CHAPTER 5: THE EXISTING SCENARIO – THE ATTITUINAL ORIENTATION

Law Enforcement and Justice Administration in the field of crimes against women, unlike other groups of crimes, have definite bearings on the attitudinal orientation of the agencies concerned. The attitudinal disinclination exacerbates the already existing scenario, riddled with allegations of inefficiency, ineptness, apathy, lethargy, delayed response, delayed justice, cumbersome proceedings, etc., which are commonly perceived to the ailments affecting the various wings of the criminal justice system. In this quagmire of institutional bottlenecks, the attitudes of the law enforcement officials assume greater importance. In fact, the best of institutions however established they are, become dysfunctional if the functionaries do not perform or ill-perform or under-perform. The situation gets further accentuated when the institutional mechanisms are too many and disjointed. When the agencies concerned work at cross-purposes, due to the attitudinal apathy amongst themselves, or the absence of a systemic consensus, a threat of collapse or break down of the system not only looms large but also imminent. Nevertheless, the balanced, mature and saner elements of the system do rise up to the occasion and ensure that the systems do function and deliver. They try to bring in necessary reformations in the attitudes of the officials concerned. These saner elements may be few but are effective and influential that the system survives and overcomes the threat of collapse. However these arrangements are ad hocist and cosmetic. Only systematic and institutionalized steps can redeem the situation and bring it up to the ideal state where gender justice becomes the order of the day.

Moving away from the law enforcement agencies, let us look at the female victims of crime. These women and girl children, especially in the Indian rural settings, do suffer the crimes in silence. Their guardians and well-wishers, including family members, would rather advise them to keep silent and not disclose or discuss about the crime, for fear that any invitation to the police to intervene into the matter would entail not only further victimization and harassment at the hands of police, etc. but also undue publicity against the victim herself as if she is the one who has invited the problem and, therefore, would boomerang on her. Moreover, lack of awareness of even the basic rights makes the women victims to be tolerant and resilient to all such atrocities. This unusual marriage of forced tolerance and the conspiracy of silence exacerbates the situation and gives birth to further aggravated forms of
* The media publicity, especially when it violates the rights of women and girl children
* Legal illiteracy of the law enforcement officials
* Inadequate strength of the law enforcement machineries
* Inadequate infrastructural facilities contributing to low morale and negative attitudes of law enforcement officials

The attitudinal orientation of the various law enforcement officials with respect to crimes against women and girl children manifests itself in the form of a variety of distinct perspectives. Though these perspectives are individualised, they get systematized over a period of time. It is possible that in any given situation there may be an interplay of different perspectives or an admixture of two or more of them.

5.1. Perspectives in Law Enforcement

Law enforcement is an interplay of several laws, factors, commonsense, strategies, tactics, human relations and above all one's perceptions and the will to do or not do. These factors operate in unison and, therefore, it is necessary to understand the relationship and function of each of the aspects to one another and to the whole. A purely structural approach to law enforcement will be a self-defeating exercise, because of the fact that there are different and divergent factors involved in a functionally interactive matrix. On the one side there are perceivable, tangible and concrete data that call for objective and well balanced assessment, appreciation and evaluation by the actors and the stake-holders. On the other side the scope for subjectivity in understanding, perception and evaluation and action is very high. This overdose of subjectivity would naturally project a distorted picture. In this situation, one cannot escape using a sociological kaleidoscope with an overwhelming domination of one's personal prejudices and mindsets. Therefore perspectivity in the analysis of real-time situation calls for an integrated approach, wherein the integrals emerge from the structural-functional dissection. The units have to be understood in their context and the whole is to be perceived with reference to the function of the units. Perspectivism is, therefore, inevitable to fathom not only the impact, effects and the causal relationships but also to appreciate the various paradigms that operate in the given context. The taxonomy presented below categorizes the different perceptions, wherein the nomenclature has been made on the basis of the dominant factor in each paradigm, accompanied by a causal analysis as to how these factors contribute to the systems of law enforcement on crimes against women and girl children.
5.2. The Statistical Perspective

