CHAPTER-V

DISCUSSION AND CONCLUSION

5: Discussion

5.1: Findings of the study

- Among the groups of PDs, LEAs, Advocates and General Public; the maximum response was found to be “possible to utilize PDAs for strengthening national security and intelligence” (89%), followed by “through legalization, PDAs can work in a better manner and provide much expected result oriented outputs” (88.0%).

- For the statement “through outsourcing selective jobs of LEAs to PDAs, can it reduce the pressure / burden on the LEAs” (87.7 %), “private detectives are using the fastest and conducive method to explore truth” (86.3%), and “private agencies are equipped with sufficient knowledge, networks and gadgets with modern technologies” (83.0%).

- Among the groups of LEAs, Advocates and General Public; the maximum response was found to be in the “PDAs can assist LEAs” (84.7%), “utilizing PI strength for collection of intelligence and other purpose of intelligence task” (80.5%) and “Advantages of legalization of PI” (65.3%).

- Among PDs, the maximum response was found to be in the “after legalization adoption of questionable methods by PDs could be finished” ( 97.30%), “advantages of legalization of PI” (68.70), and the “difficulties PDAs are facing today” (57%).

5.2: Verification of the hypotheses

H1: Legalization of PDAs will help LEAs to work in better manner and strengthening national security by reducing the burden and pressure.

Hypothesis 1 is accepted; it is found that respondents from PDs, LEAs, Advocates and General Public were found to be 80.3%. The all four group
respondents had significantly higher score i.e 80.3%. Because they have good knowledge about the strength of PDAs (Varun Sood, 2011) and able to analysis what ways it can be fruitfully utilize to the welfare of the state.

H2: The types and modus operandi of PDAs differs from the established legal system (PDs only).

Hypothesis 2 is accepted; it is found that respondent from PDs was found to be 60.5% and most of the response had significantly higher score, and all the respondents have good knowledge about the types and modus operandi followed by PDAs in the existing scenario.

H3: The PDA system is contrary to the privacy and legal bondage of the society (PDs only).

Hypothesis 3 is accepted and found that respondents from only PDs were found to be 61.50%. The respondents had significantly higher score since PDs questionable methods such as pretesting, violation of privacy and other unlawful activities as the part of investigation. Also they are keen aware about why they are not in the position to avoid such kind of activities even they know that, it is against constitution. All the respondents strongly believe that, due to adoption of legalization questionable methods can be reduced (PDs only).

H4: The perception of different groups differ from one another

H4 is partially accepted because it is found that respondent from PDs, LEAs, advocates and General Public were found to be 69.59%. All the four group respondents had significantly higher score because they had good knowledge about present PDAs in the state.

5.3: General Discussion

The large numbers of PDAs who are working in the state, under consultation nature are providing services to various clients in and outside the state. Along with these PDAs, many freelance detectives are also associated with this profession. The clients depend on these PDAs from individual to various private sectors and government sector too. These PDAs are fulfilled with vast skilled human resources.
with cutting edge technology and updating their resources from time to time to maintain the quality and keep the business volume in satisfactory manner.

Legislation law which has been enacted by a legislature or a body is constituted for the process or making it. The PDAs is not legalized in Karnataka state. Private Detective Agencies (Regulation) Bill, 2007 is on pending in parliament as on date. Presently this is an unorganised areas and agencies work under the banner of consultation, followed by many people as freelance. Most of the PDAs are registered under shop and establishment act with local authorities and their activities are not under the scrutiny of government. The majority of the clients are individuals, corporate, lawyers and even some time LEAs. Even large numbers of people are associated with these PDAs, still it is at its infancy stage due to lack of legalization, violation of privacy, ethics and law.

In the state, all investigation associates depend on LEAs since they have constitutional sanctity and they are accountable to the laws of the land. Even though this system comes under the rude criticism of the external sources such as corruption and other negative aspects. In this point of view, generally people (Clients) looks for parallel system to find the bare truth and try to prove it before court of law with clinching incriminating evidence (IANS, 2008). There, the PDs come to light and do facts finding on behaviour of ‘Clients’ for further action.

