courts and well over 25% of the time and labour of the jail department.

Mobile police parties for prohibition enforcement

33.7 Having observed the situation as described above, the Tamil Nadu Police Commission recommended that the State Government may undertake a review of the existing prohibition policy and resettle it, and also revise the existing prohibition law for giving effect to the resettled policy. Pending this review the Tamil Nadu Police Commission recommended as an interim arrangement that prohibition enforcement may be handled by special mobile police parties headed by Sub Inspectors and supported by a striking force and transport, working directly under Sub-Divisional Police officers with the following two functions :—

(1) They should be the primary agency responsible for the enforcement of Prohibition, and they should concentrate on illicit liquor production and distribution agencies. Local police stations should be responsible mainly to furnish intelligence to the mobile parties and to provide such other assistance as they may require.

(2) The mobile parties should act as a vigilance agency for collecting information and evidence of corrupt collusion by police station staff with prohibition offenders, so that the Sub-divisional Officer is enabled to tackle this problem in a firm and determined fashion.

33.8 When the Tamil Nadu Police Commission examined this matter and made these observations and recommendations it was 24 years after prohibition

had been reintroduced on conclusion of World War II and 15 years after its enforcement had become the exclusive responsibility of the police department of the State. Against the background of such long experience of the Tamil Nadu police in prohibition enforcement, we consider the observations and recommendations of the Tamil Nadu Police Commission of 1971 specially significant and deserving of close and careful attention.

Arrest of large number of persons, including juveniles

33.9 A statistical review of prohibition enforcement shows over 6 lakh prohibition cases registered annually in the recent years all over the country and a similar number of persons arrested in such cases every year. A large number of juveniles have also come to notice in prohibition offences. 25,692 juveniles were arrested under the Prohibition Act in 1977. Detailed figures State-wise may be seen in Appendices XIII to XV. Tamil Nadu, Maharashtra and Gujarat contribute to these figures largely. The cases in the other States where there is no total prohibition are insignificant and relate to contraventions of some regulatory Excise orders. In our view, the arrest of such a large number of persons year after year and their passing through police custody for their involvement in prohibition offences alone would tend to 'criminalise' persons who are not perceived as criminals in the normal sense of the term by the society at large. For reducing the scope for this 'criminalisation' we consider it important that prohibition enforcement be suitably modified to limit the process of arrest to grave offences like manufacture, transport and sale of illicit liquor.

Difficulties in the field

33.10 Some aspects of the actual field situation and the practical difficulties in the enforcement of prohibition as brought to our notice during discussions in Maharashtra, Gujarat and Tamil Nadu are enumerated below :—

(1) Illicit distillation is mostly carried on in either remote areas on the hill side, forests, creeks, coast line, etc., or densely populated slums which offer safe hideouts for the distillers. Detection of distillation activities in such circumstances becomes extremely difficult, particularly in the absence of public co-operation which seldom comes forth in the cause of prohibition.

(2) Raw materials required for distilling liquor are easily available. Several medicinal and toilet preparations containing some percentage of alcohol provide a convenient source for preparation of liquor. Industrial alcohol preparations like denatured spirit, French polish, thinner, etc., also get converted into potable alcohol. The easy availability of such a variety of sources for preparation of illicit liquor encourages illicit distillation and brewing.

(3) Any amount of severe punishment by way of imprisonment or fine for the prohibition offenders does not seem to deter them since the economics of illicit distilliation is in their favour and they find the business of illicit liquor quite profitable, even after making allowances for the temporary immobilization of the personnel concerned by the processes of trial and punishment. This point which had already been noted by the Tek Chand Committee was again forcefully brought up before a Sub-Committee we had constituted under the Chairmanship of a former Inspector General of Police of Gujarat to go into this question.

(4) Professional organisers of illicit liquor trade keep themselves in the background and get their business done through intermediaries including juveniles. The large number of juveniles caught in prohibition offences is indeed alarming—*vide* Appendix XV. Illicit liquor trade provides big business, and those who organise it from behind the scene exploit the poverty of weaker sections in society and draw them into this business to function as intermediaries for transport and sale of liquor. In this process it is these poor people who ultimately get caught by the enforcement agency and subsequently languish in jail. Very rarely do we come across prohibition convicts in jails drawn from the rich and business sections of the community. It is indeed tragic that the prohibition law which was conceived as a legislation primarily meant to benefit the ill-informed and poorer sections of the community ultimately results in a large number of persons of this very category getting into prison for their involvement in illicit liquor trade.

(5) Corruption spreads quickly and widely as a result of persistent influence from illicit liquor business on the police system. Increasing number of corrupt elements within the force renders it more and more inefficient in dealing with professional bootleggers and big organisers of illicit liquor trade. The extent of spread of corruption in this matter can be gauged from the observations in paragraph 2.91 of the report of the Laththa Commission of Inquiry (First), Ahmedabad, 1978 relating to the case of a notorious bootlegger who, after internment by the local executive authority, succeeded in getting the internment order cancelled at Government level without any consultation with the local police and without inquiry into the truth or otherwise of the representation made by the bootlegger !

(6) The procedural law relating to trials causes a lot of difficulty. Searches under the Prohibition Act are required to be made in accordance with the provisions of the Code of Criminal Procedure and, therefore, all the restrictive case law relating to the evidence of 'panch' witnesses immediately

applies to prohibition cases also. Owing to the general unwillingness of people to come forward as panch witnesses, police fall back on the services of a few individuals in the lower strata of society who later on turn hostile in court under influence and pressure from the accused. The courts examine the panch witnesses first and if they turn hostile they straightway acquit the accused even without recording the evidence of police officers. There are no special courts to deal with prohibition offences. Long adjournments are given by the ordinary courts and the accused get plenty of time to tamper with panch witnesses. Repeated insistence by courts on the need for fresh panch witnesses in every detected case has further complicated the situation. Even a case of chance detection of a prohibition offence in a remote area by a patrolling police party has to be brought on record as duly witnessed by some panch witnesses! Needless to say, such an unrealistic requirement of evidence distorts the process of law and justice and drives the police to despair. Panch witnesses are understandably afraid of physical and violent reprisals from the bootleggers if they were to support the prosecution during court proceedings. Police have no legal means of effectively countering this threat of violence from bootleggers and the ultimate result is a field day for organised prohibition offenders of all categories.

(7) The progress of a large number of cases gets held up for want of expert opinion on the identity of the contraband seized in each case. In Maharashtra 19,385 cases were pending for more than one year for want of analytical reports from the expert. The overall pendency of prohibition cases is also alarmingly increasing. We were told in Bombay that about 3 lakh prohibition cases were pending trial over 5 to 7 years!

(8) The mounting pendency of prohibition cases in courts has clogged up all property rooms and storage space in police stations and their compounds. A lorry seized in a prohibition case was found lying in a police station compound in Bombay for over 5 years awaiting disposal through auction after the case had concluded in court. The scope for misappropriation of the fittings and other equipment in the lorry in the intervening period is obvious. All these circumstances and upto a near chaotic situation all round.

Amendments in law

33.11 From the standpoint of enforcement we consider the following broad amendments in prohibition law urgently necessary to eliminate some of the serious evils noticed in the existing scheme of enforcement :—

(i) Cognizable offences under the prohibition law should be limited to those relating to manufacture, transport and sale of liquor. The police will have full powers of investigation in regard to these offences only as in any cognizable case.

(ii) Offences under the prohibition law relating to possession of liquor or drinking of liquor or being found in a state of drunkenness should be made non-cognizable. This would mean that the police will have no powers of investigation or arrest in respect of these offences. They may, however, be taken notice of by the police while they investigate any other accompanying cognizable offence.

(iii) In regard to the above category of non-cognizable offences police should, however, have the power to seize any illicit liquor that may be connected with the non-cognizable offence if it comes to their notice and they may send the seized liquor to court for further disposal.

(iv) The procedure for conducting searches under the prohibition law should be separately laid down without drawing a close parallel from the Code of Criminal Procedure. The procedure should be simple and should not mechanically require the evidence of panch witnesses to support the police version of a seizure. In paragraph 27.21 of this Report we have already recommended some amendments to section 100 Cr.P.C. The procedure for searches under the prohibition law should even be simpler and less dependent on panch witnesses as such.

(v) There should be legal provisions to enable the enforcement agency destroy on-the-spot any illicit liquor or any other material connected with its manufacture when the liquor and such material are found in a public place without being claimed by anybody. The destruction may be documented in the presence of witnesses.

33.12 As regards the arrangements within the police for detection of prohibition offences, we recommend the constitution of mobile parties at the sub-division level to concentrate on the more serious offences of illicit manufacture, transport and sale of liquor which alone would be cognizable in the revised prohibition law as recommended in paragraph 33.11 above. The functioning of these mobile parties can be on the lines indicated by the Tamil Nadu Police Commission—*vide* paragraph 33.7 above.

Prohibition policy and law—Review

33.13 In the previous Chapter on 'Social Legislation' we have observed that unless there is a measure of consensus among the generality of people about the desirability of the change that a law of social reform seeks to achieve, its enforcement would lack people's support and might even generate hostility between the people and the enforcement agency. What we have seen in the long experience of States

like Tamil Nadu, Gujarat and Maharashtra in the enforcement of prohibition makes it clear that the prohibition law does not enjoy acceptance and support from the public at large. Their co-operation, therefore, is totally lacking for the police to enforce the law. In fact its enforcement brings the police into situations of conflict with substantial sections of the public who do not view drinking liquor as an act to be held criminal and made punishable under the law. In the light of the realities and difficulties in enforcement work as detailed in paragraphs 33.6, 33.9 and 33.10 above, we are of the view that the prohibition law, as presently enacted with emphasis on total prohibition, is practically non-enforceable. We recommend that the Government may review their prohibition policy in general and the structure of prohibition law in particular and evolve a revised practical measure for dealing with the problem of economic distress among the low income groups of our population, owing to the evil of drinking.

CHAPTER XXXIV

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Investigation

34.1 The major problems of reform as viewed by the Law Commission in its Thirty-seventh Report were—

(a) separation of the judiciary and the executive ;

(b) abolition of the jury trial ;

(c) simplification of the various categories of trials ;

(d) Magistrates in Presidency Towns ;

(e) abolition or retention of the ordinary original criminal jurisdiction of High Courts ;

(f) the law of arrest ; and

(g) the duty to give information about offences.

It, therefore, happened that in the above view of the matter, the report of the Law Commission did not adequately deal with several other aspects of procedure which created difficulties for the police while conducting investigations in the field. Compliance of certain provisions in law proved unrealistic and difficult in actual investigations and, therefore, led to the adoption of certain improper methods and practices by investigating officers to meet the requirements of case law as it developed over several years. In the course of our tours in States and discussions with judges, magistrates, lawyers, police officers, general administrators and representative sections of the public, we have identified some aspects of the present procedural law relating to investigations where there is urgent need and ample scope for meaningful reform to make investigations conform to the real situations in the field and help in the expeditious conduct of investigations with minimum inconvenience to persons who may be concerned in specific cases as complainants, witnesses or accused persons.

(Para 27.2)

34.2 Section 154 Cr.P.C. may be amended to—

(i) enable the officer incharge of police station to ascertain adequate information from a complainant and incorporate it in the form prescribed for registering First Information Report ;

(ii) make it clear that the registration of First Information Report is mandatory whether or not the alleged offence has taken place in the jurisdiction of the police station ; and

(iii) facilitate the recording of First Information Report in constituent units attached to the police station—for example ; police out post or such other reporting centres as may be evolved in due course.

(Para 27.6)

34.3 The cadre of investigating officers has to be increased. The police hierarchy has to be re-structured to secure, *inter alia,* a larger number of officers to handle investigational work.

(Para 27.7)

34.4 Provision of adequate transport, strengthening of forensic science laboratory facilities and scientific aids to the detection of crime, the provision of mechanical aids like typewriter and tape recorders at the police station level, improved supply of printed forms and standardised stationery for documentation and scriptory work and the introduction of computers for the maintenance of crime records as suggested in Chapter XXIV of our Third Report would greatly improve the quality and quickness of investigations.

(Para 27.8)

34.5 Section 37 Cr.P.C. may be amended to facilitate the conduct of identification parades by police themselves as an aid to investigation.

(Para 27.9)

34.6 It would greatly help cordial police-public relationship if the examination of witnesses is conducted, as far as practicable, near the scene of offence or at the residence of the witnesses concerned or at some convenient place nearby. This arrangement might be secured by the issue of appropriate departmental instructions.

(Para 27.10)

34.7 It is desirable to make a specific provision in law that when a person is examined by a police officer under section 161 Cr.P.C. no other person shall, except in the exercise of powers under the law, have the right to be present during such examination.

