

## MAJOR INITIATIVES AND SCHEMES

### CHAPTER

# XI

### SCHEME FOR MODERNISATION OF STATE POLICE FORCES

11.1 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.

11.2 The States have been categorised into 'A' and 'B' categories with 100% and 75% Central funding, respectively. While Jammu & Kashmir 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 capacity building and modernisation of the Police Forces, with focused priority on States facing problems of terrorism and left wing extremism. The total allocation under the scheme in 2008-09 was Rs.1,157.64 crore.

11.3 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.

11.4 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	1,065.25
8	2007-08	1248.70
9	2008-09	1155.64

11.5 With a view to ensuring that funds under the Scheme can be released at the beginning of a financial year, Action Plans for 2008-09 were invited from States by December 31, 2007. The Action Plans were considered by the Ministry in meetings held in January – February, 2008 (except J&K for which the meeting was held in April, 2008) and first instalment of funds were released to States in April, 2008.

### Objectives

11.6 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.

11.7 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**

11.8 A new concept of Mega City Policing (MCP) was introduced in 2005-06 under the MPF Scheme 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 MCP including details of demographic growth pattern, special problems faced in policing in large urban areas and 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**

11.9 Desert Policing is also a new concept and

forms a part of the MPF Scheme from 2005-06. Desert Policing is primarily meant for the States of Gujarat and Rajasthan to address the problems regarding policing large and scattered desert areas. 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.

11.10 During the year 2007-08, Central funds to the tune of Rs.69.82 crore were released for Mega City Policing and Rs.10.50 crore for Desert Policing. For the year 2008-09, Rs.68.94 crore has been released for Mega City Policing and Rs.8.93 crore for Desert Policing components under the MPF Scheme.

### **Strengthening of Special Branches**

11.11 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 Scheme 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. Further, four naxal affected-States of Bihar, Chhattisgarh, Jharkhand and Orissa were advised to include a specific sub-plan for strengthening of Special Branches under the MPF Scheme, 2007-08. For 2008-09, all the States have been advised to earmark upto 5% of the MPF allocation towards strengthening of their Special Branches.

### **Impact of the Scheme**

11.12 The scheme has made perceptible impact in all the States and has provided the much needed

assistance and impetus to police modernisation. However, there have been reports suggesting the need for further streamlining of procedures and processes at the level of the States with a view to ensure better utilization of the funds provided under the Scheme and consequent qualitative improvement. With a view to bringing in qualitative improvements, apart from introducing the system of advance preparation and approval of the State Annual Action Plans, as mentioned earlier, a system of concurrent audit has also been put in place from the last quarter of the year 2008-09. An impact assessment study has also been assigned to the BPR&D.

## **CRIME & CRIMINAL TRACKING NETWORK & SYSTEMS PROJECT**

11.13 A Common Integrated Police Application (CIPA) programme was hitherto being implemented (since 2005) as a part of the Scheme for Modernisation of State Police Forces, with the aim of computerisation 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, 2,760 Police Stations, out of a total of around 14,000 Police Stations across the country, have been covered under the CIPA Scheme.

11.14 With a view to expediting the full coverage of police stations in the country, and widening the scope of the police functions to be covered, as also to create databases pertaining to crime and criminals from the police station upto the national level, and networking of such databases to provide for online flow of information, a new Crime and Criminal Tracking, Networking and Systems (CCTNS) Project has been launched in the 11<sup>th</sup> Five Year Plan, with an outlay of Rs. 2000 crore, and is proposed to be implemented as a Mission Mode Project by the Government of India under the National e-Governance Programme. The Scheme is proposed to be implemented in a manner where the major role would lie with the State Governments in order to bring in the requisite stakes, ownership and commitment, and only

certain core components would be in the hands of the Central Government, apart from the required review and monitoring of project implementation on a continuing basis.

11.15 The CCTNS project aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing at the Police Station level through adoption of principles of e-Governance, and creation of a nationwide networked infrastructure for evolution of IT-enabled state-of-the-art tracking system around “investigation of crime and detection of criminals” in the real time, which is a critical requirement in the context of the present day internal security scenario.

11.16 The broad objectives of the CCTNS project are streamlining investigation and prosecution processes, strengthening of intelligence gathering machinery, improved public delivery system and citizen-friendly interface, nationwide sharing of information on crime and criminals and improving efficiency and effectiveness of Police Functioning.

11.17 The project has been approved by the Cabinet Committee on Economic Affairs and will be launched in the year 2009-10.

