



MAJOR INITIATIVES AND SCHEMES

CHAPTER XII

SCHEME FOR MODERNISATION OF STATE POLICE FORCES

12.1 The Scheme for ‘Modernisation of State Police Forces (MPF) is a significant initiative of the Ministry of Home Affairs towards capacity building of the State Police Forces, especially for meeting the emerging challenges to internal security in the form of terrorism, naxalism etc. Some of the major items provided under the Scheme include construction of secure police stations, outposts, police lines, ensuring mobility, security, provision of modern weaponry, security, surveillance, communication, forensic equipments, up-gradation of training infrastructure, police housing, computerisation, etc.

12.2 The States have been categorised into ‘A’ and ‘B’ categories with 100% and 75% Central funding, respectively. While J&K and eight North Eastern States viz., Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim have been classified as ‘A’ category States, the remaining 19 States fall in the ‘B’ category. The Scheme has been formulated with the aim of accelerating the process of modernisation in the police forces, with focused priority on States facing problems of terrorism and left wing extremism.

12.3 The Scheme also includes a special component for strengthening the police infrastructure in the 76 naxal affected districts at the rate of Rs.2 crore per affected district per year initially for a period of 5 years. Similarly, a provision has been made for Rs.1 crore per district per year initially for a period of 5 years

for the 30 districts situated on international borders i.e. the Indo-Nepal and Indo-Bhutan borders.

12.4 The details of the Central assistance released to the State Governments during the last 9 years are as under:

(Rs. In crore)

Sl.No.	Financial Year	Amount released
1	2000-01	1,000.00
2	2001-02	1,000.00
3	2002-03	695.00
4	2003-04	705.27
5	2004-05	960.00
6	2005-06	1,025.00
7	2006-07	1,065.22
8	2007-08	1248.70
9	2008-09	1157.64

12.5 The provision for MPF Scheme in 2009-10 is Rs. 1,230 crore in the RE 2009-10.

12.6 With a view to ensuring that annual action plans of States under the Scheme are examined and approved well in time and funds could be released early, Action Plans for 2009-10 were invited from States by January 7, 2009. The Action Plans were considered by the Ministry in meetings held between February – June, 2009 and first instalment of funds was released to all States in May, 2009 (except to Maharashtra and J&K for which funds were released in June, 2009). As on January 31, 2009, an amount of Rs.955.54 crore has been released to States under MPF Scheme, 2009-10.

Objectives

12.7 The main objective of the scheme is to



meet the identified deficiencies in various aspects of police administration, which were worked out by the Bureau of Police Research and Development (BPR&D) in a study done in the year 2000. Another objective of the scheme is to reduce the dependence of the State Governments on the Army and Central Police Forces to control internal security and law and order situation by way of equipping the State Police Forces adequately and imparting the required training. The focus of the scheme is on strengthening the police infrastructure at the cutting edge level by way of construction of secure police stations, equipping the police stations with the required mobility, modern weaponry, communication equipment, forensic set-up, housing, etc.

Impact of the Scheme

12.8 The scheme has made perceptible impact in all the States and has provided the much needed assistance and impetus to police modernisation. For instance, proper buildings for police stations/outposts with required facilities have been provided with a safe, secure and comfortable environment. Construction of houses for police personnel and provision of modern weapons has boosted their morale, particularly in extremist-affected areas. The increased availability of vehicles at cutting edge level has improved mobility and reduced response time.

12.9 A satellite based all-India police telecommunication network, namely, POLNET is under implementation which is also being funded under the MPF Scheme.

Mega City Policing

12.10 A new concept of Mega City Policing (MCP) was introduced in 2005-06 under the Scheme for Modernization of State Police Forces covering seven cities of Mumbai, Bangalore,

Hyderabad, Chennai, Delhi, Kolkata and Ahmedabad. The respective States are required to include MCP proposals in their Annual Plan. These proposals are considered and approved by a High Powered Committee as an integral component of the MPF Scheme pertaining to the respective States. The Plan has to be based on a study of specific problem areas of mega city policing including details of demographic growth pattern, special problems faced in policing in large urban areas, crime investigation, traffic management, infrastructure available in terms of modern control rooms, digital radio trunking, communication system, PCR van network, etc. Financial assistance is also given to mega cities for procurement of modern and innovative equipment, etc. as a part of the Scheme.