(Para 27.11)

34.8 The Code of Criminal Procedure 1973 has done away with the procedure of preliminary enquiries by magistrates in cases exclusively triable by a Sessions Court. Before this Code came into force, the procedure envisaged the examination of material witnesses twice over, once by the committing Magistrate and later by the Sessions Judge. Thus, for the same witness, we would have three sets of statements on record, one recorded by the police during investigation, the second recorded by the committing Magistrate and

the third recorded by the Sessions Judge. It is a basic principle of justice that the findings of the trying judge should be based on what the witnesses actually depose before him; but the availability of detailed statements from the same witnesses before another forum recorded on an earlier occasion provides scope for arguments based on *contradictions* however, trivial or natural they might be in the circumstances of any particular case. We consider it wholly improper, if not unjust, for the conclusions in judicial proceedings to be largely determined by contradictions in evidence by a mechanical or routine comparison of the statements made separately by the witness before different authorities instead of by probabilities flowing from the evidence. The Code of Criminal Procedure 1973, has rightly eliminated one unnecessary stage of recording the detailed statement of a witness by the committing Magistrate. A further step would be to do away with the detailed recording of statement as made by a witness in the course of investigation, and substitute in its place a revised arrangement in which the investigating officer can make a record of the facts as ascertained by him on examination of a witness. This shift in emphasis from the statement made by the witness to the statement of facts ascertained from the witness would imply that the statement could be in third person in the language of the investigating officer himself. This statement of facts as recorded by the investigating officer would be adequate to assess the evidentiary value of the different witnesses and accordingly cite them in the charge sheet, if and when it is laid in court on conclusion of investigation.

(Para 27.14)

34.9 When the statement as described above becomes a statement of facts as ascertained and recorded by the investigating officer, it loses its significance to serve as an earlier statement made by the witness himself in his own language, and, therefore, the question of using that statement for contradiction or corroboration would not arise. The present provisions in section 162 Cr.P.C. relating to the restricted use of the statements of witnesses would, therefore, become redundant.

(Para 27.15)

34.10 A police malpractice brought to our notice is the habit of some police officers to be very cursory in their examination of certain witnesses and then proceed to make a detailed record of the witness's statement, assuming it to be what they would like it to be in the context of statements of other witnesses already recorded. It is imperative that we put down this malpractice to ensure the honesty and cleanliness of investigations. A great measure of credibility could be imparted to the statement of facts as recorded by the police officer after examination of a witness, if we provide in law that a copy of the statement so recorded shall, if desired by the witness, be handed over to him under acknowledgement. A similar arrangement already exists for the delivery of a search list prepared under section 100 Cr.P.C. to the occupant of the place searched or the person searched.

(Para 27.18)

34.11 For giving effect to the revised arrangements proposed above, sections 161 and 162 Cr.P.C. may be amended on the lines recommended in the Report.

(Para 27.19)

34.12 Section 172 Cr.P.C. relating to the case diary may be amended on the lines indicated in the Report.

(Para 27.20)

34.13 Section 100 Cr.P.C. may be amended to facilitate the admission of search list as a piece of evidence without having to call search witnesses to depose in court, and further to facilitate public servants to function as search witnesses in certain situations.

(Para 27.21)

34.14 Section 102 Cr.P.C. may be amended to give greater discretion to the police for releasing seized property.

(Para 27.22)

34.15 The police may be required through departmental instructions to initiate appropriate steps immediately after the disposal of a case for the prompt return of the case property to the person entitled to get it.

(Para 27.23)

34.16 A new section—50A—may be added to Chapter V of Cr.P.C. requiring the police to give intimation about the arrest of a person to anyone who may be reasonably named by him for sending such intimation, to avoid agonising suspense for the members of his family about his whereabouts.

(Para 27.25)

34.17 It is most important for improving police image that the senior officers and the supervisory ranks in the police deem it their special responsibility to put down the practice of third degree methods at the operational level in police stations and elsewhere. Some remedial measures are indicated below :—

(i) Surprise visits to police stations and similar units by the senior officers would help the immediate detection of persons held in unauthorised custody and subjected to ill-treatment. Malpractices, if any, noticed during such visits should be met by swift and deterrent punishment.

(ii) A Magistrate or Judge before whom an arrested person is produced by the police for remand to custody should be required by administrative rules of criminal practice to question the arrested person specifically if he has any complaint of ill-treatment by the police, and if he has any complaint the Magistrate or Judge should get him medically examined and take appropriate further action.

(iii) In Chapter X of our First Report, we have already recommended a scheme for mandatory judicial inquiries into complaints of death or grievous hurt caused while in police

custody. Such an arrangement would itself act as an effective check against the continuance of third degree methods in police work.

(iv) Supervisory ranks, including the senior levels of command in the police and the Government, should strictly eschew a purely statistical approach while evaluating police performance. Any administrative review of a kind which is likely to induce the subordinate ranks to adopt *ad hoc* and short-cut methods to show results should be avoided. Adequate emphasis should be laid on the honesty and cleanliness of investigations and the adoption of proper methods while handling all the connected work.

(v) Training institutions should pay special attention to the development of interrogation techniques and imparting effective instructions to trainees in this regard.

(Para 27.26)

34.18 We are convinced that if the average police officer is assured of adequate time and facility for patiently examining an accused person and pursuing the examination from point to point through a process of simultaneous verification of facts mentioned by the accused, it would facilitate a proper examination of the accused person without resort to questionable methods involving pressure tactics. This would become possible if the police can secure the remand of an arrested person to police custody for a few days under orders from a Magistrate. When the accused remains in police custody under specific orders from a Magistrate, the scope for using third degree methods while interrogating him in such custody would get greatly reduced since he would be liable for production before Magistrate on expiry of the brief custody. In the light of the present phraseology of section 167 Cr.P.C., some conventions and practices have developed in several States for the Magistrates not to grant police custody unless the Investigating Officer pleads that the accused has already made a confession and his continued custody with the police is necessary to take him from place to place and recover property. This peculiar requirement of convention and practice drives police officers to make false statements before the Magistrate while in fact the accused would not have made any such confession and they would merely be requiring to verify several facts mentioned by him and continue with his examination. Existing sub-sections (3) and (4) of section 167 which imply that remand to police custody should be exceptional may, therefore, be deleted and a new sub-section (3) may be added to facilitate remand to police custody in the interest of investigation whenever required.

(Para 27.27)

34.19 Section 167 Cr.P.C. may be amended on the lines suggested in the Report to facilitate remand by Executive Magistrate in certain specified situations.

(Para 27.28)

34.20 Section 2 Cr.P.C. may be amended on the lines indicated in the report to facilitate the establishment of special police stations to deal with particular cases or classes of cases.

(Para 27.32)

34.21 Sections 26 and 27 of the Evidence Act may be deleted and section 25 of the same Act may be substituted by a new section as recommended in the Report to facilitate the proof of a confession recorded by any person in authority (including the police) in the course of any judicial proceedings, against a person making the confession, not to be used as an evidence against him but to be taken into consideration by the court to aid it in an inquiry or trial in the manner provided in section 30 of the same Act and section 172 Cr.P.C.

(Para 27.33)

34.22 The comprehensive amendments in procedural law and Evidence Act as proposed above would not by themselves bring about noticeable improvement in the quality of investigations unless the supervisory ranks in the police hierarchy pay adequate attention to the detailed supervision over the progress of individual investigations. The quality and quantum of supervisory work done in regard to crime investigations as distinct from mere *ad hoc* maintenance of public order from day to day on a 'somehow' basis should be carefully assessed for each supervisory rank and taken due note of for his career advancement.

(Para 27.35)

Court Trial

34.23 The disposal of cases in courts has not kept pace with the institution of fresh cases for trial year after year with the result that the entire judicial machinery has got clogged up and the protracted disposal of cases has diluted the desired deterrence on the criminal elements in society.

(Para 28.1)

34.24 Protracted proceedings in courts followed by acquittal in heinous crimes tend to generate a feeling of confidence among the hardened criminals that they can continue to commit crimes with impunity and ultimately get away with it all at the end of leisurely and long drawn legal battles in courts which they can allow their defence counsel to take care of. Such a situation is hardly assuring to the law abiding citizens and needs to be immediately corrected by appropriate measures even if they should appear drastic and radical.

(Para 28.3)

34.25 The Law Commission in its Seventy-seventh Report (November, 1978) has dealt with the problem of delays in court trials and made some recommendations to improve matters. These recommendations relate mostly to administrative measures including supervision and inspection by the judicial hierarchy. Some changes in law have also been suggested but they appear peripheral. The entire philosophy and procedural conduct that attend the present working of

the legal system, particularly in regard to court trials, would need a detailed examination for revamping the system to make it conform to the expectations of the common people to secure speedy and inexpensive justice which would appear meaningful and effective in their daily lives. There is obvious scope and need for cutting down a lot of rituals and imparting a sense of commitment and urgency to the participants in judicial proceedings to secure the ultimate objectives of rendering justice to society as well as to the individuals concerned. We, as a Police Commission, are aware of some requirements of reform viewed from the angle of Investigating Officers and the prosecuting agency, but the sweep of reforms in the legal system has to be much wider and cover several other areas in which the lawyers and judges have a prominent role to play. It is beyond our present scope and competence as a Police Commission to go into the wider aspects of legal reform but we would urge and recommend that an appropriate body might be asked by the Government to go into this matter. We would further urge that functionaries from the police and Correctional Services might be associated with the deliberations of this body to ensure a comprehensive look at the entire scheme of things and identify the requirements of reform.

(Para 28.4)

34.26 While the reforms that may emerge from the deliberations of a body as suggested above might meet the long term requirements of the current situation of judicial stagnation, we feel there is ample scope for some immediate changes in law which might relieve the present stagnation and help the judicial machinery to start rolling smoothly for the dispensation of justice. The reforms we have in mind are intended to—

(i) reduce the institution of fresh cases in courts year after year ;

(ii) withdraw old cases from courts according to some accepted norms ; and

(iii) expedite the disposal of pending cases by simplyfying the procedures.

(Para 28.5)

34.27 The institution of Gram Nyavalayas as proposed in Chapter XVI of our Second Report would be a positive step for reducing the input of fresh cases for trial in regular courts.

(Para 28.6)

34.28 The adoption of a 'ticketing system' for on-the-spot disposal of traffic offences would also help in reducing the input of an appreciable volume of cases for trial in courts.

(Para 28.7)

34.29 Section 173 Cr.P.C. may be amended to facilitate the compounding of certain types of cases even at the stage of investigation.

(Para 28.8)

34.30 The decision to launch prosecution should be based on a proper assessment of the evidence available and generally speaking, prosecutions should not be launched unless the evidence warrants a reasonable expectation of conviction.

(Para 28.9)

34.31 There should be a periodic review at the district level of every police case pending in court for more than one year from the date of filing charge-sheet and a decision should be taken whether it would be in public interest or in the interest of justice to pursue the prosecution or whether the case may be withdrawn. Some possible criteria for deciding this matter are furnished in the Report.

(Para 28.10)

34.32 There is need for establishing some norms for the disposal of criminal cases by Magistrates and Sessions Judges and increasing the number of courts accordingly. A Committee with members drawn from the judiciary and the prosecuting staff may be set up by the High Court in each State for evolving these norms, having regard to local conditions.

(Para 28.12)

34.33 The progress of court trials gets blocked by a variety of reasons, some of which are correctible by administrative measures and some are relatable to the general attitude and approach shown by the prosecuting staff, defence counsel and the presiding Magistrate/Judge. We have known of badly delayed trials arising from causes like non-appearance of witnesses, lack of preparedness of the prosecuting or defence counsel to get on with the day's work in court, frequent adjournments granted on the slightest move for adjournment, prolonged cross-examination without regard to its relevance or need, taking unduly long time for perusing records or otherwise getting prepared for the case at different stages of trial, etc. We feel that several of these causes may be eliminated, if the presiding Magistrate/Judge adopts a positive approach to the daily proceedings in every case and adequately uses his powers under the Criminal Procedure Code and section 165 of the Indian Evidence Act for expeditious disposal of the case. There is need for evolving a scheme of inspections at the level of High Court as well as Sessions Courts to ensure the business-like functioning of the subordinate courts.

(Para 28.13)

34.34 A whole time functionary of the rank of a senior District and Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level.

(Para 28.13)

34.35 The inspecting arrangement proposed above should also ensure the availability of adequate staying facilities for the witnesses and others who participate in court proceedings. The dissatisfaction of the public with the woeful lack of such facilities in court gets reflected in their hostile and critical attitude to the

police whom they view as their first point of contact with the criminal justice system and whom they are in a position to criticise more freely and sharply than they can in regard to matters inside the court hall which, in their view, are protected by the legal rituals and formalities which pass of as part of the majesty of law.

(Para 28.14)

34.36 The allowances payable to witnesses for their attendance in court should be fixed on a realistic basis and their payment should be effected through a simple procedure which would avoid delay and inconvenience.

(Para 28.15)

34.37 There is obvious scope for appointing a larger number of Special Magistrates under sections 13 and 18 Cr.P.C., specially for dealing with cases under local and special laws.