## **THE PRIVATE SECURITY AGENCIES (REGULATION) ACT, 2005**

11.18 With the objective of regulating the fast increasing activities of private security agencies, both Indian and foreign, “The Private Security Agencies (Regulation) Act, 2005” was enacted and has been notified in the Gazette of India on June 23, 2005. The Act came into effect from March 15, 2006.

11.19 Under this Act, a Controlling Authority is to be appointed by each of the State Governments

for granting licences to agencies for carrying on the business of security agencies and other related matters.

11.20 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 enabling them to frame their own rules, in conformity with the Central Model Rules. The State Governments of Rajasthan, Maharashtra, Sikkim, UT of Chandigarh, West Bengal, Tripura, Tamil Nadu, Gujarat, Punjab, Chhattisgarh, Assam and Andhra Pradesh have framed and notified the rules in the Gazette.

### **The Private Detective Agencies (Regulation) Bill, 2007**

11.21 The Private Detective Agencies (Regulation) Bill, 2007 was introduced by the Ministry of Home Affairs in the Rajya Sabha in August, 2007. The objective of the Bill is to regulate the working of Private Detective Agencies through a system of mandatory licensing so as to ensure that they work within the ambit of legal framework and are accountable to a regulatory authority. The Bill was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. Three meetings of the Parliamentary Standing Committee were held to discuss the Bill. During the course of the meetings and examination of the Bill, the Parliamentary Standing Committee had made some observations regarding the Bill, for which replies were furnished by the Ministry of Home Affairs. The 139<sup>th</sup> report of the Department related Parliamentary Standing Committee on Home Affairs regarding the Bill has been presented in the Rajya Sabha and Lok Sabha on February 13, 2009. The recommendations made by the Parliamentary Standing Committee in its report are under examination in the Ministry.

a Review Committee to review the recommendations which had been made regarding Police Reforms by the National Police Commission and other Committees over the years. The Committee identified 49 recommendations which were sent to the States/UTs for immediate implementation and follow-up. The Government have been exhorting the State Governments/UT Administrations for early implementation of the said recommendations on Police Reforms.

11.23 In the meanwhile, the Supreme Court of India has also passed an order 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 had issued certain directions to the Union Government and State Governments, to be implemented by December 31, 2006, and to file affidavits of compliance by January 3, 2007. The directions inter-alia included:-

- (i) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.
- (ii) 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.
- (iii) Prescribe minimum tenure of two years to the police officers on operational duties.
- (iv) Separate investigating police from law & order police, starting with

## **POLICE REFORMS**

11.22 The Ministry of Home Affairs had set up

towns/ urban areas having population of ten lakhs or more, and gradually extend to smaller towns/ urban areas also,

- (v) Set up a Police Establishment Board at the state level, inter alia, for deciding all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police, and
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.

11.24 The matter was heard successively on different dates. It was last heard on May 16, 2008, in which Hon'ble Supreme Court directed to set up a Committee under the Chairmanship of Justice K.T. Thomas, former retired Judge of the Supreme Court and two other Members with the following Terms of Reference:

- i) To examine the affidavits filed by the different States and the Union territories 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 UT.
- iv) Examine the new legislations enacted by different States regarding the police to see whether these are

in compliance with the letter and spirit of Hon'ble 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 Hon'ble Court every six months.

11.25 This Committee's term initially has been directed for a period of two years. The Committee has so far held four sittings.

### **NATIONAL POLICE MISSION (NPM) – ESTABLISHMENT OF MICRO-MISSIONS**

11.26 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 for enabling the Police Forces in the country to be an effective instrument for maintenance of internal security and to face the challenges by equipping them with the necessary material, intellectual and organizational resources.

11.27 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 was established to carry the Mission forward. Based on the initial deliberations in the ESG and EC, it was decided to establish the following six Micro Missions (MMs) in order to provide a concrete shape and framework for the NPM:

- **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.

11.28 The 6 Micro Missions, in the given time frame, have recommended 14 specific projects to be considered under the NPM. The projects have been presented to the Executive Committee in February, 2009. The project proposals are presently being given a final shape in the light of the observations/comments of the Executive Committee.

11.29 Further, with the aim of providing an institutional framework for carrying forward the work of the Micro-Missions, it has been decided to establish a “Mission Directorate” in the BPR&D.

Work on this commenced in September 2008.

## MODERNISATION OF PRISONS

11.30 ‘Prisons’ is a State subject under List-II of the Seventh Schedule to the Constitution of India. The management and administration of Prisons falls exclusively in the domain of the State Governments, and is governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments. Thus, States have the primary role, responsibility and authority to change the current prison laws, rules and regulations. However, keeping in view the universality of the principles and standards underlying the broader issues pertaining to treatment of offenders, custodial management, etc. there is also a need to examine the whole subject of prisons in a wider policy context.