This is a common place approach which unfortunately has gained much popularity in the criminal justice system. The figures of decrease in the rate of crimes or increase in the rate of clearance etc., are often quoted even by the officials and even political masters to substantiate or embellish their claims for efficiency in administration and police. Similarly, these figures are also utilized for comparison with the corresponding figures of other places and at times to project one's capability, competence and achievements and, at the same time, to demolish or derogate the claims of somebody else. Assessment and evaluation of the performance of police officials, especially those at the field level, is often done on the basis of statistics of reported crimes, disposed off cases etc. Accordingly, statistics assumes unusual importance in law enforcement. Even judicial Courts are concerned with the figures. The number of disposals of cases by a presiding officer is an important criteria for assessing his performance. If a case is of simple nature which can be disposed of without much effort, the presiding officer would like to complete the trial of that case before he would take up a case involving too many witnesses, even if the latter is pending since long. In this 'statistical syndrome', the crimes against women are often neglected, relegated and pushed down to the list of non-priority. The NHRC study (NHRC, 2004) shows that 60 percent of crimes on trafficking and commercial sexual exploitation of women and girl children are not even reported, let alone investigated.

5.3. The 'Law and Order' Perspective

This is a common affliction with the police community throughout India. Maintaining order takes precedence in police functioning. Order is to be maintained at all costs. Any breakdown would invite all attention till it is restored. Disorder may take the colour of affray, riot, strike, conflicts, strikes, etc., all of which are required to be quelled with iron hand. The law enforcement agency does act, as inaction or delayed action may snowball into a crisis. However what is normally forgotten is the follow up. The criminals who precipitate the disorder are not dealt with firmly. Reasons may be many. This might be the cause for more serious disorders to come. The situation becomes vicious and, therefore, disorders have come to stay. As a corollary maintenance of 'law and order' is an on-going process without respite. Naturally the law enforcement official tends to neglect other duties and functions, may be out of compulsion. Being busy in maintaining law and order can be used as a safe device for inaction on other fronts. In such a situation, crimes against women and
5.4. The 'Public' Perspective

Many officials in the various wings and rungs of the law enforcement machinery often fall prey to the 'looking-glass syndrome'. They perform their duties and prioritise their functions depending on the public perception as perceived by them through the means and mechanisms available to them. Media plays an important role in this situation. It is often said that for the media 'bad news' is 'good news' and 'good news' is 'no news'. No doubt and vested interests play an important role in the media hype. Truth and reality are sometimes compromised at the hustings. These law enforcement officials tend to get carried away by the public perception of their performance as projected to them and try to blow up certain issues or hide others under the wraps. In this situation, recovery of a car stolen from the possession of a VIP is perceived to be much more 'serious' and 'important' than the rescue of minor and innocent girls who have been trafficked and are subjected to commercial sexual exploitation.

Sometimes certain sections of media make a mountain out of a mole. In the infamous 'ISRO Espionage' case of 1996, wherein a host of senior top-notch space scientists of this country were alleged to have been involved in violating the official secrets statute of the country by indulging in conspiracy with two Maldivian women and Pakistani nationals, the unusual publicity and media hype looked like a war being waged against not only the alleged suspects but also the officials of the premier investigating agency who refused to toe any particular line but stood to their guns on the straight path of truth. The war of attrition continued unabated and this led to biasing the mind of even those who were dispensing justice. Even after the Supreme Court had delivered a landmark judgement, after hearing all parties concerned for a considerably long period, awarding a token compensation of rupees one lakh to all these persons, including the women who were wrongly arrested and detained.
and, at the same time, commended the CB1 for having brought out 'unvarnished truth', yet the adverse reporting by certain vested interest and a section of media did not subside for a long time. Naturally, this could create confusion in the public mind. The capacity for the media to mould public opinion and perception is tremendous. No doubt, the 'public perspective' does have its merit too. At times, media gives adequate publicity to the increase of crimes against women. Several cases are made into serial and given prominent place as headlines, followed by eloquent and erudite analysis, quoting different views and approaches. This provides ready-made interpretation and analysis of the trends, throws up lot of intelligence to the investigating agency, and, therefore, keeps them on the toes and rightly so. The managers of police administration do get a lot of insight into the functioning of the department through the media reports and analysis. This, in turn, facilitates a proper stock-taking of their functioning and helps to bring in adequate reformation. Media, more often, airing the institutional issues and bottlenecks, which form an important impediment in the law enforcement on crimes against women. This finds its reflection on the law enforcers who make anxious and orient themselves accordingly.