(Para 28.16)

34.38 It would make for a much quicker disposal of several cases if the summary trial procedure is made mandatory for the offences specified in section 260 Cr. P.C., and for this purpose we recommend that the words 'may, if he thinks fit,' appearing in the aforesaid section be substituted by the word "shall".

(Para 28.17)

34.39 All First Class Magistrates, Special Judicial Magistrates and Special Metropolitan Magistrates may be empowered to act under the above mentioned sector, without necessarily haveing to be specially empowered by the High Court, as prescribed now.

(Para 28.18)

34.40 It has been brought to our notice that in the system of reviewing the work done by Magistrates, the disposal of cases under the summary trial procedure is not given credit by the High Courts in certain States. We would recommend appropriate value being given to the volume of work handled under section 260 Cr.P.C. also while assessing the performance of a Magistrate.

(Para 28.19)

34.41 State Governments may avail the provisions of Section 206 Cr.P.C. as recently amended and notify all the Magistrates including Special Magistrates and Special Metropolitan Magistrate as empowered under this section. The maximum amount of fine that can be imposed under this section may be increased to Rs. 500 from the existing Rs. 100.

(Para 28.20)

34.42 Section 294 Cr.P.C. requires the prosecution or the accused to admit or deny the genuineness of documents as and when they are filed in court. The same principle may be incorporated in a separate section in Chapter XIX of Cr.P.C. to enable the court to ask the accused before framing the charge as provided in section 240 Cr.P.C. whether the accused accepts any part of the prosecution evidence as furnished in the documents supplied under section 207 Cr.P.C.

(Para 28.21)

34.43 Sections 291, 293 and 296 Cr.P.C. may be amended on the lines indicated in the Report to facilitate easy proof of evidence of medical officers and other experts.

(Para 28.23)

34.44 Section 256 Cr.P.C. may be amended to make it inapplicable to cases in which a public servant figures as the complainant in his capacity as public servant.

(Para 28.24)

34.45 Section 321 Cr.P.C. relating to withdrawal of cases from Courts and section 397 Cr.P.C. may be amended on the lines indicated in the Report to provide for the following :—

(i) Having regard to the fact that the withdrawal of a case may have to be decided sometimes with reference to the appreciation of a local public order situation by the executive authority, it would be necessary to retain the power of the Government to initiate action for the withdrawal of a case. The Public Prosecutor should be empowered in law to act under directions from the Government for this purpose.

(ii) The application for withdrawal should mention in detail the reasons for the proposed withdrawal.

(iii) The court should be satisfied that the withdrawal would be in the interests of public order or justice.

(iv) The court's order should incorporate the reasons for according the permission for withdrawal.

(v) Any member of the public should have the facility to go in appeal against an order passed by the court permitting withdrawal of the prosecution in any specific case.

(Paras 28.29, 28.30 & 28.31)

34.46 Important cases *i.e.* cases triable by a Court of Session, which are withdrawn during a year in accordance with the principles detailed above, shall be mentioned in the Annual Report on the performance of the State police presented to the Legislature by the State Security Commission as suggested in paragraph 15.48 of our Second Report.

(Para 28.32)

34.47 The National Institute of Social Defence under the Ministry of Social Welfare at the Centre may take appropriate steps to evolve norms of workload for Probation Officers. They may also consider

evolving a suitable model of career structure for the personnel in the probationary services which would help them rise to higher levels of responsibilities including appropriate positions in the administration of jails and other correctional homes. It should be possible to evolve a unified career structure to cover all such institutions within each State.

(Para 28.34)

34.48 Section 13 of the Probation of Offenders Act enables even a private individual or a representative of a privately organised society to function as Probation Officer. It is seen that very few States have involved private agencies in this work. State Government's attention may be drawn to this aspect of the matter and they may be advised to involve volunteer social welfare agencies in a much greater measure in implementing the Act.

(Para 28.35)

34.49 A procedure may be prescribed for the investigating police officer to collect some information and data relevant to probation work even at the stage of investigation of any specific case, and refer to them in appropriate columns in the charge-sheet prescribes under section 173 Cr.P.C. The actual headings of these columns may be determined in consultation with experts in the field of correctional services. Availability of this information in the charge-sheet itself would help the court to apply its mind to this aspect of the matter at a later stage during trial.

(Para 28.36)

34.50 The Children Act provides for even private institutions to function as Children's Home, Observation Home, Special Schools and After-care Organisation, but the involvement of volunteer social welfare agencies in fulfilling this purpose appears insignificant now. The attention of State Governments may be drawn to this matter for appropriate corrective action.

(Para 28.38)

34.51 Juvenile Crime Squads may be established in urban areas to handle investigational work in a much more substantial manner than at present so that the police officers working in these squads may function after proper orientation and briefing and deal with all crimes involving juveniles. Crimes in which juveniles figure along with adult criminals may have to be dealt with by the regular police in the normal course, but even in their cases the Juvenile Crime Squad may keep itself informed of the background and circumstances in which the juvenile criminal came to be involved in the case.

(Para 28.39)

34.52 An adult who is proved to have organised a gang of juvenile criminals or otherwise abetted the commission of crime by a juvenile should be held punishable under a separate section to be added to Chapter V of the Indian Penal Code which should provide for a more severe punishment than that stipulated for the main crime by the juvenile. The new section may also provide for the mandatory award of a minimum punishment, except for special reasons to be recorded by the Court.

(Para 28.40)

34.53 While the Advocates Act clearly specifies the role and responsibility of a lawyer towards his client, there does not appear appropriate emphasis on the lawyer's role for the overall dispensation of justice to society. A lawyer's responsibility towards his client has to be discharged within the framework of the overall requirements of justice to society. Any lawyer who deliberately adopts dilatory tactics to prolong the proceedings in court is doing something against the interest of quick dispensation of justice to society. Similarly the conduct of any lawyer in becoming a party to the initiation of vexatious or malicious prosecution has to be viewed blameworthy from the point of view of justice to society.

(Para 28.41)

34.54 The Bar Council of India may get this aspect examined and evolve some norms for determining a lawyer's conduct towards achieving the ultimate objective of the criminal justice system, namely the quick dispensation of justice not only to individuals but also to the society at large. It may even be desirable to amend the Advocates Act to specify the lawyer's role more pointedly for this purpose.

(Para 28.41)

34.55 In paragraph 14.14 of our Second Report we have already recommended the constitution of a Criminal Justice Commission at the Centre supported by a similar arrangement at the State level for monitoring and evaluating the performance of the criminal justice system as a whole. The arrangements for regular inspections of courts and the satisfactory functioning of the Correctional Services *vis-a-vis* the Probation of Offenders Act and the Children Act in particular could be appropriately overseen by the proposed Criminal Justice Commission.

(Para 28.42)

Prosecuting Agency

34.56 The post of Assistant Public Prosecutors, Additional Public Prosecutors and Public Prosecutors should be so designed as to provide a regular career structure for the incumbents for the entire state as one unit.

(Para 29.6)

34.57 The Public Prosecutor in a district should be made responsible for the efficient functioning of the subordinate prosecuting staff in the district and he should have the necessary supervisory control over them for this purpose. He should also be provided with appropriate office accommodation, library and a small ministerial staff to perform this supervisory role effectively.

(Para 29.7)

34.58 The Public Prosecutor and the subordinate prosecuting staff should be made responsible not only for conducting prosecution in courts but also for giving legal advice to police in any matter, general or special, arising from investigations and trials. For the latter purpose, the role of the prosecuting staff will be that of a Legal Adviser. This role may be emphasized in departmental instructions governing the working of the prosecuting staff. If considered necessary from the legal point of view, a suitable section may also be incorporated in the Cr.P.C. to specify this role.

(Para 29.8)

34.59 A supervisory structure over the district prosecuting staff should be developed with Deputy Directors of Prosecution at the regional level and a Director of Prosecution at the State level. While we consider it necessary to mesh the prosecuting agency set up with the police set-up to ensure active cooperation and coordinated functioning in the field in day to day work, we also consider it important that the assessment of evidence collected during investigation and the handling of prosecution work at the district level should be as much detached and objective as possible and free from local departmental or other pressures which might arise from a variety of considerations. The meshing of the two hierarchies may be effected from the regional level upwards, with the Deputy Director of Prosecution placed under the administrative purview of the Range Deputy Inspector General of Police, and the Director of Prosecution at the State level functioning under the administrative control of the Inspector General of Police. In fact, the Director of Prosecution should function as the head of the legal wing of the State police set up. Such an arrangement is absolutely necessary to bring about close coordination and cooperation between the prosecuting staff and the investigating staff down the line and also enable a joint monitoring and evaluation of their performance from time to time. The arrangement as envisaged above would also ensure professional accountability at all levels.

(Para 29.9)

34.60 To bring about an additional measure of objectivity and detachment in the functioning of the legal wing, it may be laid down that the post of Director of Prosecution shall be filled on deputation basis for a specified term by drawing officers of appropriate rank on deputation from he law department or the State judiciary. There can be an additional post at the State level called the Additional Director of Prosecution which will be the highest career post available for the regular prosecuting cadres to reach by promotion.

(Para 29.10)

34.61 The posts of Assistant Public Prosecutor may be categorised under two grades, I and II. In the initial few years of the new scheme direct recruitment may have to be made at the levels of Assistant Public Prosecutor Grade II and Deputy Director of Prosecution. After the recruits gain experience in handling different types of prosecution and other legal work, direct recruitment may ultimately be confined to the level of Assistant Public Prosecutor Grade II, and thereafter postings will be by promotion to the ranks of Assistant Public Prosecutor Grade I, Public Prosecutor (including Additional Public Prosecutor), Deputy Director of Prosecution and Additional Director of Prosecution.

(Para 29.11)

34.62 The minimum qualification and experience for recruitment to different categories of prosecuting staff and their pay scales and service conditions may be on the lines recommended in the Report.

(Para 29.12 and 29.13)

34.63 There would be need for a whole time functionary of the rank of Assistant Public Prosecutor Grade I free from prosecution work in courts to function as the Legal Adviser to the Superintendent of Police in each district for giving him legal advice in specific cases as also other general matters relating to criminal work in the district from time to time. The Deputy Director of Prosecution at the regional level and the Additional Director of Prosecution and the Director of Prosecution at the State level shall perform a similar role to aid and advice the Deputy Inspector General of Police and Inspector General of Police respectively.

(Para 29.16)

34.64 Section 25 Cr.P.C. may be amended to enable the placement of the prosecuting cadres under the administrative purview of the Chief of police.

(Para 29.17)

Industrial disputes

34.65 In a socialist democracy there has to be a proper balancing of the interests of labour, owners of industry and the consumer so that there can be quick economic growth accompanied by an even flow of benefits of such growth to all the three parties. It has, however, happened that the industrial development in the country has witnessed increasing number of conflict situations between the management and the labour, each tending to take a rigid stand to promote the interests of one to the exclusion of the other, instead of consensus situations which would promote the interests of both as well as the community at large.

(Para 30.1)

34.66 The Industrial Disputes Act provides several agencies like Works Committees, Conciliation Officers, Boards of Conciliation, Courts of Inquiry, Labour Courts and Tribunals to resolve a variety of industrial disputes. But in the perception of the labour, the formal and legal exercises before such bodies are viewed as time consuming and cumbersome where the management is at an advantage with assistance and advice from legal experts and can also afford a prolonged legal battle without any financial difficulty. This circumstance makes the labour feel that they have a better alternative to secure their objectives quickly by coercive and pressure tactics in the form of strikes or other demonstrations and agitations supported by their muscle power. The multiciplicity of trade unions also induces minority groups to adopt militant postures

to secure bargaining powers which may not be available to them on the strength of their mere numbers. Industrial disputes have, therefore, increasingly tended to become focal points for trial of strength between the labour and management and also between the labour unions. When an industrial dispute crosses the limits of democratic and accepted legal forms and gets into areas of violence and breaches of public order, it immediately attracts police attention under the law, and the police are required to respond to the situation for effective maintenance of law and order.

(Para 30.2)

34.67 Police response in an industrial dispute situation has to be very carefully determined and then put into operation in a manner which would command the confidence and trust of both parties to the dispute. While evolving norms for determining this response it has to be remembered that the ultimate objective of all the conciliation exercises envisaged in various labour laws is to promote industrial harmony. This harmony cannot be satisfactorily brought about by any action which makes one party feel that the other party has contrived to gain an undue advantage by adopting militant postures and resorting to coercive and pressure tactics. Maintenance of order accompanied by quick and effective prevention of crime, particularly crimes involving violence, in a conflict situation is very necessary for removing the elements of coercion and pressure from the conflict atmosphere. By the removal of such factors the ground would get cleared for the parties concerned to discuss the issues involved in a calm and free atmosphere where concern and consideration would replace anger and distrust. Police role and responsibility for maintaining law and order in labour dispute situations should be largely guided by the above objective to bring the agitated contending parties to normal levels of thinking in which they would be able to evolve a constructive approach for settlement of their disputes to mutual satisfaction.