11.31 The Central Government has been providing financial assistance to the State Governments in this important area of criminal justice system since 1987. However, during the period 1987-92 an amount of Rs.45 crore only for all States put together was released under the non-plan scheme of Modernisation of Prison Administration. From 1993, the said scheme was converted into a Plan Scheme and in the Eighth Five-Year Plan an outlay of Rs.100 crore was agreed. This also proved to be totally inadequate as time and again the poor infrastructure, overcrowding, congestion, increasing proportion of the under-trial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, and above all, inadequate implementation of correctional measures in the prisons have been revealed at various levels. The common reasons cited for such poor state of Indian prisons are the non-availability of adequate funds made available by the State Governments as also the lack of comprehensive thinking and coordinated action on the subject.

11.32 BPR&D was deputed in the year 2000 to carry out an assessment of the requirements in this area so as to bring the Indian prisons upto a basic minimum standard and the prisoners can be kept

in healthy and hygienic conditions. Based on their gap analysis and the recommendations of the BPR&D, the Central Government launched a non-plan scheme in 2002-03 for construction of additional prisons to reduce overcrowding, repair and renovation of existing prisons, improvement in sanitation and water supply and provide living accommodation for prison personnel. The scheme which is known as 'Scheme on Modernization of Prisons' was to be implemented over a period of five years (2002-07) in 27 States with an outlay of Rs.1,800 crore on a cost sharing basis in the ratio of 75:25 between the Central and State Governments respectively.

11.33 The scheme was extended by a further period of two years without additional funds to enable the State Governments to complete their activities by March 31, 2009. As against the total

Central share of Rs.1,350 crore over a period of 5 years, an amount of Rs.1,346.95 crore has been released to the State Governments upto March 31, 2009. Out of total Central share of Rs.1,350 crore, Rs.1.55 crore was uncommitted fund and Rs.1.50 crore was the Central share of J&K which could not be released to the State Government due to non-submission of utilization certificate.

### **All India Conference of Jail Ministers, Principal Secretaries (Prisons/ Home) and DG/IG (Prisons)**

11.34 A conference of Jail Ministers, Principal Secretaries (Prisons/ Home) and DG/IG (Prisons) and Law Secretaries of the States was held on April 25, 2008 in New Delhi to discuss the Draft National Policy on Prison Reforms and Correctional Administration. The Union Home Minister inaugurated this Conference and Minister of State



*All India Conference of Ministers, Secretaries and Directors/Inspectors General In-charge of Prisons held on April 25, 2008*

(Home) also shared his views. Important deliberations related to formulating of the Draft National Policy on Prison Reforms, Draft Prison Manuals as also the progress of scheme of Modernization of Prisons were discussed. During the Conference, the progress of the scheme of the first phase of scheme of Modernization of Prisons was also discussed. Since the first phase of the scheme was to expire on March 31, 2009, many States requested for continuation of the scheme in the second phase. The broad contours/components of the second phase of the scheme were also discussed.

### **Second Phase of Scheme of Modernisation of Prisons**

11.35 Considering the recommendations 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 Ministry of Home Affairs has initiated the process of formulating a second phase of the Scheme of Modernisation of Prisons. The draft Committee of Non-Plan Expenditure (CNE) Note for the same has already been prepared and is under process. The proposed second phase shall essentially concentrate on construction of new modern Prisons based on the Model Prison Designs; alongwith modern electronic security systems and gadgets; construction of additional Barracks in existing Prisons; basic sanitation and sewage facilities in all prisons; up gradation, repair, renovation and maintenance of existing Prison Facilities; improved Medical and Healthcare Services; basic infrastructure for Reformation and Rehabilitation of prisoners; facilities related to correctional administration and Capacity Building and Training of Prison staff for the purpose; setting up/strengthening National/Regional Institutes for Correctional Administration; and Information and Communication Technology enablement of Prisons including video conferencing. The scheme is likely to be operationalised in the financial year 2009-10, subject to approval of the competent authority.

### **Prison Policy**

11.36 The Ministry is also in the process of formulating a Prison Policy which shall be circulated to all the States/UTs for necessary action.

### **Institutes of Correctional Administration**

11.37 To improve the quality of prison administration, continuous efforts are made by imparting training to prison personnel. The Cabinet Committee on Political Affairs in its meeting held on August 2, 1988, had decided that Regional Training Centers for Prison Personnel be established by the Central Government preferably in Union Territories. In pursuance of this decision, the Institute of Correctional Administration at Chandigarh was set up in 1989 with financial assistance from the Central Government.