Desert Policing

12.11 Desert Policing is also a new concept which formed a part of the Police Modernisation Scheme from 2005-06. Desert Policing is primarily meant for the States of Gujarat and Rajasthan to address the problems regarding policing in the large and scattered desert areas of the State. Keeping in view the demographic distribution, problems in investigation, mobility, and communication are given emphasis under the Desert Policing Scheme. Expenditure for this component is also met out of the funds allocated under the MPF Scheme for the respective States.

12.12 During the year 2009-10, Central funds to the tune of Rs.88.62 crore have been approved in the Action Plans of the respective States for Mega City Policing and Rs. 9.90 crore has been approved for Desert Policing under the MPF Scheme.

Strengthening of Special Branches

12.13 While recognising the crucial role of



Special Branches/Intelligence set up in the States and Union territories, the Ministry has laid emphasis on earmarking up to 5% of the total allocation under MPF towards strengthening of their Special Branches in terms of modern equipment, gadgets for communication, etc. It has also been emphasised that the States should take action to suitably enhance the manpower in the Special Branches from their own resources. As was done in the previous financial year, for 2009-10 also, all the States were advised to earmark upto 5% of the MPF allocation towards strengthening of their Special Branches.

Monitoring Mechanism of the Scheme

12.14 The Comptroller & Auditor General (C&AG) commissioned a comprehensive audit exercise to assess the efficacy of the Scheme through individual performance audit reviews in 16 States. The C&AG presented a report on “Audit evaluation of Modernisation of Police Force in India – Compendium of Performance Audit Reviews – January 2009” to the Ministry of Home Affairs containing reports of 16 States. In the report, the C&AG had recommended that the Ministry of Home Affairs should establish a system to monitor the timely and appropriate use of funds sanctioned and released under the Scheme. Accordingly, a system of concurrent audit of MPF Scheme has been put in place in the Ministry effective March, 2009.

Impact Assessment Study

12.15 The Scheme for Modernization of State Police Forces, revised in the year 2000 and reviewed from time to time in subsequent years, is in its final year of operation in 2009-10. The Ministry of Home Affairs has entrusted the Bureau of Police Research and Development (BPR&D) with the task of conducting a holistic study on the impact of MPF Scheme on the modernisation of State Police Forces and also to

make an assessment of requirement of State Police Forces for the next 5-10 years so as to take a decision regarding further continuance of the Scheme beyond 2009-10, based on the report of BPR&D. The report to be submitted by BPR&D would form the basis to work out the contours of the new Scheme.

CRIME AND CRIMINAL TRACKING NETWORK & SYSTEM (CCTNS)

12.16 A Common Integrated Police Application (CIPA) programme was hitherto being implemented (since 2005) as a part of the Scheme for Modernization of State Police Forces, with the aim of computerization and bringing in greater efficiency and transparency in various processes and functions at the Police Station level and improve service delivery to the citizens. So far, 2760 police stations out of a total of around 14,000 police stations across the country have been covered under the CIPA scheme in a stand alone mode.

12.17 Now a new Crime and Criminal Tracking Networking and Systems (CCTNS) project has been launched in the 11th Five year plan with an outlay of Rs.2,000 crore with the following objectives:-

- Provide the Investigating Officers of the Civil Police with tools, technology and information to facilitate investigation of crime and detection of criminals.
- Improve Police functioning in various other areas such as Law & Order, Traffic Management etc.
- Facilitate Interaction and sharing of crime and criminal Information among Police Stations, Districts, State/UT headquarters and other Police Agencies.
- Keep track of the progress of Cases, including in Courts.
- Make the Police functioning citizen friendly



and more transparent by automating the functioning of Police Stations.