(Para 30.3)

34.68 A fundamental requirement for proper planning of police action in any industrial dispute situation is the availability of a variety of basic data at the district level relating to all industrial establishments in the district. Responsibility for compiling these basic data and information should be taken on by a special cell of the Intelligence wing at the district level under the Superintendent of Police. A similar cell in the Intelligence branch of the CID at State headquarters should cover major industrial establishments which may give rise to industrial disputes having ramifications over more than one district. Industrial establishments in the public sector, both Central and State, should also be covered by these cells for this purpose. The most important point in the working of these cells would be the constant updating of the information collected from time to time and their dissemination to the various operative units at the sub-division, circle and police station level at regular intervals.

(Para 30.4)

34.69 Besides collecting the basic data and information as detailed above, these cells should also collect intelligence about matters that arise in the day-to-day working of the establishments which generate friction between the labour and management. Timely knowledge of such matters would help the police to anticipate crisis situations and be adequately prepared to deal with them. It is, however, important to note that collection of intelligence on such matters is not meant to secure police intervention as such in these disputes unless there is a distinct public order angle. Intelligence gathered in such matters from time to time should be passed on to the appropriate labour authorities to enable their timely intervention for sorting out the problems within the framework of various labour laws before they explode into violent confrontations.

(Para 30.5)

34.70 When a specific labour dispute arises and tension begins to build up it would be necessary to augment the above-mentioned intelligence cells with special teams at the local level for collecting intelligence in depth about the likely agitationist plans of the organisers.

(Para 30.6)

34.71 Police presence at gate meetings should be for the purpose of keeping themselves informed of the trends of ideas expressed and the measure of support extended by workers, and to prevent the commission of any cognizable offence on the spot.

(Para 30.7)

34.72 When specific crimes are committed in the course of gate meetings or collection of subscriptions, the normal processes under the law should be set in motion immediately and the offenders should be brought to book. Police should take care that their action in such specific cases does not draw the criticism that they are soft towards one union and harsh towards another. A high degree of impartiality and objectivity should attend police action in all such cases.

(Para 30.9)

34.73 While a situation within the precincts of a factory might be deemed to be directly connected with legitimate trade union activity and would, therefore, require to be treated on a special footing as far as police response is concerned, maintenance of order and a feeling of security among the residents in workers' colonies or the residences of individual members of the management should be treated as a public order problem as in any other locality and appropriate police action taken to deal with mischief makers.

(Para 30.10)

34.74 While it is important to ensure the security of sensitive and vital installations within the establishment damage to which might eventually mean a big public loss, it is equally important to avoid unnecessary police presence in those areas of the establishment which are not sensitive from this angle, because it might give the impression of undue police proximity

to the seat of management in the establishment. Posting of police personnel for providing security to specified installations in an industrial establishment in a strike situation should, therefore, be carefully determined by the police themselves on the basis of their own intelligence and appreciation of public interest.

(Para 30.11)

34.75 Police are duty-bound to give protection to any worker who expresses the desire to work during a strike situation and seeks protection to do so. Police action in this regard should, however, be related to the desire expressed by the worker himself and not to his reported willingness as communicated to the police by the management.

(Para 30.12)

34.76 While it is recognised that any person, whether a new recruit or old worker, has the right to seek opportunity for doing work of his choice, any action taken by the police to give protection to new recruits for exercising this right in a strike situation might operationally amount to undue police interference in favour of the management to break the strike. It is, therefore, our view that, when the management try to bring in new recruits, police action should not be in the nature of giving them individual protection to enter the factory but should be confined to action under the law if and when specific offences get committed in the confrontation that might ensue between the striking workers and the new recruits.

(Para 30.13)

34.77 The management may sometimes attempt to remove finished or unfinished goods from the factory premises in a strike situation and this may be resisted by the striking workers. Police action in such a situation should ensure adequate protection for the removal of goods, provided one or the other of the following grounds is satisfied :—

(a) The finished goods are required to be exported to fulfil contractual obligations and to keep up the export earnings of the industry and the country.

(b) The goods sought to be removed are essential either by themselves or as inputs for the defence needs of the country.

(c) The goods are of a perishable nature and unless they are taken out and disposed of they would be damaged, causing considerable loss to the industry.

(d) If some goods which are essential inputs for other industries are not removed from the factory and are not made available to other units, then those establishments would also cease to function and thus create problems for the workers of such establishments.

(Para 30.14)

34.78 If, however, under the cover of removal of goods, the management attempt to remove substantial parts of the machinery or other equipment in order to revive their activity elsewhere, it would be beyond the norms mentioned above and, therefore, police action in such a situation should not be in the nature of preventive or protective action but should be related to specific offences, if and when they occur in the course of removal of such machinery or other equipment and the obstruction thereto by the striking workers.

(Para 30.15)

34.79 Sometimes workers indulge in wild-cat strike and peremptorily lay down tools while actually working during a shift inside the factory. While their continued presence within the factory premises during their shift period may not by itself provide ground for police action in the strike situation, the refusal of such workers to leave the factory premises even after their shift period is over should be deemed as criminal trespass and they should be dealt with by the police accordingly under the law.

(Para 30.16)

34.80 Several cognizable offences like wrongful restraint, wrongful confinement, etc., are committed in the course of a gherao and, therefore, a gherao should be deemed a cognizable crime.

(Para 30.18)

34.81 Police action in respect of gheraos or sit-in strikes would consist of the following two parts :—

(i) Registering a First Information Report in respect of the cognizable crimes committed and documenting the investigation thereon.

(ii) Lifting the gherao by the physical removal of persons doing the gherao or eviction of the sit-in strikers as the case may be.

The first part would present no difficulty, but the second part would require careful operation in the field. In exercise of their powers under section 149 Cr.P.C. for preventing the commission of any cognizable offence, the police may physically remove the persons doing the gherao. They may even arrest the persons who have committed specific offences in the gherao situation and remove them for production before a Magistrate. In some cases, when faced with violent defiance, it may even become necessary for the police to declare the gathering of persons doing the gherao as unlawful and proceed to disperse them as members of an unlawful assembly. Before embarking on the operation of removal, arrest or dispersal of unlawful assembly as might be warranted by the situation, the police should, subject to the exigencies on the spot, satisfy themselves that all other processes of persuasion, appeal and conciliatory measures have been tried and exhausted.

(Para 30.19)

34.82 Specific cognizable crimes committed in the course of an industrial dispute may later get prosecuted in court on conclusion of investigation by police. It has become a practice with the administrators to

withdraw such cases from court after the industrial dispute is settled. In fact, in many instances the very agreement to withdraw cases would form part of the settlement. In paragraph 28.29 of this Report, a revised arrangement in law has been recommended for the withdrawal of a criminal case to be sought only on grounds of justice or public interest and not on a mere executive desire for compromise in any particular case. The revised procedure would help to ensure that criminal cases arising from industrial disputes are not light-heartedly withdrawn from court on extraneous considerations. There is urgent need to stop the growing feeling among the agitating sections of the public that they can commit crimes with impunity and later get away without any punishment by seeking executive interference on their behalf.

(Para 30.20)

34.83 It is important that police officers, particularly the senior officers at the commanding levels, avoid doing anything which may give the impression to the labour that the officers are unduly obliged to the management on account of facilities like transport, guest house and other entertainment freely provided by the management and readily accepted and enjoyed by the officers.

(Para 30.21)

34.84 When the maintenance of an essential service like communications, transport or supply of electricity/water is threatened by an impending strike by the workers concerned, Government usually resorts to a special law or Ordinance for totally prohibiting a strike in the service concerned. When once the strike in a service gets totally prohibited under the law, the police role and responsibility for dealing with the strikers will have to conform to special norms different from what may be applicable to a normal industrial dispute. Police action while dealing with strikers in an essential service in which strikes are totally banned would include—

(i) preventive action against organisers of the strike,

(ii) prompt registration of cases arising from cognizable crimes and the arrest of the offenders concerned,

(iii) given protection to loyal workers, and

(iv) giving protection to fresh recruits or the personnel drawn from other units like the territorial army, home guards etc., for the performance of essential jobs.

The primary objective before the police in such situations should be to keep the essential services going and they should not hesitate to take whatever action is permissible under the law to secure this objective.

(Para 30.22)

34.85 The norms for determining police response in an industrial dispute situation should be the same whether it relates to the public sector or private sector.

(Para 30.23)

34.86 The Central Industrial Security Force (CISF) has a statutory role and responsibility for the security of the machinery and other equipment and property in certain public sector undertakings which are covered by this force. In a labour dispute situation in such a public undertaking, the police may, in the normal course, be able to take the assistance of the CISF personnel to provide guards for the sensitive vital installations in the establishment. Where, however, the personnal of the CISF themselves become a party to a strike situation or are likely to be want only negligent or indifferent in the performance of their duties because of their sympathy with the other striking workers, the police will have an additional responsibility to provide security to the sensitive and vital installations of the establishment. The nature and extent of security cover to be provided by the police in replacement of the CISF should be decided sufficiently in advance by mutual consultations between the police and the management of the undertaking, also taking into account the intelligence gathered by the police themselves regarding the attitude and involvement of the CISF in this regard.

(Para 30.24)

34.87 While laying down norms for police response in industrial dispute situations, it has to be remembered that the formation and functioning of Policemen's Associations in the recent years are likely to influence and condition the attitude of police personnel towards striking workers. A general feeling of sympathy might be generated among the policemen towards the striking workers and a feeling might get induced that nothing should be done to weaken the power of strike as a weapon for collective bargaining. To secure uniformity and effectiveness of police approach to the problem of handling labour dispute situations, it would be necessary for the senior officers at commanding levels to apprise the police personnel individually and also collectively through their Associations wherever they exist about the norms as suggested in this Report and ensure their understanding by the police system as a whole for maintaining their position and prestige as a law enforcement agency. Any attempt made to involve the police personnel in an *ad hoc* disposal of a labour dispute situation in an illegal or irregular manner without conforming to accepted norms is likely to complicate matters and weaken the command structure of the police.

(Para 30.25)

Agrarian problems

34.88 Agrarian problems have increasingly tended to draw police attention from the angle of maintenance of public order, particularly from the sixties. Persistence of serious social and economic inequities in the rural areas has frequently generated tensions between different classes and posed problems for the police.

(Para 31.1)

34.89 In the actual implementation of land reform legislation several loopholes were taken advantage of by vested interests to perpetuate the existing inequities. The land owning community retained large tracts of land under their effective control under the guise of

resuming land for self cultivation which was permissible in law. The law of ceiling on land holdings by individuals was effectively circumvented by the partitioning of landed property among members of the same family and dependent relatives, with the result that no land emerged as surplus for disposal outside the family domain. According to the Twentysixth Round of National Sample Survey (July 1971—September 1972), 54.91% of households in the country owned land of area less than 1 acre per household, and the total area owned by them constituted 2.21% of the total area of holdings in the country while 4.38% of households held area of more than 15 acres each and the total area held by them amounted to 39.43% of the total area of holdings in the country.

(Para 31.4)

34.90 The land reform measures so far spelt out and implemented have not had the desired impact for the removal of inequalities and injustice on the agrarian front. This is mainly because those administering the reforms had no interest in doing so and were very much in favour of maintaining the *status quo*. The reforms were only lip-service to an ideology which had to be professed for political purposes.

(Para 31.4)

34.91 The Scheduled Castes do not form a resident majority group in any part of the country but live interspersed with other sections of the population. They constitute more than 20% of the population in 666 talukas. On the other hand, the Scheduled Tribes live as majority groups in 329 talukas. While a large number of Scheduled Castes earn their livelihood by working as agricultural labourers, the Scheduled Tribes are by and large a self cultivating class. Agrarian problems of the Scheduled Castes are related to insecurity of employment, low wages and grossly unjust treatment at the hands of the land owning community in a variety of ways. The problems of the Scheduled Tribes arise from the intrusion and exploitation by non-tribals for usurping lands from the possession of tribals, and the economic hold over the tribals by non-tribal money lenders and the like.

(Para 31.5)

34.92 The proportion of agricultural workers from Scheduled Castes and Scheduled Tribes varies from State to State. Scheduled Caste workers preponderate in Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. Animosities and tensions arising from the inter-play of caste prejudices have also tended to foul the relationship between land-owners and the agricultural labourers owing to the latter's caste composition as indicated above.

(Para 31.6)

34.93 The economic distress of the landless agricultural labourer is further accentuated by the growing pressure on land in rural areas owing to rise in population without a corresponding increase in the area available for cultivation. Compared to the position in 1951, the population in 1976 had increased by 61.3% while the net area of land sown increased by 19.8% only.