5.5. The 'Commercial' Perspective.

This is an attitudinal orientation wherein the concerned officials deal with the subject of crimes against women in a 'business-like' manner. Any crime against women is perceived as just another crime, one more to the tally of total crimes reported, to be investigated, to be prosecuted, and so on. Less number of crimes means less work and, therefore, less 'burden'. Moreover, less number of crimes (of any denomination) means less criticism by public, less supervision by higher-ups, less answerability and accountability etc. Therefore there is a market-place approach to the crimes against women. The individual, a woman victim, her trauma, her sufferings etc., are inconsequential and therefore, no notice is taken of such issues. The business-like approach fails to take note of, let alone appreciate, the fact that the world has come to an end to the victim. She would expect all attention and action by the personnel to redeem and mitigate, if not retribute the harm caused to her, but finds terribly frustrated due to the callousness and non-concern of the law enforcement official for whom it is 'just another crime'!
5.5. The 'Sociological' Perspective.

Crimes against women, according to this school of thought, are to be viewed from the larger context of the society. In this paradigm, there are two distinct streams of thought, probably contrary to each other. The first one is that of sociological rationalization and the second is that of sociological positivism.

The law enforcement officials, who contribute to the school of sociological rationalization, will justify the crimes against women as a 'necessary evil' and a necessary fallout of modernization, globalization, etc. The conformity or non-conformity between the 'means' and the 'goals' will be explained on the lines of the Theory of 'Anomie' propounded by Robert K. Merton. According to Merton, there are 5 types of behavior patterns that emerge from the interaction of means and goals (Robert K. Merton, Social Theory and Social Structure, 1949). They are as follows:

<table>
<thead>
<tr>
<th>Modes of adaptation</th>
<th>Cultural goals</th>
<th>Institutionalized means</th>
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<tbody>
<tr>
<td>Conformity</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Innovation</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Ritualism</td>
<td>-</td>
<td>+</td>
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<tr>
<td>Retrenchment</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Rebellion</td>
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Crimes fall in the arena of retrenchment and rebellion, where the culturally prescribed goals and institutionally established means are given a go-by. The law enforcement officials who contribute to this sociological approach find justification and rationalization in Merton's theory to explain not only specific instances of crimes against women and girls but also the various trends including the rise in such crimes. The blame will be passed down to the society, the social structures and their functions or dysfunctions.

The second school of thought is that of sociological positivism, where the law enforcement officials assume an activist role. Though they would place the origin of the crime on to the sociological features and factors, they would initiate adequate steps to reform the society through the individual. Specific attention is given to crimes against women because women constitute the most fundamental and important stratum of the society, which determine the development and progress of the entire society. This positivist approach promotes and
facilitates the involvement of social activists, NGOs and the community at large for crime control and, thereby, brings in adequate reformation within the society.

5.7. The 'Individual' Perspective.
This category includes those law enforcers who act when crimes are reported but confine the entire issue to the individual victim concerned. The scenario gets focused and oriented to the individual needs, requirements, problems and solutions. The response, action and reaction, will be individualized. Investigation will be victim-centric. The status and clout of the victim assumes the central point in this school of law enforcement. Black marketing of cinema tickets will be considered a serious and important issue warranting police action, whereas eve teasing by the same black-marketeers will be ignored. The loss to the cinema house is considered important whereas the violations of the rights of young girls are not. Another attribute of this perspective is that the enforcement official may pass down a part of the blame for the crime on to the victim herself. The accusation of the victim may be used as a play for inaction and an alibi for the unwillingness to act. The official who is gender biased and victim biased will be a disaster not only to the victim, but to the criminal justice system. He will exacerbate the agony of the victim and make her life miserable. The very presence of the victim is looked down upon. Her entry into the police station itself is unwelcome. Response, if any, is negative and loaded with hatred or contempt. The victim feels neglected, harassed, further traumatized. More often she would withdraw and involutes herself into a world of dejection and ostracism.