- Improve delivery of citizen-centric services through effective usage of ICT.

Present status

12.18 Steps are afoot to identify and select a software vendor for developing Core Application Software (CAS); Guidelines on implementation & Capacity Building, Model Request For Proposal for selecting System Integrator by the State Governments and UT Administrations, Functional Requirement Specification draft, State Project Management consultant Guidelines, details of funds allocated and Training Modules have been circulated to States/UTs.; four Regional workshops of CCTNS Nodal officers have been conducted. All the State Governments and UTs have signed the Memorandum of Understanding (MoU); Funds have been released to all the States/UTs for the purpose.

The Private Security Agencies (Regulation) Act, 2005

12.19 In public interest and in order to regulate the increasing activities of private security agencies, both Indian and foreigners, “The Private Security Agencies (Regulation) Act, 2005” has been notified in the Gazette of India on June 23, 2005. The Act came into effect from March 15, 2006.

12.20 Under this Act, a Controlling Authority is to be appointed by each of the State Government for granting licences to agencies for carrying on the business of security agencies and other related matters.

12.21 The Central Government has framed the “Private Security Agencies Central Model Rules, 2006” which were notified in the Gazette of India on April 26, 2006. These Rules have been

sent to the State Governments for their guidance to enable them to frame their own rules, in conformity with the Central Model Rules. The State Governments of Arunachal Pradesh, Rajasthan, Orissa, Maharashtra, Sikkim, Nagaland, Punjab, UT of Chandigarh, West Bengal, Tripura, Tamil Nadu, Gujarat, Chhattisgarh, Assam, Andhra Pradesh, Meghalaya, Karnataka, Uttar Pradesh and Uttarakhand have framed and notified the rules in the Gazette.

POLICE REFORMS

12.22 The Ministry of Home Affairs had set up a Review Committee to review the recommendations of the National Police Commission and other Committees. In its report submitted to the Government in 2005, the Committee made 49 recommendations which were sent to the States/UTs for immediate implementation. The Government has been exhorting the State Governments/UT Administrations for an early implementation of the said recommendations on police reforms.

12.23 The Supreme Court of India has also passed a judgement on September 22, 2006 in Writ Petition (Civil) No.310 of 1996 – Prakash Singh and others vs UOI and others on several issues concerning Police reforms. The Court in the said judgement directed the Union Government and State Governments to set up mechanisms as directed by December 31, 2006 and file affidavits of compliance by January 3, 2007. The directions inter-alia were:-

- Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.
- Select the Director General of Police of the State from amongst three senior-most officers of the Department empanelled for



promotion to that rank by the Union Public Service Commission and once selected, provide him a minimum tenure of at least two years irrespective of his date of superannuation.

- Prescribe minimum tenure of two years to the police officers on operational duties.
- Separate investigating police from law & order police, starting with towns/ urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas also,
- Set up a Police Establishment Board at the state level for inter alia deciding all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police, and
- Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.

12.24 The matter was heard successively on different dates. It was last heard on May 16, 2008, when the Hon'ble Supreme Court, after reviewing the implementation of the various directions made earlier in its judgement dated September 22, 2006, directed that a Committee be set up under the Chairmanship of Justice K.T. Thomas, former retired Judge of the Supreme Court and two other Members. The Terms of Reference for the Committee as directed by Hon'ble Supreme Court are the following :-

- i. To examine whether the affidavits filed by the different States and the Union Territories are in compliance to the Court's directions with reference to the ground realities.
- ii. Advise the Respondents wherever the implementation is falling short of the Court's orders, after considering the Respondents' stated difficulties in implementation.

- iii. Bring to the notice of the Court any genuine problems the Respondents may be having in view of the specific conditions prevailing in a State or Union Territory.
- iv. To examine the new legislations enacted by different States regarding the police to see whether they are in compliance with the letter and spirit of the Court's directions.
- v. Apprise the Court about unnecessary objections or delays on the part of any Respondent so that appropriate follow up action could be taken against that Respondent.
- vi. Submit a Status report on compliance to this Court every six months.