11.38 In addition, there is a Regional Institute for Correctional Administration (RICA) at Vellore, Tamil Nadu, which 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 Government of Orissa has been asked to send the comprehensive proposal for setting up an institute at Orissa 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.

11.39 BPR&D also plays a significant role through research work and training in the field of prison administration.

### **Repatriation of Prisoners Act, 2003**

11.40 Earlier there was no legal provision either in the Code of Criminal Procedure or any other law under which foreign prisoners could be transferred to the country of their origin to serve the remaining part of their sentence nor was there a provision for the transfer of prisoners of Indian origin convicted by a foreign court to serve their sentence in India. From the humanitarian angle it was felt that if foreign convicted nationals were transferred to their home countries and prisoners of Indian origin brought to India to serve the remaining part of their sentence, it would enable them to be near their families and would help in the process of their social rehabilitation.

11.41 The Repatriation of Prisoners Act, 2003 was enacted for achieving the above objectives. The Act was notified and came into force on



January 1, 2004. Subsequently, the Repatriation of Prisoners Rules, 2004 were published in the Official Gazette on August 9, 2004. For implementation of the Act, a treaty/agreement is signed with countries having mutual interest with us on this matter.

11.42 Government of India has so far signed agreements with the Governments of the United Kingdom, Mauritius, Bulgaria, Cambodia, Egypt and France. Negotiations have also been concluded with Governments of Canada, Israel, Hong Kong and Korea. The negotiations are underway with the Governments of Brazil, Sri Lanka and United Arab Emirates (UAE).

11.43 Under the Repatriation of Prisoners Act, 12 Indian prisoners have so far been repatriated from Mauritius to India and 3 British prisoners have been repatriated from India to United Kingdom (UK) for serving the remaining part of sentence in their respective countries.

### Correctional Service Medals

11.44 Based on the recommendations of the All India Committee on Jail Reforms (1980-83) and certain other Committees/Groups, the Government of India has instituted the following medals with the objective of recognizing the services rendered by the prison personnel:

#### 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)

11.45 The number of President's Correctional Service Medals 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.

11.46 The President's Correctional Service Medal for Distinguished Service and the Correctional Service Medal for Meritorious Service 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.

11.47 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.

11.48 A total number of 37 prison personnel of various States were awarded the Correctional Service Medals during 2008.

### Asia Pacific Conference of Correctional Administrators, 2008 (APCCA)

11.49 The 28<sup>th</sup> Asia Pacific Conference of Correctional Administrators was held at Langkawi, Malaysia during November 23-28, 2008. The Indian delegation led by Joint Secretary (CS), Ministry of Home Affairs with prison officials from various State Governments attended the same. India has been elected (unopposed) as the elected member of the Governing Board of APCCA in the Conference. A presentation was also made by the delegation on the contemporary issues in Correctional Administration in India during the Conference.

## LEGAL AND LEGISLATIVE INITIATIVES

draft legislation before the Bills are passed by the State Legislature.

### STATE LEGISLATIONS

11.50 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 of India, Bills for previous sanction under proviso to article 304(b) of the Constitution of India, Ordinances under proviso to Clause 1 of article 213 of the Constitution of India, and Regulations for Scheduled Areas (Fifth Schedule to the Constitution) fall in this category.

11.52 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.

11.53 The position is reviewed periodically through meetings with the Union Ministries and the concerned State Governments to facilitate early clearance of Bills, by resolving issues across the table.

11.51 In addition, Bills which are required to be reserved for consideration of the President, are sometimes sent by the State Governments for approval of the Central Government, before their introduction in the State Legislatures. Though, it is not a constitutional requirement, this administrative step helps in prior scrutiny of the

### Proposals received and finalised

11.54 During the period from April 1, 2008 to March 31, 2009 the Ministry of Home Affairs received 62 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	<b>Bills for the consideration and assent of the President under article 201 of the Constitution:</b>	
	(i) Bills assented to by the President	19
	(ii) Bills returned to the State Government with Message from President	01
	(iii) Bill withdrawn by State Governments	04
	(iv) Bill closed	01
II	<b>Ordinances for Previous instructions of the President under article 213(1) of the Constitution:</b>	
	(i) Instructions of the President conveyed	01
	(ii) Ordinances closed	02
	(iii) Refused	—
III	<b>Bills for previous sanctions of the President under article 304 (b) of the Constitution:</b>	
	(i) Previous sanction of the President conveyed	—
	(ii) Previous sanction of the President closed	01
IV	<b>Bills for approval of the Government of India before its introduction in the State Legislature:</b>	
	(i) Approval granted	21
	(ii) Bills closed	02
	(iii) Refused	—
	<b>Total</b>	<b>52*</b>

\* This also includes Legislative proposals received before April 1, 2008.