(Para 31.8)

34.94 From the All India Debt and Investment Survey 1971-72 conducted by the Reserve Bank of India it is seen that the borrowings of an average cultivator/agricultural labourer were very much more from sources like professional money-lender/agriculturist money-lender/trader/landlord than from Government or Co-operative Societies/bank. This analysis highlights the economic hold the landlord and other richer sections of the village continue to have on the cultivator and the agricultural labourer.

(Para 31.9)

34.95 It has already been recommended in Chapter XIX of the Third Report that the allotment of land to the landless poor, particularly the Scheduled Castes and Scheduled Tribes, should be effected through a separate comprehensive legislation which should have provision for effectively handing over possession of the land to the allottee and for promptly evicting the unauthorised occupants or trespassers who may subsequently try to nullify the allotment order. It has also been recommended that the police should collect intelligence about forcible dispossession of the poor from lands allotted to them, and get the matter set right with the help of the revenue authorities concerned. This arrangement would help in giving some effective relief to the landless poor and to that extent reduce agrarian distress and tension. However, this by itself may not take us far since there is not sufficient land in any case to meet the entire requirements of the rural poor with our steeply rising population. There is, therefore, side by side with land reforms, urgent need for providing alternative sources of employment in rural areas for the rapidly growing rural population. For this purpose measures have to be taken in hand early for bringing about the requisite infra structure of communications, power and water in the rural areas. The danger of fragmentation of holdings as a result of the operation of the inheritance laws of the country, should also not be lost sight of.

(Para 31.12)

34.96 Under the Industrial Disputes Act, several agencies like Conciliation Officer, Board of Conciliation and Tribunal exist for adjudicating disputes between the labour and management in an industrial establishment. But there is no special agency in a district to adjudicate on a matter arising from agrarian disputes. It is usually dealt within the normal course by the revenue authorities. It would make for speedier settlement of such disputes if the District Civil Rights Cell recommended in paragraph 19.14 of the Third Report could be given some staff support to perform this role. It would also help the police to secure relevant information through this Cell, while dealing with criminal cases arising from such disputes.

(Para 31.13)

34.97 The existing arrangements in States for the maintenance of the basic record of rights in villages or groups of villages may be checked and revised to ensure their factual accuracy, besides making them proof against *mala fide* manipulation and interpolation.

(Para 31.14)

34.98 When disputes arise and tensions build up between two groups of the land owning community in a village regarding ownership or right of use of any land or irrigation facility, police should not hesitate to take effective preventive action against the leaders on both sides by resorting to section 107 Cr.P.C. and also making preventive arrests where called for.

(Para 31.14)

34.99 Recent years have witnessed another type of agitation on the agrarian front in which farmers organise themselves to protest against the Government and allied agencies on such issues like charges for power supply for pump sets, grant of loans and subsidies, writing off arrears of loans, etc. Since these agitations are primarily directed against the Government and do not involve two opposing groups among the public themselves, it becomes easier for the organisers to whip up emotions and instigate violence. Police should handle this type of agitations as a matter of maintenance of public order and take all permissible steps under the law including preventive arrests to contain the situation in public interest.

(Para 31.16)

34.100 A fundamental requirement for planning police action in any public order situation is the timely collection of intelligence on the growing developments. Apart from the intelligence wing of the police at the district level, the village police as organised on the lines recommended in Chapter XX of the Third Report should be actively involved in gathering advance intelligence in this matter which would be of great help to the local police in effectively anticipating local situations in time.

(Para 31.17)

34.101 The re-organisation and strengthening of rural police calls for immediate attention from the Government in the context of present developments.

(Para 31.19)

Social legislation

34.102 Social legislation may be broadly classified into two categories for appreciating the problems that arise in the enforcement of the legislation. The first category is the permissive type in which the reformative law merely seeks to enlarge the freedom of social action and interaction in certain fields and protect the person so acting from any disability that might fall on him but for the law. Legislation concerning inter-caste marriages and divorce proceedings is of this type. The second category is the proscriptive type which seeks to restrict certain social practices and penalise any conduct that is specifically prohibited in law. Laws relating to suttee, child marriage, polygamy, dowry and untouchability are examples of this category. Enforcement of this category of social legislation meets with resistance from groups which are interested in the continuance of the old practices.

(Para 32.2)

34.103 Any attempt to legislate a social change without a prior value change in society amounts to the use of authority and the coercive power of the State to enforce a new value framework. Unless there is a measure of consensus among the generality of people about the desirability of the change that law seeks to achieve, it would result in our seeking a social change in a manner which might simultaneously generate social hatred and hostility. Social legislation of this kind, that is the proscriptive type, has, therefore, to be preceded by a measure of debate, discussion and propaganda which would convince the people in general and prepare them to accept the proposed change. If legislation goes far in advance of the preparedness of the people for the proposed change, enforcement of such a legislation will lack people's support and therefore will generate a situation of conflict between the people and the enforcement agency.

(Para 32.6)

34.104 The police, as the premier law enforcement agency in the country, are frequently involved in the enforcement of a variety of laws aimed at social reforms. The normal role of the police as expected by the people is in the field of laws relating to the protection of life and security of property. The Indian Penal Code is the basic criminal law of the country for the police to perform this role. Public understand this role well and willingly co-operate with the police in individual cases but the position becomes different when the police are involved in the enforcement of a social reform law which the public at large are not yet prepared to accept. The timing of enactment of a law of social reform and the degree of involvement of police in its enforcement have to be finely adjusted and regulated so that public support for its enforcement will not be prejudiced. Legislation by itself would not be effective for bringing about a change in the social value system and, therefore, the police may not be looked upon as a primary instrument for effecting a social change.

(Para 32.7)

34.105 Investigational power and responsibility of the police are now confined to cognizable offences which are specified as such in law. In their anxiety to secure effective enforcement of a new social law, social reformers and legislators are inclined to declare all offences under such a law as cognizable and leave the matter there in the belief that strict and severe enforcement thereof by the police would achieve their purpose. It is at this stage that there is scope for introducing some refinements in law which would greatly reduce the scope for malpractices when the offences are taken cognizance of by the police. Even now there are several cognizable offences in which, after completion of investigation by the police, there are restrictions at the stage

of the court taking cognizance of the case for commencing trial. All offences under Chapter VI of the Indian Penal Code and offences under Sections 153A, 153B, 188, 295A, 471 and 505 of the same Code are examples of this kind where the court can take cognizance only on a complaint from a specified individual or on sanction from a specified authority. There is scope for extending this concept of conditional cognizability even at the earlier stage when the police register the case and commence their investigation. The conditions can be suitably determined to reduce the scope for harassment and corruption.

(Para 32.11)

34.106 Social legislation may be categorised under five groups as indicated in the following paragraphs and the nature and extent of police involvement in the enforcement of each group may be as indicated therein.

(Para 32.12)

34.107 *First Group*

(i) This group would cover laws regulating social institutions like marriage, divorce, adoption, inheritance, etc.

(ii) Police should have no role at all in the enforcement of these laws. It should be left to the affected parties to take matters direct to courts and get their disputes resolved through judicial adjudication.

(Para 32.13)

34.108 *Second Group*

(i) This would cover laws dealing with some social problems like prevalence of dowry, discrimination against women, begging, vagrancy, etc.

(ii) Police should not have any role to play in the enforcement of these laws, excepting some which may have a public order or crime prevention aspect. For example, if there is a law prohibiting begging in specified public places, police should have the powers to enforce the relevant provision, solely from the point of view of maintaining public order at the specified place. Police should not be involved in rounding up individual beggars and marching them to a rehabilitative home or any such institution. That job should be left to the Municipal agencies.

(Para 32.14)

34.109 *Third Group*

(i) This group would cover laws aimed at promoting the health of the people in general and, in particular, prohibiting the consumption of intoxicating drinks and of drugs which are injurious to health.

(ii) Offences under these laws which involve commercially organised activity (for example : trafficking in drugs) or disturbance to public order should be made fully cognizable by the police. Offences which do not have any such angle but involve individual behaviour and conduct without creating any public order situation may be made cognizable by the police only on a specific complaint from a person alleging annoyance or injury caused to him by such behaviour and conduct, and not on any intelligence gathered by the police themselves.

(Para 32.15)

34.110 *Fourth Group*

(i) This would cover laws aimed at prohibiting or regulating certain pastimes which are likely to operate to the detriment of the earnings of poor families and result in the drain of their meagre financial resources.

(ii) Laws which regulate gambling, horse racing, lotteries, cross-word puzzles, etc., fall under this category. Police cognizability of offences under these laws should be limited to those which have a public order aspect. For example, gambling in a public place is likely to promote disorderly behaviour and disturbance to public order and should therefore be made fully cognizable by the police. Offences which do not involve this public order aspect may be made cognizable only on a specific complaint from an affected party.

(Para 32.16)

34.111 *Fifth Group*

(i) This group would cover laws which are meant for protecting and rehabilitating the handicapped and weaker sections of society, and preventing exploitation of their economic weakness or otherwise distressed situation.

(ii) Police should be fully involved in the enforcement of these laws. Protection of Civil Rights Act and the Suppression of Immoral Traffic Act are examples of laws under this group. Offences under these laws should be made cognizable and the general police should have full powers of enforcing them

(Para 32.17)

34.112 In the investigation of offences which are made conditionally cognizable as recommended above, the police need not have the power of arrest. They may, on conclusion of investigation, put the matter before a court if evidence warrants such a course of action, and take from the accused person a bond for his appearance in court when summoned.

(Para 32.18)

34.113 Appropriate amendments to several pieces of social legislation would be required to implement the above recommendations regarding conditional cognizability by the police and the restriction on their powers of arrest in certain cases. The various social laws may be individually examined from this angle and appropriate amendments evolved by the Social Welfare Departments of the State Governments in consultation with the State Police agencies.

(Para 32.19)

Prohibition

34.114 Over 6 lakh prohibition cases have been registered annually in the recent years all over the country and a similar number of persons arrested in such cases every year. 25,692 juveniles were arrested under the Prohibition Act in 1977. The arrest of such a large number of persons year after year and their passing through police custody for their involvement in prohibition offences alone would tend to 'criminalise' persons who are not perceived as criminals in the normal sense of the term by the society at large.

(Para 33.9)

34.115 Some aspects of the actual field situation and the practical difficulties in the enforcement of prohibition are enumerated below :—

(1) Illicit distillation is mostly carried on in remote areas or densely populated slums which offer safe hideouts for the distillers. Detection of distillation activities in such circumstances becomes extremely difficult, particularly in the absence of public co-operation which seldom comes forth in the cause of prohibition.

(2) The easy availability of a variety of sources for preparation of illicit liquor encourages illicit distillation and brewing.

(3) Any amount of severe punishment by way of imprisonment or fine for the prohibition offenders does not seem to deter them since the economics of illicit distillation is in their favour and they find the business of illicit liquor quite profitable, even after making allowances for the temporary immobilization of the personnel concerned by the processes of trial and punishment.

(4) Illicit liquor trade provides big business, and those who organise it from behind the scene exploit the poverty of weaker sections in society and draw them into this business to function as intermediaries for transport and sale of liquor. In this process it is these poor people who ultimately get caught by the enforcement agency and subsequently languish in jail. Very rarely does one come across prohibition convicts in jails drawn from the rich and business sections of the community. It is indeed tragic that the prohibition law which was conceived as a legislation primarily meant to benefit the ill-informed and poorer sections of the community ultimately results in a large number of persons of this very category getting into prison for their involvement in illict liquor trade.

(5) Corruption spreads quickly and widely as a result of persistent influence from illicit liquor business on the police force, making it more and more inefficient in dealing with professional bootleggers and big organisers of illicit liquor trade.

(6) The mounting pendency of prohibition cases in courts has clogged up all property rooms and storage space in police stations and their compounds.

(Para 33.10)

34.116 From the standpoint of enforcement the following broad amendments in prohibition law are urgently necessary to eliminate some of the serious evils noticed in the existing scheme of enforcement:—

(i) Cognizable offences under the prohibition law should be limited to those relating to manufacture, transport and sale of liquor.

(ii) Offences relating to possession of liquor or drinking of liquor or being found in a state of drunkenness should be made non-cognizable. They may, however, be taken notice of by the police while they investigate any other accompanying cognizable offence.

(iii) In regard to the above category of non-cognizable offences police should, however, have the power to seize any illicit liquor that may be connected with the non-cognizable offence if it comes to their notice and they may send the seized liquor to court for further disposal.

(iv) The procedure for conducting searches under the prohibition law should be separately laid down without drawing a close parallel from the Code of Criminal Procedure.

(v) There should be legal provisions to enable the enforcement agency destroy on-the-spot any illicit liquor or any other material connected with its manufacture when the liquor and such material are found in a public place without being claimed by anybody. The destruction may be documented in the presence of witnesses.