In India, APDI is a pre-eminent national organization who is taking care of the subjects of members in PIAs. The associations are taking initiative action for the implementation of legalization of this issue in state and national level. In the legalization process of the states, along with government, PDAs association also played major role including India(Norman John Groot, 2001). The requirement of legalization on high priority in Britain is also in the light of violation of privacy, fundamental rights and questionable method by PDAs. Hence the ABI is attempting to maintain ethical standards even in the industry are not regulated to keep the privacy and security of clients (Tony Imossi, 2011). In the same line the Ministry of Public Security is launching a survey throughout China's major cities on the development of PI services to the legalization of PDAs in 2007 (JiangZhuqing, 2007).
The ISPLA; U.S.A’s primary functions include reviewing proposed federal and state laws and regulations in order to identify critical issues, developing policy statements, preparing & implementing action plans, serving as a resource to the profession, government, media and take initiative action to resolve it (Bruce Hulme, 2011). And the MedicoLegalPI.com (Dean A. Beers, 2011) is the monthly podcast of CLI of Forensic Investigators of Colorado. The podcasts are based upon a monthly agency newsletter to his clients with added content, details and interviews (Joseph A. Travers, 1997) with other PDs. It covers extensive education, training in investigation and associated disciplines such as medical records review, autopsy protocol and report reviews, death and injury evaluation, incident and crime scenes, photography, videography, statement analysis and fingerprints. The government recognized organizations, PIEducation.com, a subsidiary of CPI provides CEU to New Mexico Private PDs effective immediately (Pursuit Magazine, 2008) and it provides online continuing education courses for Private PDs licensed in North Carolina (Charlotte, 2010). The WAPI (2011) acquired e-Legal gathering, a discussion forum for PDs, legal professionals and members of the general public to network with each other (Dean A. Beers, 2009). It will focus on providing a better comprehensive experience for users interested in networking, learning, and opportunities for professional PDs to promote the PDAs to reach a vast new audience. Also WAPI’s mission to reach out to the wider areas of PDAs to represent issues and to educate and update all Members on legal and ethical Issues (Michael Cavallaro, 2011).

The education and training is mandatory as the part of legalization and hence many PDAs associations, private and government recognized organizations providing training to PDs. This course provides with the practical skills to uncover important information and secure evidence (Danny H. Marshall, 2005) in an investigative role. It helps to start a new career or apply your existing law enforcement, military or government experience to a new profession. The course covers various aspect of PI such as introduction to professional PI, criminal background investigation, crime scene investigation, asset investigation, business investigations, industrial espionage, marital investigations, employee theft investigation, Undercover Operations (Joseph A. Travers, 1997). Along with these, it looks in the techniques (Anthony Manley, 2009) of interviewing, interrogation, surveillance, court procedure, establishing marketing and business (Michael Cavallaro, 2011), computer forensics, accident
analysis. Using PDAs gadgets, electronic and various other areas. The online investigation coerces provided in India by Forensic education, New Delhi; IFS India, Pune. The abroad courses provided by The Canadian Academy of PI, Global school of Investigation, Nashua, USA; The Institute of PI, UK; The Australian School of Security and Investigations, PD Training Institute, Orange County, California; Australian Security Academy Pvt Ltd (ShobhaMathur (2009).


5.4: Implications

Even the PI industries have vast skilled human resources along with cutting edge technologies to reach the expected quality result; but still these PDAs in infancy stage and not utilising in best manner. Also it is questionable in many ways. Since this owned by private person / organisations basically its integrity itself questionable. The PI can be bias, prejudice, not trust worthy and even investigation can be influenced. Indeed, PDAs is not accountable to government and Advocates. These are the reasons PDA (Regulation) Bill, 2007 not yet came to light as on date.

The PDAs should be fully legalized in the state with framework, functionality, systematisation Identification of existence and reputation. The creation of regulating agencies both state and central level, to monitor the activities of these agencies function helps to utilise huge human resources in fruitful manner for the welfare of the state. Once it comes under the umbrella of the law, all the negative aspect of PDAs can be eliminated and provide the services with accountability. The government can take initiative action to train the detectives in the same way as LEAs line in every aspect such as law, forensic science, investigation, intelligence, physical
training, usage of weapons etc which help the detectives to improve the confidence level and keep the confidence of the government and public. The punishable action like cancelling of license or any other suitable action can be taken if any violation of privacy and law has come to light to keep the integrity and accountability of PDAs. The pre-employment screening and police verification is required before issuing the licensing to the PDs (BSIS, 2004) and good pay and perks attracts youth to become PDAs with high level education. PDAs have flexibility to implement new technology and innovations with in short period of time; this will help to improve the PDAs in faster manner.