## CRIMINAL JUSTICE SYSTEM

11.55 A Judicial Cell in the Ministry deals with the legislative aspects of the Indian Penal Code (IPC), 1860, the Criminal Procedure Code, 1973 (Cr.P.C.); 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) Bill, 2006

11.56 On the basis of the recommendations of the Law Commission in its 154<sup>th</sup>, 177<sup>th</sup> and 178<sup>th</sup> Reports, a Bill namely the Code of Criminal Procedure (Amendment) Bill, 2006 was introduced in the Rajya Sabha on August 23, 2006 proposing to amend various provisions of the Cr.P.C., 1973. Highlights of the Bill are: -

- Changes in the law relating to arrest
- Compounding of Offences (procedural simplification)
- Victimology
- Protection of Women
- Adjournments – avoidance of
- Use of Modern Technology
- Inquiry and trial of persons of unsound mind
- Bail Bond (in case of acquittals)

11.57 The Chairman, Rajya Sabha referred the Bill to the Parliamentary Standing Committee on Home Affairs for its examination and report. The Committee submitted its report on August 16, 2007. The recommendations of the Committee were examined in this Ministry. Some of the recommendations were accepted fully or partly and the rest of the recommendations have not been accepted. Based on this, official amendments were moved in the Rajya Sabha, and the Bill was passed

by the Rajya Sabha on December 18, 2008 and by the Lok Sabha on December 23, 2008. The Bill received the assent of the President on January 7, 2009. The corresponding Act namely, the Code of Criminal (Amendment) Act, 2008 (5 of 2009) has been published in the Gazette of India Extraordinary, Part II, Section 1 dated January 9, 2009. However, coming into force of the Act is yet to be notified.

### 172<sup>nd</sup> Report of the Law Commission on 'Review of Rape Laws'

11.58 The Law Commission in its 172<sup>nd</sup> Report has recommended changes for widening scope of the offence in section 375 of IPC and to make it gender neutral. Various other changes have been recommended in sections 376 and 376A to 376D 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. The Commission has also recommended changes in the Cr.P.C., 1973 and the Indian Evidence Act, 1872.

11.59 The Law Commission's Report was circulated to the State Governments for comments as the criminal laws and criminal procedures are in the concurrent list of the Seventh Schedule to the Constitution of India and states have the responsibility of enforcing the laws. Most of the States, more or less, supported the views of the Law Commission. On this basis and, in consultation with the Legislative Department, a Bill was drafted. In the meanwhile, the National Commission for Women (NCW) forwarded a separate Bill on the subject drafted by the Legal Convener of All India Democratic Women Association. A revised Bill, taking into consideration the Private Bill forwarded by NCW, has been drafted by the legislative Department. In the mean time, the National Commission for Women have recommended 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. As the issue is pending for long, a conference of Home Secretaries of the State Governments and Union territory Administrations was convened on July 7, 2008 by this Ministry at Vigyan Bhavan, New Delhi to discuss the matter.

11.60 While majority of the State Government representatives agreed to the provision of the draft Bill, a few State Government representatives supported the recommendations of the NCW. However, other State Government representatives stated that the views of their State Governments would be sent later. The views of the State Governments, that are to be taken into account for preparation of the Bill on the rape laws, are being processed.

### **Report of the Committee on Reforms of Criminal Justice System**

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

11.62 As regards those recommendations, which require amendment to Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973, views/comments of State Governments/UT 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 States/UT Administrations have been received and the others are being reminded regularly to send their comments.

### **Draft National Policy on Criminal Justice System**

11.63 In the meanwhile, a Committee was

constituted by the Ministry under the Chairmanship of Prof. N.R. Madhava Menon to draft a National Policy Paper on Criminal Justice System, which 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**

11.64 Following legislative proposals of this Ministry were passed in the Parliament between April 1, 2008 to March 31, 2009: -

- The President's Emoluments and Pension (Amendment) Bill, 2008
- The Vice – President's Pension (Amendment) Bill, 2008
- The Governors (Emoluments, Allowances and Privileges) Amendment Bill, 2008
- The Code of Criminal Procedure (Amendment) Bill, 2008
- The National Investigation Agency Bill, 2008
- The Unlawful Activities (Prevention) Amendment Bill, 2008
- The Central Industrial Security Force (Amendment) Bill, 2009

11.65 Following legislative proposals of this Ministry, introduced in the Lok Sabha/Rajya Sabha between April 1, 2008 to March 31, 2009 are under consideration of the Parliament.

- The Land Ports Authority of India Bill, 2008