12.25 This Committee's term initially has been directed for a period of two years. The Committee has held fourteen sittings.

National Police Mission (NPM) – Establishment of Micro-missions under its umbrella

12.26 During his address to the DGsP/ IGsP conference (October 6, 2005) the Prime Minister of India announced the intent of the Government to set up a Police Mission. The Missions will seek to transform the Police Forces in the country into effective instrument for maintenance of internal security and to face the challenges by equipping them with the necessary material, intellectual and organizational resources.

12.27 A two tier system consisting of an Empowered Steering Group (ESG) chaired by the Home Minister, and under this Group, an Executive Committee (EC) chaired by the Home Secretary has been established.

12.28 In order to achieve the objective of the NPM, the following six Micro Missions (MMs) have been established:



- **MM:01 Human Resource Development**
(Police Population Ratio - Career Progression - Leadership -Accountability - Performance Evaluation - Training - Attitudinal Changes - Welfare of Police Personnel- Police University, etc)
- **MM:02 Community Policing**
(Involving Community in Policing - Police Interface with Media, Industry and other relevant segments - Police Image, etc)
- **MM:03 Communication and Technology**
(POLNET - CIPA - Cyber Techniques - Forensic Science - DNA - Narco - analysis, etc)
- **MM:04 Infrastructure**
(Buildings - official and residential - Equipment and Weaponry, etc)
- **MM:05 New Processes (Process Engineering)**
(On-going Police Practices - Review and Impact analysis - Existing Best Practices- Innovations in India and elsewhere, and their adoptability -Procurement procedures - Delegation and Decentralization, etc)
- **MM:06 Proactive Policing and Visualizing future challenges**
(Extremism and naxalism - Mob Violence - Cyber crime - Money Laundering- Narco Terrorism - human trafficking, etc.)

12.29 The Micro Missions have recommended 12 specific projects to be considered under the NPM. The following projects of MMs have been approved for immediate Implementation:-

- I. Community Counselling Centres
- II. Soft Skill Training module for police personnel
- III. Transparent Recruitment Process
- IV. Needs of Indian Police for Effective Incident Response Dial 100

12.30 The presentation for the 4 following projects out of 7 remaining projects was made

before Home Secretary on 5.1.2010. All the projects were approved and further necessary action is being taken by Mission Directorate:-

- i. Project on National Police Information & Convergence Network
- ii. Project on Standardization of Procurement Processes
- iii. Project on Establishing State level Special Task Force and National Centre for Counter Terrorism
- iv. Project on Forensic Science as an Aid to Investigation at Police Station

MODERNISATION OF PRISONS

12.31 The Central Government launched a non-plan scheme in 2002-03 for construction of new jails to reduce over-crowding, repair and renovation and construction of additional barracks in the existing jails, improvement in sanitation and water supply and construction of living accommodation for prison personnel. The scheme known as Modernization of Prisons has been implemented in 27 States over a period of five years (2002-07) with an outlay of Rs.1,800 crore. The cost is being shared between the Central and State Governments in the ratio of 75:25 respectively. The scheme was extended by a further period of 2 years without additional funds to enable the State Governments to complete their activities by March 31, 2009. The scheme of modernization of prisons has now closed on March 31, 2009 and the State Government will complete the project by March 31, 2010.

12.32 As per report received for the period ending December 2009, 99 new jails, 1,365 additional barracks in the existing prisons and 7,852 staff quarters for the prison personnel have been constructed by the State Governments under the Scheme. Almost entire work relating to water and sanitation has been completed by the State Government. The State



Governments have so far utilised 92% of fund released to them.