The PDAs (John M. Kajoie, 2005) is still non-legalized hence; PDAs couldn’t come to day light with professional outlook. The much anticipated result which can be expected from legislation is that PDAs will become well recognized with various specializations and can be maintain a harmonious relationship with LEAs. Since lack of legal preview, PDAs is not under the control of government and not regulated. Hence negative aspect will come to light like violation of privacy, law (Norman John Groot, 2001) and other legal measures. The Private Detective Regulation Bill 2007 discuss the various aspect of the PI in the country and Home Ministry plans to outsource certain kind of policing jobs to PDAs after legalization took place (Ref: The Private Detective Regulation Bill 2007).

The legalization provides the framework and functionality to PI along with systematization, Identification of existence and reputation. Since it comes under legal scrutiny, it can be expect framework, functionality, systematization, Identification of existence and reputation. Generally a PD follows questionable methods for investigation such as violation of privacy, pretext (Roger H. Schmedlen & Bruce Hulme, 2009), etc since it doesn’t have legal support. Therefore PDs feel more confident and do better job within the preview of law. Also it can expect positive public approach, better enforcement, reduce crime rate and above all it can make PI as good profession with specialization.

Once legalization come to light, it can be outsource selective LEAs jobs such as service of summons and other judicial process, antecedent, background check, passport verification, fraud cases, long pending cases, missing person cases, unnatural death cases, surveillance (Robert C, 2009), intelligence collection (Schmitt, Mazzetti,
Parker, Perlez, Khan and Gillani, 2011) etc to PDs and PDAs. The Private Detective Regulation Bill 2007 also aims the same thing with future prospective for better regulation. Due to this outsourcing of process, at national level PDA’s strength can be utilized by various LEAs. Even though PDAs is unorganized at present, through proper education and training, can make good profession with specialization. These PDs can be deployed in the field for intelligence collection and associated tasks can strengthen national security through collection of intelligence, application of human resources in various specialized areas and reduce the pressure from LEAs. However, core policing will remain with the police and PDs would be sharing some of the responsibilities of police so that the latter is comparatively free to focus on law (Norman John Groot, 2001) and order problem and other serious issues (PTI, 2007).

The current role of PDs and PDAs are significant, more interesting and almost different from previous period. The PI utilized by both private and government sector for various services, along with LEAs utilize PDs for even terrorism deals subjects (Schmitt, Mazzetti, Parker, Perlez, Khan and Gillani, 2011). These innovative steps are taken by USA agencies which has got special attention by both in and outside PDAs. The concept of legalization scrutinizes the scenario of existing and looking for welfare in every aspect such as law (Norman John Groot, 2001), privacy, fundamental rights etc. The presently LEAs are overloaded with tremendous work load, less human resources, lack of application of new technology, redtapismetc and eventually not meeting the expectation of the general public and providing the result. In this scenario US, China (Jiang Zhuqing, 2007) and many other European countries (Ian Harm, 2011) are moving in the line of legislation and working on how to utilize these PDAs with government for the welfare of the state. In US many countries have implemented legalization for PDAs and amending the rules and regulations in time to time (Ref: Pursuit Magazine). When the entire scenario is analysed, it came to light that the PI legalized countries utilize this PDAs by both government and private sector.

After terror strike 9/11, US intelligence communities started to depend on private agencies for intelligence, investigation and espionage. Government is utilizing them in very systematic and fruitful manner (R.J. Hillhouse, 2007). Hence government agencies get more time to focus on other sensitive areas including decision making. Along with this PI is undertaking exclusively other business
establishments services like insurance SIU ((Kathleen Goolsby, 2004), surveillance (Manoj Sharma, (2007) and other services.

Other nations are using these PDAs very largely from individual, various corporate such as insurance, TPA (Kathleen Goolsby, 2004), terrorism (Schmitt, Mazzetti, Parker, Perlez, Khan and Gillani, 2011). After the terror strike 9/11, US intelligence communities started to depend on private agencies for intelligence, investigation and espionage (R.J. Hillhouse, 2007). Along with this many other foreign law enforcement, intelligence and security agencies (Frank J. MacHovec, 2005) are also depending on PDAs due to their lack of strength and to keep the system with competing world.

In India PDAs main services are pre and post matrimonial services (Bill Meyer & The Plain Dealer, 2008), employment investigations, surveillance (Robert C, 2009), business investigations, undercover operations (Joseph A. Travers, 1997) etc. Recently government approach to private agencies for more serious subjects, like when India’s finance ministry came under serious breach of security, called for electronic sweeping before intimating to IB (PTI, 2011). Also many detectives provides expert services to police and other agencies in the field of hacking and other cyber related subjects (VineetKhare, 2011).