5.8. The 'Neutral' Perspective.
This is the situation wherein the attitude of the law enforcement officials is 'neutral' in all respects, without any subjective feeling for anybody. They would neither blame the victim nor condemn her but at the same time would not get involved either. The orientation is to go by the letter but not the spirit of law. Such officials will comply with almost all the provisions of the law books, Court rulings, manuals and circulars but the thrust is on maintaining the perception of being detached in all respects. No attention will be paid to the traumatization and shock that the victim has already undergone. Similarly, the attention given to a rape victim, a victim of theft, arson, etc will all be same. Neutralisation of orientation emanates from two reasons. Firstly, the upbringing and training of the police officer to be neutrally oriented to the public is carried too far and extended to the victim.
Secondly, such perception could be a concomitant function of the regimentation of his psyche by the myriad number of cases being handled by him over a period of time. For him any new crime being reported is just another crime for action, whereas he forgets the fact that for the victim this is the crime where the world has come to an end for her. She would feel frustrated at the hands of such a law enforcement officer as he conducts his business in the most nonchalant, non-concerned, non-involved manner, with no affinity or involvement whatsoever. His blank mind is disconcerting and disconcerting to the victim. Impartiality is carried to an extreme to the extent of being blank.

5.9. The Victimological Perspective.

Guided by the finer principles of criminology, the law enforcement agencies, who follow this school, play a proactive role, wherein the victim's plight remains at the centre stage. All actions are carried out keeping in view the centrality of the victim's trauma, which, in turn, is perceived as a complex and cohesive matrix involving physical harm, financial loss, mental agony, emotional stress, social stigma and frustration due to denial and exploitation of rights. The victim being the core means that actions are taken keeping the best interest of the victim. Everything revolves around the victim as the pivot. Such officials would strive their best to provide all help and assistance to the victims, not only by way of compensation and rehabilitation but also by facilitating retributive justice in the form of exemplary punishment to the offenders.

However, it is a fact that in the present day Indian context, the rights of the accused are given more importance than the rights of the victims. Probably the criminal justice system takes a myopic view of the situation by relegating the rights of the victims at the alter of the rights of the accused. There are very few police offices in the country where victim assistance centres exist as part of the law enforcement machinery and where victim assistance is provided as an ongoing process. The care and attention extended to the victim during the period of investigation comes to almost a grinding halt when the charge sheet is filed. The victim is mostly forgotten except when she is required to come to the Court and depose as a prosecutrix or as a witness. The finer elements of rehabilitation, de-traumatisation and re-assimilation of the ‘silent’ victim who has been gang-raped or exploited by the sexual predators are got at the normal scheme of things of the police agencies of this country. Therefore, such police officers who have made efforts to set up ‘Victim Assistance Bureau’ as
part of their office, have done a lot to the improvement of the situation, especially in the field of mainstreaming the victim and desegregating the context. Nevertheless, these efforts are only ad hoc and arbitrary, depending on the ingenuity and initiative of the individuals concerned. More often such efforts die a natural death once the official concerned is transferred out, a common feature in the existing system. Lasting impact is possible only when such good practices are institutionalized. There is a definite and genuine need for mainstreaming and integrating the victimological perspective in the law enforcement machinery.