Second Phase of Scheme of Modernisation of Prisons

12.33 Considering the recommendation of the Department related Parliamentary Standing Committee on Modernisation of Prisons and also keeping in view of demands of various States/UTs for granting further financial assistance for prison infrastructure and correctional administration, the proposal for second phase of the scheme of modernisation of prisons was initiated by the Ministry of Home Affairs. Before seeking Cabinet approval the proposal was considered in the meeting of Committee of Non-Plan Expenditure (CNE) in the Ministry of Finance on August 27, 2009 under the chairmanship of Secretary (Expenditure). As outcome of the meeting, it was decided to defer the second phase of scheme for the time being owing to heavy commitment of Government of India on other important sector.

Institutes of Correctional Administration

12.34 To improve the quality of prison administration and also to provide training to prison personnel, the Government of India established the Institute of Correctional Administration at Chandigarh in 1989 with full financial assistance from the Centre. The Institute of Correctional Administration, Chandigarh imparts training to prison personnel from all over India particularly to prison personnel of neighbouring states such as Himachal Pradesh, Punjab, Haryana, Rajasthan, UT Chandigarh, etc.

12.35 In addition, a Regional Institute for Correctional administration (RICA), functioning at Vellore, Tamil Nadu, is being

funded by the State Governments of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu. The Ministry of Home Affairs had provided a one-time grant for setting up the Institute. The State Govt. of Orissa has been asked to send the comprehensive proposal for setting up a Regional Institute for the Eastern states. The State Govt. of West Bengal has also been requested to formulate a comprehensive proposal for setting up an institute at Kolkata for West Bengal and North Eastern states.

12.36 The Bureau of Police Research and Development (BPR&D) plays a significant role through research work and training in the field of prison administration and is being strengthened for the purpose.

Repatriation of Prisoners Act, 2003

12.37 The Repatriation of Prisoners Act, 2003 enacted by the Government of India for the repatriation of foreign nationals imprisoned in Indian jails and vice-versa to serve the remainder of their sentence in their native countries. For implementation of the Act, a treaty/agreement is required to be signed with countries having mutual interest with us in this manner. The Government of India has so far signed agreements with the Government of U. K., Mauritius, Bulgaria, Cambodia, Egypt, France, Bangladesh, Korea and Saudi Arabia. Negotiations have also been concluded with the Government of Canada, Israel, Hong Kong, UAE, Brazil, Iran, Bosnia & Herzegovina and Sri Lanka.

Correctional Service Medals

12.38 The All India Committee on Jail Reforms (1980-83) recommended that Government of India should institute medals for rewarding prison personnel and the State Governments/UT Administrations should suitably recognize special services rendered by



the prison personnel. The aforesaid recommendations were further supported by a Group of Officers headed by Shri R.K. Kapoor (1986). The Group of Officers was constituted to examine and review various aspects of administration and management of prisons, especially in the context of security and discipline in prisons and suggest measures for their improvement.

12.39 Based on these recommendations, the following medals have been instituted for award to the prison personnel every year on the occasions of the Republic Day and Independence Day:

Gallantry Medal

- (a) President's Correctional Service Medal for Gallantry (PCSMG)
- (b) Correctional Service Medal for Gallantry (CSMG)

Service Medal

- (a) President's Correctional service Medal for Distinguished Service (PCSMDS)
- (b) Correctional Service Medal for Meritorious Service (CSMMS)

12.40 The number of President's Correctional Service Medal for Distinguished Service and the number of Correctional Service Medal for Meritorious Service which can be awarded in a year are 25 and 75 respectively. There is no limit to the number of medals to be awarded for gallantry in one year.

12.41 The President's Correctional Service Medal for Distinguished Service/gallantry and the Correctional Service Medal for Meritorious Service/gallantry are awarded:

- (i) for a specially distinguished record in correctional service.

- (ii) for success in organizing correctional service or maintaining the administration in special difficulties like mass admission of prisoners.
- (iii) For outstanding ability in putting out riots, preventing escape of prisoners, rescuing the officials, sportsmanship, public work and exemplary service marked by efficiency, devotion to duty, integrity, loyalty, high sense of discipline and spirit of sacrifice.