The PDAs is always focusing on target and customer satisfaction during their work and since they are providing the desired output of clients. Because of the same reason, the last decade has seen a boom in the number of agencies that have proliferated throughout the country with an unofficial figure of 1,100 PDAs nationally and about 60 to 70 in the capital. Along with this, at least 10 of these are International agencies operating in the county with global profile (VarunSood, 2011). This indicates the growth of PDAs at the same time they are providing speedy, quality result in prescribed time frame. Also in the study respondents pointed out on the aspect of PI is the fastest method to explore the truth. The PI also have good network (Dean A. Beers, 2009), PDAs gadgets and technology (Ian Harm, 2011), updating knowledge (Bruce Hulme, 2011) and hence the respondents are confident about PI strength on these aspect and has been given positive approach. Due to legalization process, PDAs can be maintaining harmonious relationship with LEAs and government can use PDAs for the welfare of the state.
5.5: Limitations of the Study

- Research was primarily conducted with PI; hence availability of the information and willingness of respondents to help the researcher is meagre.

- The sensitivity of the topic also prevents the respondent from sharing the factual information for reasons such as leakage of confidential information to some extent.

- The researcher faced time constraints in receiving research information from respondents within the deadlines which consumed lot of time for the completion. The information is not available from above sources where compiled by interviewing by senior officers in the state and central police organisations.

5.6: Suggestions and Recommendations

The suggestions and recommendations covers different concepts and opinions in dealing with the research problems related to the subject matter of the present study. It is presented in two parts such as theoretical aspect and practical aspect.

Theoretical Aspects

- The Private Detective Agencies (Regulation) Bill, 2007 need to be implemented

- The amendment of Criminal Procedure Code and Indian Evidence Act helps to PDAs to present the investigation report and evidence directly to the court of law for further action.

- Preference shall be given to Criminology and Forensic Science, Police Science, Law Graduates and Post Graduates to PDAs since they have obtained theoretical knowledge and application value about this profession.
Practical Aspects

- The PDAs should be fully legalized in the state with a framework, of its original functionality, systematisation Identification of existence and reputation.

- Need to be established regulating agencies at both state and central levels to utilise huge human resources in fruitful manner for the better future of PI

- Effective legislation and its execution with stringent code of conduct which gives functional framework, roles, accountability, reputation to be brought into PDAs to reflect in its existence.

- Legalization will put an end to criticism of PDAs such as violation of privacy, security, unauthorised access to both private and government sector and all other aspects associated with investigation.

- Right to privacy, legal jurisdiction, integrity of the PI has to be ensured through law and its violation can be questioned in the court of law.

- There should be a regulating agency which includes head of the state, Advocates and police to watch PDAs function at state, central and union territory level.

- There should be suitable legal action against leakage or misuse of vital intelligence during PI and it shall maintain the discipline by PDAs.

- There shall be thorough training for improving professional skills in every aspect like policing agencies to meet the quality and competence which demand this profession.

- Thorough screening includes police verification while providing license to the candidate which keep anti-social and other bad elements outside this profession.

- The findings of the PDs are not generally disclosed to any other agencies or individuals except client. This is how the top secrecy and confidentiality (John M. Kajoie, 2005) is maintained by PDAs when compared to LEAs.
Attractive payment and package will motivate highly educated youngsters to make use of their knowledge and innovative thoughts utilise for further prosperous.

Along with carrying out result oriented speedy investigation, clients shall be given moral support to balance the scenario.

Involvement and commitment of the agencies could improve the society in preventing crime and make the society as a safer place.

PDAs (John M. Kajoie, 2005) is the fastest growing and well equipped with sufficient knowledge, networks (Dean A. Beers, 2009) and gadgets with modern technologies. These resources can be utilised for personnel investigation and huge cases pending before the court of law because of lack of evidence and other technical reasons. With the help of PDs it can be resolved in fast manner.

LEAs facing huge pressure and burden due to overload and works round the clock. In this scenario, selective jobs can be outsource to PDAs such as service of Summons, antecedent, background check, passport verification, fraud cases, long pending case, missing person cases, unnatural death cases, surveillance (Robert C, 2009), intelligence collection etc.

5.8: Conclusion

In reality, today’s PDAs are not having any legal sanctity and work as consultants for various kinds of clients. The PDs carry out the assignments for individuals, private sector and government agencies. There has been a tremendous growth in PDAs for past few decades and more than 500,000 people employed with PDAs directly and indirectly (Ref: The Private Detective Agencies (Regulation) Bill, 2007).