(Para 33.11)

34.117 As regards arrangements within the police for detection of prohibition offences mobile parties may be constituted at the sub-division level to concentrate on the more serious offences of illicit manufacture,

transport and sale of liquor which alone would be cognizable in the revised prohibition law. The functioning of these mobile parties can be on the lines indicated by the Tamil Nadu Police Commission.

(Para 33.12)

34.118 Unless there is a measure of consensus among the generality of people about the desirability of the change that a law of social reform seeks to achieve, its enforcement would lack people's support and might even generate hostility between the people and the enforcement agency. From the long experience of States like Tamil Nadu, Gujarat and Maharashtra in the enforcement of prohibition it is clear that the prohibition law does not enjoy acceptance and support from the public at large. Their cooperation, therefore, is totally lacking for the police to enforce the law. In fact, its enforcement brings the police into situations of conflict with substantial sections of the public who do not view drinking liquor as an act to be held criminal and made punishable under the law. In the light of the realities and difficulties in enforcement work as detailed in this Report, it emerges that the prohibition law, as presently enacted with emphasis on total prohibition, is practically non-enforceable. The Government may review their prohibition policy in general and the structure of prohibition law in particular and evolve a revised practical measure for dealing with the problem of economic distress among the low income groups of our population, owing to the evil of drinking.

(Para 33.13)

Sd/-
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NEW DELHI
19th June, 1980.

APPENDICES

S/15 HA/80.—9.

APPENDIX—I

(Para 27.7, Chapter XXVII)

Incidence of Cognisable crimes and the number of investigating Officers available to handle them in certain States in 1977

S. No.	Name of the State	No. of cognisable crimes under the Indian Penal Code	No. of cognisable crimes under Local & Special Acts	Total number of investigating officers (of the rank of Inspector, Sub-Inspector and Asstt. Sub-Inspector)	No. of Indian Penal Code cases per investigating officer	No. of Local and Special Acts cases per investigating officer
1	2	3	4	5	6	7
1.	Andhra Pradesh	66,852	2,41,675	1,637	40.83	147.63
2.	Assam	36,050	3,443	1,433	25.15	2.40
3.	Bihar	96,897	5,292	6,457	15.00	0.82
4.	Haryana	13,039	15,521	610	21.37	25.44
5.	Karnataka	69,315	1,45,098	1,608	43.10	90.24
6.	Kerala	41,262	2,219	880	46.88	2.52
7.	Madhya Pradesh	1,48,125	1,21,880	1,929	76.78	63.18
8.	Maharashtra	1,45,086	6,13,663	2,126	68.24	288.65
9.	Orissa	35,416	2,228	1,673	21.16	1.33
10.	Punjab	13,994	1,50,967	1,492	9.37	101.18
11.	Rajasthan	62,244	32,561	1,128	55.18	28.87
12.	Tamil Nadu	90,396	9,09,169	2,179	41.48	417.24
13.	Uttar Pradesh	2,22,621	1,46,920	4,909	45.34	29.93
	TOTAL :	10,41,297	23,90,636	28,061	37.1 (Average)	85.19 (Average)

Source : 1. Crime in India published by the Bureau of Police Research and Development for Cols. 3 & 4.
2. Information obtained by the N.P.C. from the States for Col. 5.

APPENDIX—II

(Para 27.7, Chapter XXVII)

Incidence of Cognisable crimes under the Indian Penal Code and the Local & Special Acts from 1969 to 1977

S. No.	Name of the State	Crime head	1969	1970	1971	1972	1973	1974	1975	1976	1977
1	2	3	4	5	6	7	8	9	10	11	12
1.	Andhra Pradesh	I.P.C.	40153	43942	46390	49914	51268	55601	57105	61170	66852
		L&S	269303	261070	293170	305573	280010	278876	249408	242983	241675
		TOTAL	309456	305012	339560	355487	331278	334477	306513	304153	308527
2.	Assam	I.P.C.	24925	25908	28199	30320	32007	36238	36077	32896	36050
		L&S	2175	1590	4770	5206	2803	3337	5158	4939	3443
		TOTAL	27100	27498	32969	35526	34810	39575	41235	37835	39493
3.	Bihar	I.P.C.	75333	84091	83270	82744	92068	101100	99135	94782	96897
		L&S	12159	10267	5664	4754	5241	6395	6210	6517	5292
		TOTAL	87492	94358	88934	87498	97309	107495	105345	101299	102189
4.	Gujarat	I.P.C.	33129	32225	32747	36157	45421	55829	54872	55895	59915
		L&S	122911	134121	127234	107574	106217	103473	110516	115749	134419
		TOTAL	156040	166346	159981	143731	151638	159302	165388	171644	194334
5.	Haryana	I.P.C.	8858	8902	8237	9104	9388	10194	9596	9146	13039
		L&S	13716	14918	17361	19387	22056	24029	24596	23391	15521
		TOTAL	22574	23820	25598	28491	31444	34223	34192	32537	28560
6.	Himachal Pradesh	I.P.C.	2278	2381	2494	3073	3342	3783	3450	3780	4553
		L&S	22904	17167	14178	16805	16271	2433	2741	2910	2438
		TOTAL	25182	19548	16672	19878	19613	6216	6191	6690	6991
7.	Jammu & Kashmir	I.P.C.	6131	6421	5518	6021	6622	8693	10419	12319	14529
		L&S	1158	NA	832	1418	1715	1769	3644	2335	1530
		TOTAL	7289		6350	7439	8337	10462	14063	14654	16059
8.	Karnataka	I.P.C.	35566	35566	36557	37786	44401	49023	49491	50640	69315
		L&S	566922	825526	667515	299211	126026	212175	204678	198232	145098
		TOTAL	602488	861092	704072	336997	170427	261198	254169	248872	214413
9.	Kerala	I.P.C.	28492	31617	29712	35442	41848	43124	36022	31868	41262
		L&S	4913	3549	3340	1965	2315	2996	5246	3250	2219
		TOTAL	33405	35166	33052	37407	44163	46120	41268	35118	43481
10.	Madhya Pradesh	I.P.C.	86946	83537	88548	95556	110811	127302	127211	122299	148125
		L&S	118467	134052	164966	178749	170703	160878	176756	140374	121880
		TOTAL	205413	217589	253514	274305	281514	288180	303967	262673	270005
11.	Maharashtra	I.P.C.	92135	96552	99125	104782	128992	144432	141980	133440	145086
		L&S	523821	496259	541637	528511	507054	534331	626073	696049	613663
		TOTAL	615956	592811	640762	633293	636046	678763	768053	829489	758749
12.	Manipur	I.P.C.	2351	2122	1931	1920	2201	2820	3102	2984	3258
		L&S	419	291	416	645	1009	1362	1452	1273	1532
		TOTAL	2770	2413	2347	2565	3210	4182	4554	4257	4790

1	2	3	4	5	6	7	8	9	10	11	12
13.	Nagaland .	I.P.C.	685	744	1004	1117	918	1088	910	824	844
		L&S	25	106	377	380	348	511	761	546	784
		TOTAL	710	850	1381	1497	1266	1599	1671	1370	1628
14.	Meghalaya .	I.P.C.	N.A.	N.A.	N.A.	1105	1322	1566	1619	1604	1705
		L&S	N.A.	N.A.	N.A.	407	463	892	798	685	1035
		TOTAL	N.A.	N.A.	N.A.	1512	1785	2458	2417	2289	2740
15.	Orissa .	I.P.C.	31395	31514	30502	31983	31252	32207	34511	33400	35416
		L&S	6122	1981	2155	3385	4362	3398	2939	3445	2228
		TOTAL	37517	33495	32657	35368	35614	35605	37450	36845	37644
16.	Punjab .	I.P.C.	12926	12478	11433	12111	12511	12878	12360	11775	13994
		L&S	89597	92737	128630	151831	153588	170493	180730	195072	150967
		TOTAL	102523	105215	140063	163942	166099	183371	193090	206847	164961
17.	Rajasthan .	I.P.C.	34995	36230	36743	39204	44229	51102	50984	50842	62244
		L&S	40381	38009	31835	34481	29637	23027	26979	42841	32561
		TOTAL	75376	74239	68578	73685	73866	74129	77963	93683	94805
18.	Sikkim .	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	336	230	193
		L&S	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	Nil	50	22
		TOTAL							336	280	215
19.	Tamil Nadu .	I.P.C.	69114	63619	59616	71050	72443	79862	74909	69806	90396
		L&S	665354	714046	749748	640647	808691	780522	1235196	1215985	909169
		TOTAL	734468	777765	809364	711697	881134	860484	1310105	1285791	999565
20.	Tripura .	I.P.C.	3439	2704	1785	2383	3009	2373	2026	3010	3820
		L&S	123	871	1115	5997	360	458	454	N.A.	102
		TOTAL	3562	3575	2900	8380	3369	2831	2480	N.A.	3922
21.	Uttar Pradesh .	I.P.C.	150712	233754	236328	217731	220567	244284	230901	195633	222621
		L&S	39193	42647	82805	94282	104175	117477	140194	155181	146920
		TOTAL	189905	276401	319133	312013	324742	361761	371095	350814	369541
22.	West Bengal .	I.P.C.	82662	84528	78546	77855	82312	86600	86514	84879	91450
		L&S	279452	80517	58976	98633	120624	131890	173676	143981	147026
		TOTAL	362114	165045	137522	176488	202936	218490	260190	228860	238476
23.	A&N Islands .	I.P.C.	338	308	370	322	484	538	541	517	592
		L&S	644	744	793	891	947	850	820	869	1080
		TOTAL	982	1052	1163	1213	1431	1388	1361	1386	1672
24.	Arunachal Pradesh	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	188	318	399	476
		L&S	N·A.	N.A.	N.A.	N.A.	N.A.	8	18	29	72
		TOTAL	N.A,	N.A.	N.A.	N.A.	N.A.	196	336	428	548
25.	Chandigarh .	I.P.C.	1510	1484	1251	1156	1334	1411	1202	1312	2495
		L&S	217	326	433	473	841	836	901	965	735
		TOTAL	1727	1810	1684	1629	2175	2247	2103	2277	3230
26.	D&N Haveli .	I.P.C.	106	106	84	101	84	131	153	146	109
		L&S	1	Nil	5	6	6	7	19	27	27
		TOTAL	107	106	89	107	90	138	172	173	136

1	2	3	4	5	6	7	8	9	10	11	12
27.	Delhi	I.P.C.	17606	31241	29236	32589	34174	33824	28571	23105	35856
		L&S	5668	6031	6076	6192	6354	7248	7624	7759	6467
		TOTAL	23274	37272	35312	38781	40528	41072	36195	30864	42323
28.	Goa, Daman and Diu	I.P.C.	1336	1195	1219	1321	1595	2112	2444	2150	1890
		L&S	43	36	808	1939	2831	2397	1222	862	1161
		TOTAL	1379	1231	2027	3260	4426	4509	3666	3012	3051
29.	Lakshadweep	I.P.C.	38	28	19	18	9	10	27	14	15
		L&S	Nil	Nil	Nil	Nil	Nil	1	2	Nil	Nil
		TOTAL	38	28	19	18	9	11	29	14	15
30.	Mizoram	I.P.C.	N.A.	N.A.	N.A.	N.A.	N.A.	501	362	647	737
		L&S	N.A.	N.A.	N.A.	N.A.	N.A.	140	180	236	152
		TOTAL	N.A.	N.A.	N.A.	N.A.	N.A.	641	542	883	889
31.	Pondicherry	I.P.C.	2008	2225	1717	1908	2569	3463	3372	2385	3270
		L&S	7460	7656	7257	5633	6271	7831	16279	16162	9843
		TOTAL	9468	9881	8974	7541	8840	11294	20651	18547	13113
	Grand Total	I.P.C.	845167	955422	952581	984773	1077181	1192277	1160520	1093897	1230954
		L&S	2793148	2884517	2912096	2514975	2480918	2580140	3205270	3222695	2699061
		TOTAL	3638315	3839939	3864677	3499748	3558099	3772417	4365790	4316592	3930015

Source : 'Crime in India'—published by the Bureau of Police Research and Development.

APPENDIX—III

(Para 28.12, Chapter XXVIII)

STATEMENT OF NUMBER OF COURTS

S. No.	Name of the State	1951		1961		1971		1976	
		Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal	Exclusive Criminal Courts	Both Civil and Criminal
	I : Growth of Sessions Courts								
1.	Andhra Pradesh	2	52	1	69	1	92	4	99
2.	Karnataka	N.A.	N.A.	—	18	—	19	—	19
3.	Madhya Pradesh	N.A.	N.A.	—	86	—	106	—	124
4.	Orissa	—	23	—	24	—	52	—	63
5.	Tamil Nadu	—	40	—	47	—	60	—	76
	II : Growth of Magisterial Courts								
1.	Andhra Pradesh	135	79	159	98	101	143	100	15
2.	Karnataka	N.A.	N.A.	38	54	43	85	25	124
3.	Madhya Pradesh	N.A.	N.A.	—	690	—	682	—	293
4.	Orissa	301	46	278	30	212	56	222	70
5.	Tamil Nadu	195	4	221	4	234	8	209	8

N.A. : Not available.