12.42 The President's Correctional Service Medal for Gallantry and the Correctional service Medal for Gallantry are awarded for conspicuous/exceptional gallantry in apprehending a prisoner or in preventing their escape, the risk incurred being estimated with regard to the obligations and the duties of the officer concerned and for the outstanding work done in the preceding year.

12.43 During the year 2009-10, 2 President's Correctional Service Medals for Gallantry, 1 President's Correctional Service Medals for Distinguished Service and 24 Correctional Service Medals for Meritorious Service have been awarded to prison personnel.

LEGAL AND LEGISLATIVE INITIATIVES

STATE LEGISLATIONS

12.44 The Ministry of Home Affairs is the nodal Ministry for processing the legislative proposals (under Concurrent List in the Seventh Schedule of the Constitution) from the State Governments received either for approval of the Government or for obtaining the assent of the President. Bills under article 201 of the Constitution, Bills for previous sanction under proviso to article 304(b) of the Constitution, Ordinances under proviso to Clause 1 of article 213 of the Constitution, and Regulations for



Scheduled Areas (Fifth Schedule to the Constitution) fall in this category.

12.45 The legislative proposals are examined in consultation with the concerned Ministries/Departments of the Government of India. The Union Government favours expeditious approval of these legislative proposals and accordingly, time limits have been prescribed for their examination by the concerned Ministries/Departments.

12.46 The position is reviewed periodically

through meetings with the representatives of Union Ministries and of the concerned State Governments to facilitate early clearance of Bills, by resolving issues across the table.

Proposals received and finalised

12.47 During the period from April 1, 2009 to February 28, 2010 Ministry of Home Affairs received 58 proposals for approval/assent of the Government of India/President of India. The number of proposals finalised during this period is as given below:-

Sl.No.	Particulars	Number
I.	Bills for the consideration and assent of the President under article 201 of the Constitution:	
	(i) Bills assented to by the President	20
	(ii) Bills returned to the State Government with Message from President	04
	(iii) Bills withdrawn by State Governments	02
	(iv) Bills withheld	02
II.	Regulations for Scheduled Areas (Fifth Schedule to the Constitution)	
	(i) Regulation withheld	01
III.	Ordinances for Previous instructions of the President under article 213(1) of the Constitution:	
	(i) Instructions of the President conveyed	--
	(ii) Ordinances closed	02
	(iii) Returned	06
IV	Bills for previous sanctions of the President under article 304 (b) of the Constitution:	
	(i) Previous sanction of the President returned	02
	(ii) Previous sanction of the President closed	01
V	Bills for approval of the Government of India before its introduction in the State Legislature:	
	(i) Approval granted	05
	(ii) Bills closed	01
	(iii) Returned	42
	(iv) Refused	01
	Total :	89*

* This also includes Legislative proposals received before April 1, 2009.



CRIMINAL JUSTICE SYSTEM

12.48 Judicial Cell is concerned with the legislative aspects of the Indian Penal Code, 1860, the Criminal Procedure Code, 1973; petitions for mercy, remission and pardon made to the President of India under Article 72 of the Constitution of India; sanction for prosecution under section 188 of Cr.P.C., 1973 and withdrawal of cases under section 321 of Cr.P.C., 1973.

The Code of Criminal Procedure (Amendment) Act, 2008

12.49 The Code of Criminal Procedure (Amendment) Bill, 2006 was passed by the Parliament and received the assent of the President on January 07, 2009. The corresponding Act namely, the Code of Criminal (Amendment) Act, 2008 (5 of 2009) was published in the Gazette of India Extraordinary, Part II, Section 1 dated January 9, 2009.