Most of the states in U.S.A, PDAs (John M. Kajoie, 2005) is legalized by amending the relevant portions of the law time to time (Ref: Ohio's state legislature (2001) 124th General Assembly, Amended Substitute House Bill Number 18). The licensing (BSIS,2004) must be required in Arizona, Arkansas, California,

In the year 2001, UK government started to work on the subject of PI as the part of its legalization process (Ian Harm, 2011). The same initiative action is taken by the Ministry of Public Security, China to legalise PDAs and utilise PDAs for advanced level (Jiang Zhuqing, 2007). Other European Countries are also moving in the same way with legalization concept and planning to utilise these PDAs for both private and government sector for the welfare of state.

In India, The Private Detective Regulation Bill 2007 drafted by the Home Ministry aiming to regulate PDs and outsourcing some policing jobs to PDAs in the country. This would help in bringing discipline and eliminates fly-by-night operators from the profession and can be outsourced in selected LEAs job. This will help to reduce the pressure and burden of the government, policing agencies and they can focus more on other key areas.

The government can seek the help of prominent educational institution to educate the PDs as part of training before providing license and ensure that they are competent to the field where they are serving. PIdelopration.com provides online continuing education courses for Missouri licensed PDs as per the agreement with Missouri Board of Private Investigator and Private Fire Investigator Examiners to ensure professional standards that serve the licensees of Missouri with quality training opportunities (Pursuit Wire, 2012). Also the same firm is providing online continuing education courses for Private Investigators licensed in North Carolina as per the agreement with North Carolina Private Protective Services Board (Charlotte, 2010).

The application of the PDAs in the real sense is mainly utilised by United States. In the USA’s largest TPA Sedgwick CMS have tie-up with MJM
Investigations, Inc., the largest, full-service private investigative company to provide an outsourced SIU (Kathleen Goolsby, 2004). After the terror strike 9/11, US intelligence communities started to depend on private agencies for intelligence, investigation and espionage. The ODNI revealed that 70 percentage of the intelligence budget goes to private agencies those who are working for government. This includes various services carried out by CIA, NSA & Pentagon and these agencies report keeps for PDB (R.J. Hillhouse, 2007). In the year 2011, it came to light that U.S.A is using private agencies to carry out operations on terrorist belongs to other countries also (Schmitt, Mazzetti, Parker, Perlez, Khan and Gillani, 2011).

The present study attempts to understand the need for legalization of PDAs in Karnataka. The First and foremost, initiative action has been taken to understand every aspect of PDAs and how this PDAs are existing presently. It is an analysis of PDAs quality and efficiency of work which can expect more than from LEAs. Another aspect is PDAs can assist LEAs and how it can be implemented for the welfare of the society.

The research unveiled that presently there is no any legal sanctity for PI in Karnataka. It brought about the positive aspect such as higher quality of expected result oriented output, sufficient knowledge, networks (Dean A. Beers, 2009) of gadgets with modern technologies of the PDs. When PDs are facing lot of difficulties due to non-legalization; if they are legalized there are many advantages for legalization. Also due to legalization, selective LEAs jobs can be outsource to PDs which reduce the pressure and burden from government agencies. The questions raised in the chapter 1, find their responses within the context of the research findings such that the analysis provides reasonable background of the evaluation of need for legalization of PDAs in Karnataka. The results are presented and all hypothesis of the study are tested and verified.

The results suggested that at present there is no any legal sanctity for PI and The Private Detective Agencies (Regulation) Bill, 2007 is still pending. The present PI has not sanctioned under the law and criticised for violation of privacy, security and other aspects. The majority of the critics focus on PDAs is that it is working as an unconstitutional manner. Hence due to legalization of PI, PDAs which come under government scrutiny can be kept away from this second old profession in the world.
Also there are several advantages for legislation such as functional frame work, roles and accountability to be brought into place. There should be a regulating agency at both state and central level which includes head of the state, Advocates and police to watch PDAs function to ensure the integrity.

Due to legislation, PDAs will become accountable to the state and can be utilised for possible service for quick result since there is no bureaucratic red-tapism. Since private sector is more flexible than public sector, it can adopt new technology and innovation in to place as per time and situation demands which reflect the performance of PDAs. LEAs are facing many issues in day to day activities such as limited strength in force, more number of cases, over pressure and stress, no adequate facilities and not meeting the expectations of the public and government. In this scenario, the possible jobs can be outsourcing to PDAs which reduce the pressure and burden from LEAs and they can focus on other key areas much better.

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