Source : Information obtained by the National Police Commission from the Registrars of High Courts.

APPENDIX—IV

(Para 28.33, Chapter XXVIII)

TOTAL COGNIZABLE CRIME UNDER IPC, JUVENILE CRIME UNDER IPC, PROPORTION OF JUVENILE CRIME TO TOTAL CRIME AND VOLUME OF JUVENILE CRIME PER ONE LAKH OF POPULATION

Sl. No.	Year	Population in millions (Estimated) mid-year	Total cognizable crime under IPC (cases)	Total juvenile crime under IPC (cases)	Percentage of Juvenile crime to total cognizable crime	Volume of Juvenile crime per lakh of population
1	2	3	4	5	6	7
1.	1966	489.1	794733	22077	2.8	4.5
2.	1971	551.2	952581	26846	2.8	4.9
3.	1972	563.5	984773	31199	3.2	5.5
4.	1973	575.9	1077181	36469	3.4	6.3
5.	1974	588.3	1192277	40666	3.4	6.9
6.	1975	600.8	1160520	39888	3.4	6.6
7.	1976	613.3	1090887	36655	3.4	6.0
8.	1977	625.8	1267004	44008	3.5	7.0

Source : 'Crime in India'—published by the Bureau of Police Research and Development.

APPENDIX—V

(Para 28.33, Chapter XXVIII)

JUVENILE CRIME UNDER LOCAL AND SPECIAL LAWS—1977

Sl. No.	Heads of offences	Number of offences 1975	Number of offences 1976	Number of offences 1977
1	2	3	4	5
1.	Arms Act	501	370	388
2.	Opium Act	274	181	214
3.	Gambling Act	11136	7148	11727
4.	Excise Act	2296	2180	1966
5.	Prohibition Act	17731	15307	23768
6.	Explosives Act & Exp. Subs. Act	16	27	29
7.	Suppression of Immoral Traffic Act	2050	1703	1843
8.	Motor Vehicles Act	458	611	656
9.	Prevention of Corruption Act	—	1	5
10.	Customs Act	—	—	—
11.	Indian Railways Act	425	1236	3665
12.	Miscellaneous	39801	39498	29173
	TOTAL	74688	68262	73434

Source : 'Crime in India'—
published by the Bureau of Police Research & Development.

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APPENDIX—VI

(Para 28.35)

NUMBER OF PROBATION OFFICERS AND CASES DEALT IN DIFFERENT STATES/UNION TERRITORIES—1978-79

Sl. No.	State/Union Territory	No. of Probation officers—1978-79						No. of probation cases dealt with in 1978-79				No. of investigations per P.O. (Distt. P.O.+ P.O.)	No. of supervision per P.O.
		Chief P.Os.	Regional P.Os.	District P.Os.	P.Os.	Voluntary P.Os.	Total	Investigation cases	Supervision cases	Other cases	Total		
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.	Andhra Pradesh	1	8	16	31	—	56	8126	4019	900	13045	172.8	85.5
2.	Assam	—	—	9	—	—	9	54	85	2	141	6	9.4
3.	Bihar	—	—	17	80	—	97	8087	1247	702	10036	83.3	12.8
4.	Gujarat	17	—	41	—	—	58	6434	1256	462	8152	156.9	30.6
5.	Haryana*	—	—	—	10	—	10	120	2160	—	2280	12	216
6.	Himachal Pradesh*	—	—	—	6	—	6	..	..	..	..	..	..
7.	Jammu & Kashmir	—	—	—	—	—	—	—	—	—	—	—	—
8.	Karnataka	1	1	19	—	—	21	1140	456	2280	3876	60	24
9.	Kerala**	..	..	..	..	—	24	3456	19296	864	23616	144	804
10.	Madhya Pradesh	1	—	—	10	—	11	..	..	..	..	..	..
11.	Maharashtra	—	5	26	45	13	89	8699	732	2465	11896	122.5	10.3
12.	Manipur	—	—	—	1	—	1	2	7	—	9	2	7
13.	Meghalaya	—	—	4	1	—	5	—	1	—	1	0.2	—
14.	Nagaland	—	—	—	—	—	—	—	—	—	—	—	—
15.	Orissa*	..	..	..	..	—	16	2496	8448	384	11328	156	528
16.	Punjab	1	—	13	—	—	14	125	1609	4050	5784	9.6	123.7
17.	Rajasthan*	—	—	—	30	2	32	20160	21960	—	42120	672	73
18.	Sikkim	—	—	—	—	—	—	—	—	—	—	—	—
19.	Tamil Nadu	1	12	—	96	—	109	24954	10886	767	36607	259.9	113.3
20.	Tripura	1	—	3	—	—	4	—	64	—	64	—	21.3
21.	Uttar Pradesh**	..	..	..	..	—	52	25584	96720	44928	167232	492	1860
22.	West Bengal	1	—	—	30	—	31	429	1008	42	1479	14.3	33 6
23.	Andaman & Nicobar Islands	—	—	—	—	—	—	—	—	—	—	—	—
24.	Arunachal Pradesh	—	—	—	—	—	—	—	—	—	—	—	—
25.	Chandigarh	—	—	—	—	—	—	—	—	—	—	—	—
26.	Dadra & Nagar Haveli	—	—	—	—	—	—	—	—	—	—	—	—
27.	Delhi	1	—	1	21	—	23	2662	100	5017	7779	121	45
28.	Goa, Daman & Diu@	—	—	—	1	—	1	300	336	264	900	300	336
29.	Lakshadweep	..	..	..	..	..	..	..	..	..	..		
30.	Mizoram	..	..	..	..	..	..	..	..	..	..		
31.	Pondicherry	—	—	—	—	—	—	—	—	—	—	—	—
TOTAL		25	26	149	362	15	669	112828	170390	63127	346345		

NOTE : ..Means not available

* Figures relate to 1976-77

**Figures relate to 1974-75

@Figures relate to 1977-78

Source : National Institute of Social Defence, Ministry of Social Welfare.

APPENDIX—VII

(Para 28.37, Chapter XXVIII)

INSTITUTIONS UNDER THE CHILDREN ACT—1978-79

S. No.	State/Union Territory	No. of Juvenile Court/ Child Welfare Board	No. of Remand/ Obser-vation Homes	No. of Approved/ Certified/ Special Schools	No. of Children Homes	No. of fit person institutions	After care insti-tutions	Total	Daily average popu-lation of inmates
1	2	3	4	5	6	7	8	9	10
1.	Andhra Pradesh	—	5	4	—	—	1	10	1582*
2.	Assam	—	—	—	—	—	—	—	—
3.	Bihar*	—	13	1	2	—	—	16	257
4.	Gujarat	22	22	6	—	35	—	85	2190*
5.	Haryana	1	—	1	—	—	1	3	79£
6.	Himachal Pradesh*	—	—	—	1	—	—	1	—
7.	Jammu & Kashmir	—	—	—	—	—	—	—	—
8.	Karnataka	55	24	12	—	21	3	115	4565*
9.	Madhya Pradesh	31	12	3	5	—	—	51	158£
10.	Kerala**	2	9	5	1	..	..	17	27
11.	Maharashtra	33	36	38	—	89	2	198	10643£
12.	Manipur	—	—	—	—	—	—	—	—
13.	Meghalaya	—	—	—	—	—	—	—	—
14.	Nagaland	—	—	—	—	—	—	—	—
15.	Orissa	—	—	—	—	—	—	—	—
16.	Punjab@	2	2	1	1	..	..	6	—
17.	Rajasthan*	4	4	1	2	—	—	11	134
18.	Sikkim	—	—	—	—	—	—	—	—
19.	Uttar Pradesh@	—	34	8	—	..	..	42	..
20.	Tamil Nadu£	—	12	23	—	—	3	38	5467
21.	Tripura	—	—	—	—	—	—	—	—
22.	West Bengal	2**	2	8	7	2	2	23	662**
Union Territories									
1.	Andaman & Nicobar Island	—	—	—	—	—	—	—	—
2.	Arunachal Pradesh	—	—	—	—	—	—	—	—
3.	Chandigarh	—	—	—	—	—	—	—	—
4.	Dadra & Nagar Haveli	—	—	—	—	—	—	—	—
5.	Delhi	2	3	1	6	—	2	14	1213£
6.	Goa, Daman & Diu	1	1 (multi purpose)	—	—	—	—	2	55
7.	Lakshadweep	—	—	—	—	—	—	—	—
8.	Mizoram	—	—	—	—	—	—	—	—
9.	Pondicherry	1	1	1	1	—	1	5	75£
	TOTAL	156	180	113	26	147	15	637	27107

NOTES : ..Means not available

*Data relates to the year 1976-77

**Data relates to the year 1974-75

@ Data relates to the year 1975-76

£ Data relates to the year 1977-78

Source : National Institute of Social Defence, Ministry of Social Welfare.

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APPENDIX—VIII

(Para 29.3, Chapter XXIX)

PERCENTAGE OF CASES THAT ENDED IN CONVICTION TO THE TOTAL NUMBER OF CASES DISPOSED OF IN COURTS DURING THE YEARS 1971 TO 1977

Sl. No.	IPC Crime head	1971	1972	1973	1974	1975	1976	1977
1.	Murder	46.2	47.1	47.1	48.8	47.9	48.5	46.2
2.	Culpable Homicide not amounting to murder	46.6	49.2	50.1	51.3	48.8	48.8	42.6
3.	Rape	39.1	40.9	44.3	42.5	41.1	41.6	40.4
4.	Kidnapping and abduction	34.9	35.3	40.3	38.3	36.9	39.4	37.6
5.	Dacoity	36.4	38.3	55.1	37.5	36 1	38.7	48.3
6.	Robbery	46.4	45.0	48.5	46.0	47.2	48.3	47.9
7.	Burglary	67.7	63.8	59.8	68.0	70.8	65.3	62.3
8.	Thefts	73.6	74.6	64.6	75.1	74.7	57.4	66.7
9.	Riots	30.4	29.2	35.7	32.8	32.8	32.9	28.7

Source : 'Crime in India'—
published by the Bureau of Police Research & Development.

APPENDIX—IX

(Para 30.2, Chapter—XXX)

INDUSTRIAL DISPUTES CLASSIFIED BY STRIKES & LOCKOUTS 1961—78

Year	No. of Disputes			No. of workers involved			No. of Man-days lost ('000)		
	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total	Strikes	Lock-outs	Total
1	2	3	4	5	6	7	8	9	10
1961 .	1,240	117	1,357	4,32,336	79,524	5,11,860	2,969	1,950	4,919
1962 .	1,396	95	1,491	5,74,610	1,30,449	7,05,059	5,059	1,062	6,121
1963 .	1,364	107	1,471	4,90,701	72,420	5,63,121	2,229	1,040	3,269
1964 .	1,981	170	2,151	8,75,905	1,27,950	10,02,955	5,724	2,001	7,725
1965 .	1,697	138	1,835	8,89,360	1,01,798	9,91,158	4,617	1,853	6,470
1966 .	2,353	203	2,556	12,62,224	1,47,832	14,10,056	10,377	3,469	13,846
1967 .	2,433	382	2,815	13,39,617	1,50,729	14,90,346	10,565	6,583	17,148
1968 .	2,451	325	2,776	14,64,992	2,04,302	16,69,294	11,078	6,166	17,244
1969 .	2,344	283	2,627	16,86,943	1,39,923	18,26,866	15,477	3,571	19,048
1970 .	2,598	291	2,889	15,51,530	2,76,222	18,27,752	14,749	5,814	20,563
1971 .	2,478	274	2,752	14,76,203	1,38,937	16,15,140	11,803	4,743	16,546
1972 .	2,857	386	3,243	14,74,656	2,62,081	17,36,737	13,748	6,796	20,544
1973 .	2,958	412	3,370	23,58,206	1,87,396	25,45,602	13,862	6,764	20,626
1974 .	2,510	428	2,938	27,09,838	1,44,785	28,54,623	33,643	6,619	40,262
1975 .	1,644	299	1,943	10,32,609	1,10,817	11,43,426	16,706	5,195	21,901
1976 .	1,241	218	1,459	5,50,477	1,86,497	7,36,974	2,790	9,947	12,746
1977 .	2,691	426	3,117	19,12,247	2,80,788	2,93,215	13,410	11,910	25,320
1978 . (Provisional)	2,667	410	3,077	14,59,764	2,11,811	16,71,575	14,274	12,507	26,781

Source : Indian Labour Statistics, 1977.