12.50 The important proposals contained in the Code of Criminal Procedure (Amendment) Act, 2008 include:- (i) Definition of the term 'victim'; (ii) Provision enabling the victim to have an advocate; (iii) Allowing the victim to appeal against the adverse judgment; (iv) Comprehensive scheme for compensation to victims to be framed by State Governments; (v) Provision for issuing the notice of appearance before arrest in certain cases where immediate arrest is not required to be made; (vi) Accused to be medically examined soon after the arrest; (vii) Person making the arrest should take reasonable care of the health and safety of the accused; (viii) Right of arrested person to have advocate during investigation, though not for

the entire period; (ix) Special protection in respect of women; (x) Female accused not to be touched by male police officers; (xi) In camera trial to be conducted preferably by woman judge in sexual offences; (xii) Providing relief to the persons of unsound mind during enquiry and trial; (xiii) Criminal courts to take bail bond before the accused appears before next appellate court; (xiv) More IPC offences be made compoundable, etc.

12.51 In the meantime, before the Act could be enforced through official notification (as is provided for under section 1(2) of the 2008 amendment Act), a number of representations were received in this Ministry from all over the country, particularly from the Lawyers' Associations and the Bar Associations against some of the provisions of the Act, especially against the provisions amending sections 41 (requiring the police to record the reasons for making an arrest for offence attracting maximum punishment for less than 7 years) and section 309 of Cr.P.C. (power of Court to adjourn inquiry or trial proceedings in certain circumstances). The Chief Ministers of Gujarat and Tamil Nadu also wrote against these provisions. Taking into account reactions to the provisions of the Code of Criminal Procedure (Amendment) Act, 2008 from lawyers across the country, the Act could not be notified.

12.52 The Code of Criminal Procedure (Amendment) Act, 2008 (No. 5 of 2009) has since been notified on December 30, 2009 for its enforcement, except the Sections 5, 6 and 21(b) of the Act passed by the parliament. In respect of the Section wherein objections have been raised, further amendments are proposed to be made, which are under examination.



Advisory issued to State Governments to prevent misuse of section 498A of IPC

12.53 A representation was received from the Rajya Sabha Secretariat regarding the misuse of section 498A of IPC (Husband or relative of husband of a women subjecting her to cruelty).

12.54 As the matter is in the concurrent list of the Seventh Schedule to the Constitution of India, the comments of the State Governments/Union Territory Administrations were also sought in the matter. The comments of the Governments of Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Madhya Pradesh, Meghalaya, Rajasthan, Sikkim, Tripura, Uttarakhand, Andaman and Nicobar Islands, NCT of Delhi, Chandigarh, Daman and Diu and Lakshadweep have been received so far.

12.55 Comments/views of the Ministry of Women and Child Development were also sought in the matter. That Ministry was of the view that the important legislations such as Section 498A IPC, Dowry Prohibition Act 1961 and Protection of Women from Domestic Violence Act, 2005 which provide protection and legal remedies to women should not be tinkered with. As these are special laws governing the same subject matter, these laws need to be harmonized and uniformly implemented. At the same time, if some set procedures are followed, the misuse may be curtailed. Therefore, they suggested that:-

- (i) In order to bring an end to the misuse of these Acts, it would be advisable if MHA issue advisories to the State governments to comply with procedure as laid down in

D.K.Basu's case.

- (ii) Mahila desks may be created at Police Stations and 'Crime Against Women Cell' may be created at least at the district level which could specifically cater to complaints made by women.
- (iii) In cases of matrimonial disputes, it is recommended that the first recourse should be to effect conciliation and mediation between the warring spouses and their families and recourse to filing charges U/S 498A IPC may be resorted to in cases where such conciliation fails and there appears a prima facie case under section 498A and other laws. The Counseling mechanisms envisaged under PWDV Act, 2005 should be implemented by State Government and any counseling of parties should be done only by professionally qualified counselors and not by the police. The police may consider empanelling professional counselors with the CAW Cell.

12.56 The Law Commission in its 154th Report has recommended that the offence under section 498A IPC be inserted in the Table under sub-section (2) of section 320, whereby it can be compounded with the permission of the Court. The Malimath Committee on Reforms of Criminal Justice System has also recommended that the offence under section 498A IPC be made bail-able and compoundable. In the light of the aforesaid recommendations and some judicial pronouncements, an attempt was made earlier to amend the section to make the offence compoundable. However, this could not be pursued because of the opposition from many concerned bodies.