5.10. The Gender Perspective.

Crimes against women cannot be treated at par with other crimes. The sociological situation in the country, over several decades has reinforced the stereotyped, patriarchal mindset of men and society at large. Police is only a segment of this very same society. However, several factors have accentuated the mindset and biases in the police. It is often said that even women police officials fall into the trap of the ‘police culture’ which is said to be the offspring of the unceremonious consummation of the patriarchal mindset and the rustic behaviour, sans professionalism, finesse and courtesy. Crimes against women and girl children are beyond the normal realm of crimes, as they have a finer element of men’s attitudes and psyche. The attitudinal dimension inherent in the commission of crime and more often dominantly in criminal investigation demands that if investigation and law enforcement has to be impartial, truthful and fair, it should be preceded by catalysis of gender sensitivity. The investigator can be a professional rendering equity and justice only when the paradigm adopted by him has absolute clarity from gender perspective. This perspective would emerge from an understanding of not only the sociological scenario and the psychology and behaviour patterns of female victims, but also the microcosm of the status of women in the overall macrocosm of society, as well as the existing behaviour patterns of the law enforcement officials. The gender perspective in law enforcement is not a bias towards females or against males. It means understanding and appreciation of a situation with objectivity which, in turn is born out of the ability and willingness to discern and appreciate facts and circumstances from the point of view of the female victim. Gender perspective arises from a concerted effort to reorient oneself, with an accentuated appreciation of the point of view of the victim. It calls for empathy and openness, free from mindsets, prejudices and predilections. Amongst the various wings of the law enforcement machinery,
though the police is said to be highly gender insensitive, and that gender issues are not in the
ken of an ordinary policeman, yet it is a fact that gender insensitivity among other wings,
including judiciary is not uncommon though less advertised. This has been established in a
study conducted by an NGO 'Sakshi' based in Delhi. (Sakshi, 1998). The gender perspective
is often criticized to be narrow in focus and as having been mired in the world of
presuppositions of prejudices and mind sets. Even a gender neutral person could be shunned
as being gender insensitive, if his actions are not demonstrative and if he chooses not to
project the neutrality of his activities. Another criticism is that gender orientation is only a
part of the Human Rights orientation and, therefore, the former is narrow and limited in
approach.

5.11 The Rights Perspective
This is an individual orientation wherein law enforcement officials perceive things from the
point of view of human rights. The practitioners of this school of thought, who may be only
a handful, contribute to the philosophy that women's rights form an integral part of human
rights and are inseparable and non-negotiable. The rights of the women victims are
identified and ensured. The victim is made aware of not only her rights, but also those rights
which were deprived, denied and violated. Violation of rights is viewed seriously and, therefore, the practitioners of the Rights perspective are protagonists of human rights in
theory and practice. Thus they transcend the realm of the ordinary human rights activists
who are abandoned these days, as the latter only preach but not practice. The policeman with
a rights' perspective puts to practice the theory and principles of human rights and is the
appropriate agency for combating crimes against women.

The rights of female victims, irrespective of age, arises from the principles, covenants and
conventions laid down by International bodies and agencies, the Constitution of India,
various Central and State legislation, judicial pronouncements and precedents, the customs
and the values in society. It is a fact that the patriarchal customs and prejudices have been in
existence for centuries and have shown tendency to intensify during various situations and
periods. The acerbity of the prejudices and the aggravated aggrandizement of the macho
have been instrumental in the exacerbated deprivation of the basic rights of the female
victims as seen from the untold miseries the female-hood is put to, foeticide to 'Sati'ocide,
infanticide to downicide and so on. However, it would be too simplistic and naive to pass
the blame on to the culture and traditions. It is the individuals and their psyche that have been instrumental in 'socialising' the prejudices and mind-sets. The social learning was, and is being, oriented in the same direction. Consequently, the patriarchal mind-set became customized and institutionalised so much so that even a gender-sensitised person would find it extremely difficult, rather impossible, to exhibit some percent gender-neutral behaviour. In this scenario, law enforcement agencies which value and practice Human Rights are the ideal and the appropriate in any given situation. Once the rights are understood, assimilated and practiced, law enforcement on women's issues will be proactive and prospective. The Human Rights paradigm takes into its umbrella a host of perspectives, all of which contribute to the best interest of the victim and all others concerned. The patronizing attitude which has been attributed to the 'gender-perspective' will be overcome by a loftier and nobler attitude of fairness and firmness, diligence and deliverance exhibited through the prism of non-negotiability of human rights.

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