APPENDIX—X

(Para 31.9, Chapter XXXI)

BORROWINGS & REPAYMENTS IN CASH DURING THE YEAR ENDED 30TH JUNE, 1972 AND CASH DUES OUTSTANDING AS ON 30TH JUNE, 1972

	Borrowings			Repayments			Dues Outstanding		
	P	A	T	P	A	T	P	A	T
All Households . . .	27.73	173.89	13453921	12.16	149.25	11547282	43.97	551.83	42694633
Cultivators	29.29	203.85	11553115	13.05	178.00	10088170	46.37	658.51	37320811
Agricultural Labourers . .	23.75	67.72	757418	9.27	45.02	503525	38.28	193.48	2163963

P=Proportion of households reporting (Per cent).

A=Average amount per household in rupees.

T=Aggregate amount in thousands of rupees.

Source : All India Debt & Investment Survey, 1971-72.
Cash Borrowings, Repayments and Dues Outstanding of Rural households.
Reserve Bank of India—Deptt. of Statistics

APPENDIX—XI

(Para 31.9, Chapter XXXI)

BORROWINGS IN CASH DURING THE YEAR ENDED 30TH JUNE, 1972 CLASSIFIED BY CREDIT AGENCY

		Total	Govt.	Co-operative Society/ Bank	Commercial Bank	Landlord	Agriculturist money-lender	Professional money-lender	Trader	Relative/ Friend	Others
All Households	P	27.73	1.34	3.36	0.19	2.49	5.99	4.43	6.01	4.75	4.73
	A	173.89	5.41	25.98	2.90	11.14	32.55	27.71	25.87	19.89	22.43
	T	13453921	418749	2010072	224318	862249	2518679	2144283	2001582	1539048	1734911
Cultivators	P	29.29	1.64	4.32	0.24	2.39	6.42	4.60	6.39	4.73	4.85
	A	203.85	6.41	33.97	3.87	11.89	38.85	31.88	29.51	21.86	25.61
	T	11553115	363325	1925078	219289	674123	2201852	1806762	1672230	1239052	1451403
Agricultural	P	23.75	0.30	0.49	0.05	3.81	5.53	3.54	4.82	4.80	4.04
Labourers	A	67.72	0.33	1.34	0.13	10.67	14.66	10.78	10.11	11.29	8.40
	T	757418	3670	14991	1440	119382	163947	120620	113072	126322	93968

P = Proportion of households reporting (per cent).

A = Average amount per household in rupees.

T = Aggregate borrowings in thousands of rupees.

Source : All India Debt & Investment Survey, 1971-72.
Cash Borrowings, Repayments and Dues Outstanding of Rural households.
Reserve Bank of India—Deptt. of Statistics.

APPENDIX—XII

(Para 31.9, Chapter XXXI)

CASH DUES OUTSTANDING AS ON 30TH JUNE, 1972 CLASSIFIED BY CREDIT AGENCY

		Total	Govt.	Co-operative Society/ Bank	Commercial Bank	Landlord	Agriculturist money-lender	Professional money-lender	Trader	Relative/ Friend	Others
All Households	P	43.97	3.39	7.29	0.49	4.97	12.27	8.20	7.27	7.43	6.88
	A	551.83	29.49	89.87	9.81	45.76	134.48	86.17	52.18	45.28	58.77
	T	42694633	2281720	6952981	759369	3540712	10404909	6667106	4037318	3502966	4547551
Cultivators	P	46.37	4.29	9.31	0.60	4.81	13.08	8.54	7.63	7.32	7.16
	A	658.51	38.43	118.76	12.74	49.74	162.15	96.76	60.36	49.91	67.66
	T	37320811	2177826	6730884	722285	2818865	9189805	5596875	3420913	2828698	3834661
Agricultural Labourers	P	38.28	0.60	1.19	0.09	7.25	11.39	6.58	5.81	7.57	5.58
	A	193.48	1.48	4.59	0.49	41.43	54.66	31.85	18.15	21.18	19.64
	T	2163963	16580	51329	5457	463384	611346	356215	203028	236889	219733

P = Proportion of households reporting (per cent).

A = Average amount per household in rupees.

T = Aggregate cash dues outstanding in thousands of rupees.

Source : All-India Debt and Investment Survey 1971-72.
Cash Borrowings, Repayments and Dues Outstanding of Rural households.
Reserve Bank of India—Deptt. of Statistics.

APPENDIX—XIII

(Para 33.9, Chapter XXXIII)

STATEMENT SHOWING NUMBER OF PROHIBITION CASES REPORTED

S. No.	State/U.T.	1966	1967	1968	1969	1970
1.	Andhra Pradesh				160	184
2.	Assam				315	250
3.	Bihar				277	324
4.	Gujarat				68826	79603
5.	Haryana				5886	6528
6.	Himachal Pradesh				1405	1196
7.	Jammu & Kashmir				10	10
8.	Karnataka				14012	11873
9.	Kerala				—	—
10.	Madhya Pradesh				5292	4864
11.	Maharashtra				122156	137850
12.	Manipur				169	73
13.	Meghalaya				—	—
14.	Nagaland				1	4
15.	Orissa				956	761
16.	Punjab				16993	20082
17.	Rajasthan				687	716
18.	Sikkim				—	—
19.	Tamil Nadu				N.A.	2
20.	Tripura				—	3
21.	Uttar Pradesh				9869	9071
22.	West Bengal				1096	1325
	Total (States)				246626	274719
1.	Andaman & Nicobar Islands				544	647
2.	Arunachal Pradesh				—	—
3.	Chandigarh				65	82
4.	Dadra & Nagar Haveli				—	—
5.	Delhi				2750	3054
6.	Goa, Daman & Diu				—	—
7.	Lakshadweep				—	—
8.	Mizoram				—	—
9.	Pondicherry				—	193
	Total (U.Ts.)				4933	3976
	Grand Total :	325039*	275220*	225713*	251559	278695

State/U.T.	1971	1972	1973	1974	1975	1976	1977
Andhra Pradesh	10	—	—	2	19	51	25
Assam	1	7	36	223	200	233	202
Bihar	—	2	4	43	3	10	1
Gujarat	74851	64534	66904	62152	71847	79776	95036
Haryana	—	—	—	—	—	—	—
Himachal Pradesh	—	—	—	—	—	—	—
Jammu & Kashmir	—	—	—	—	—	—	—
Karnataka	164	161	54	30	51	88	57
Kerala	—	—	50	—	84	—	10
Madhya Pradesh	—	111	99	104	412	243	26
Maharashtra	153156	149463	142623	147593	156371	167905	183278
Manipur	—	—	—	—	—	—	—
Meghalaya	—	—	—	—	—	—	—
Nagaland	2	2	—	—	—	1	—
Orissa	—	—	—	2	—	—	—
Punjab	—	—	—	—	—	—	—
Rajasthan	103	136	181	512	1127	736	602
Sikkim	—	—	—	—	—	—	—
Tamil Nadu	212560	4977	4124	136381	456023	443366	380669
Tripura	—	15	2	—	—	N.A.	—
Uttar Pradesh	61	24	94	116	301	275	305
West Bengal	—	—	—	21	—	—	—
Total (States)	440908	219432	214171	347179	686438	692684	660211
A&N Islands	—	—	—	—	—	—	—
Arunachal Pradesh	—	—	—	—	—	—	—
Chandigarh	—	—	—	—	—	—	—
D. & N. Haveli	—	—	—	—	—	—	—
Delhi	—	—	—	—	—	—	—
Goa, Daman & Diu	—	—	—	—	—	—	—
Lakshadweep	—	—	—	—	—	—	—
Mizoram	—	—	—	—	—	—	—
Pondicherry	—	—	—	—	—	—	—
Total (U.Ts.)	—	—	—	—	—	—	—
Grand Total	440908	219432	214171	347179	686438	692684	660211

*Statewise break up figures are not available.

Source : 'Crime in India'
published by the Bureau of Police Research & Development.

APPENDIX—XIV

(Para 33.9, Chapter XXXIII)

PERSONS ARRESTED UNDER PROHIBITION ACT

S. No.	State/U.T.	1966	1967	1968	1969	1970
1.	Andhra Pradesh					
2.	Assam					
3.	Bihar					
4.	Gujarat					
5.	Haryana					
6.	Himachal Pradesh					
7.	Jammu & Kashmir					
8.	Karnataka					
9.	Kerala					
10.	Madhya Pradesh					
11.	Maharashtra					
12.	Manipur					
13.	Meghalaya					
14.	Nagaland					
15.	Orissa					
16.	Punjab					
17.	Rajasthan					
18.	Sikkim					
19.	Tamil Nadu					
20.	Tripura					
21.	Uttar Pradesh					
22.	West Bengal					
	Total (States)					
1.	Andaman & Nicobar Islands					
2.	Arunachal Pradesh					
3.	Chandigarh					
4.	Dadra & Nagar Haveli					
5.	Delhi					
6.	Goa, Daman & Diu					
7.	Lakshadweep					
8.	Mizoram					
9.	Pondicherry					
	Total (U. Ts.)					
	Grand Total	*315301	*278283	*258060	*284891	*299412

State/U.T.	1971	1972	1973	1974	1975	1976	1977
Andhra Pradesh			—	2	19	48	24
Assam			40	483	501	267	186
Bihar			81	—	—	34	—
Gujarat			70930	65990	77507	86750	100263
Haryana			—	—	—	—	—
Himachal Pradesh			—	—	—	N.A.	—
Jammu & Kashmir			—	—	—	—	—
Karnataka			54	30	51	88	57
Kerala			53	—	91	—	20
Madhya Pradesh			261	284	418	9	70
Maharashtra			114040	113455	124384	136825	155247
Manipur			—	—	—	—	—
Meghalaya			—	—	—	—	—
Nagaland			—	—	—	—	1
Orissa			—	1	—	—	—
Punjab			—	—	—	—	—
Rajasthan			241	618	1245	809	699
Sikkim			—	—	—	—	—
Tamil Nadu			5087	135849	453586	438801	381968
Tripura			9	—	—	N.A.	—
Uttar Pradesh			189	128	895	272	13
West Bengal			—	—	—	—	—
Total (States)			190985	316840	658697	663903	638548
A. & N. Islands			—	—	—	—	—
Arunachal Pradesh			—	—	—	—	—
Chandigarh			—	—	—	—	—
D. & N. Haveli			—	—	—	—	—
Delhi			—	—	—	—	—
Goa, Daman & Diu			—	—	—	—	—
Lakshadweep			—	—	—	—	—
Mizoram			—	—	—	—	—
Pondicherry			—	—	—	—	—
Total (U.Ts.)			—	—	—	—	—
Grand Total	*408843	*199120	190985	316840	658697	663903	638548

*Statewise break up figures are not available.

Source : 'Crime in India'

published by the Bureau of Police Research and Development.

APPENDIX—XV

(Para 33.10 , Chapter XXXIII)

NUMBER OF JUVENILES ARRESTED UNDER PROHIBITION ACT

Sl. No.	State/U.T.	1972	1973	1974	1975	1976	1977
1.	Andhra Pradesh	—	—	—	—	—	—
2.	Assam	—	—	—	—	—	—
3.	Bihar	—	4	—	—	—	—
4.	Gujarat	7,519	8,480	4,856	2,945	3,144	10,115
5.	Haryana	—	—	—	—	—	—
6.	Himachal Pradesh	—	—	—	—	—	—
7.	Jammu & Kashmir	—	—	—	—	—	—
8.	Karnataka	—	—	—	10	—	—
9.	Kerala	—	—	—	—	—	—
10.	Madhya Pradesh	—	—	52	8	—	—
11.	Maharashtra	8,590	6,103	7,919	9,058	8,635	11,667
12.	Manipur	—	—	—	—	—	—
13.	Meghalaya	—	—	—	—	—	—
14.	Nagaland	—	—	—	—	N.A.	—
15.	Orissa	—	—	—	—	—	—
16.	Punjab	—	—	—	—	—	—
17.	Rajasthan	3	—	2	5	10	2
18.	Sikkim	—	—	—	—	—	—
19.	Tamil Nadu	14	74	2,009	6,160	4,981	3,908
20.	Tripura	—	—	—	—	N.A.	—
21.	Uttar Pradesh	—	—	—	—	—	—
22.	West Bengal	—	—	—	—	—	—
	Total (States)	16,126	14,661	14,838	18,190	16,770	25,692
1.	Andaman & Nicobar Islands	—	—	—	—	—	—
2.	Arunachal Pradesh	—	—	—	—	—	—
3.	Chandigarh	—	—	—	—	—	—
4.	Dadra & Nagar Haveli	—	—	—	—	—	—
5.	Delhi	—	—	—	—	—	—
6.	Goa, Daman & Diu	—	—	—	—	—	—
7.	Lakshadweep	—	—	—	—	—	—
8.	Mizoram	—	—	—	—	—	—
9.	Pondicherry	—	—	—	—	—	—
	Total (U.Ts.)	—	—	—	—	—	—
	Grand Total	16,126	14,661	14,838	18,190	16,770	25,692

Source : 'Crime in India'
published by the Bureau of Police Research and Development.

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