12.57 As a number of representations have been received suggesting amendment in the said section, the matter has been referred to the Law Commission to study the usage of this provision and hold consultations and suggest amendments, if any, to the provision. The views of the Law Commission are awaited.

12.58 Since amending the law at this stage is not being contemplated, an advisory has been issued to the State Governments on the lines suggested by the Ministry of Women and Child Development.

Review of Rape Laws

12.59 The Law Commission in its 172nd Report on “Review of Rape Laws” has recommended changes for widening scope of the offence in section 375 IPC and to make it gender neutral. Various other changes have been recommended in sections 376 and 376A to 376D IPC and insertion of a new section 376E dealing with unlawful sexual contact, deletion of section 377 IPC and enhancement of punishment in section 509 of IPC. They have also recommended changes in the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872. The National Commission for Women also forwarded a Private Bill in the subject.

12.60 The Legislative Department prepared a draft Bill taking into consideration recommendations of the Law Commission and the Private Bill forwarded by NCW. The Bill was to be finalized through the inter-ministerial consultation with that Department.

12.61 In the mean time, the National Commission for Women recommended for

some changes relating to ‘rape’ in its Annual Report 2004-05. The recommendations of NCW were forwarded to the State Governments for their views/comments. The matter was pursued with the State Governments. A conference of Home Secretaries of the States and Union Territories was convened on July 7, 2008 in Delhi to discuss the matter. There was no agreement to the amendments that should be carried out in IPC, Cr.P.C. and Indian Evidence Act with regard to sexual assault/rape.

12.62 As the subject matters relating to rape are sensitive in nature, a decision has been taken that the Bill on rape laws may be finalized after in depth consultations with all concerned. Therefore, a High Powered Committee has been constituted under the Chairmanship of Union Home Secretary to examine the issue relating to the review of rape laws.

Processing of the Report of the Committee on Reforms of Criminal Justice System

12.63 The Committee on Reforms of Criminal Justice System set up under the chairmanship of Dr. (Justice) V.S. Malimath, former Chief Justice of Karnataka and Kerala High Courts submitted its report to the Government on April 21, 2003. The Committee made 158 recommendations to revamp the criminal justice system.

12.64 Advisories were issued to State Governments with regard to those recommendations, which were to be implemented through administrative measures.

12.65 As regards those recommendations, which require amendment to Indian Penal



Code, 1860 and the Code of Criminal Procedure, 1973, views/ comments of State Governments/ Union Territory Administrations have been sought as the Criminal Law and the Criminal Procedure are on the Concurrent List of the Seventh Schedule to the Constitution of India. Views from some the States/ Union Territory Administrations have been received and the defaulting States are being reminded regularly to send their comments.

Draft National Policy on Criminal Justice System

12.66 The Committee constituted under the chairmanship of Prof. N.R. Madhava Menon to draft a National Policy Paper on Criminal Justice System has submitted its report to the Government on August 1, 2007. Since the Criminal Justice System falls in the Concurrent List of the Seventh Schedule to the Constitution of India, and, the recommendations could have wide ranging implications, copies of the Report were sent to all the State Governments/ Union

Territory Administrations as also to the various Ministries/ Organizations in the Central Government for their comments and suggestions. After receipt of their comments, a final view will be taken.

Legislative Proposals passed/introduced by/in the Parliament

12.67 Following legislative proposals of this Ministry were passed in the Parliament during April 1, 2009 to December 31, 2009:

- The Amendment to “The Civil Defence Act, 1968” Bill, 2009
- The Salaries and Allowances of Ministers (Amendment) Bill, 2009

12.68 Following legislative proposal of this Ministry, introduced in the Lok Sabha during April 1, 2009 to December 31, 2009 is under consideration of the Parliament:

- The Land Ports Authority of India Bill, 2009
