



INNOVATIONS FOR SUCCESSFUL SOCIETIES

CLEARING THE JUNGLE RAJ BIHAR STATE, INDIA, 2005-2009

SYNOPSIS

Nitish Kumar was elected chief minister of Bihar, India's poorest state, in December 2005, when the state's government was weighed down by two decades of institutional decline, widespread lawlessness and a society deeply divided by caste and religion. Improving law and order was a major priority of his new government. The main challenges were rampant criminal activity that curtailed social and economic life, a short-staffed and under-motivated police force, widespread corruption in the ranks, and the poor image of the Bihar police. Using innovative measures, Kumar and his top police officers set out to rid Bihar of its so-called jungle *raj*, or law of the jungle.

Rohan Mukherjee drafted this policy note on the basis of interviews conducted in Patna, Bihar, in July 2009. Two separate memos, "Coalition Building in a Divided Society" and "Reviving the Administration," describe Kumar's efforts to build a coalition for reform and improve administration, respectively.

INTRODUCTION

Nitish Kumar became Bihar's chief minister in a historic election in December 2005, when the state's voters ousted a regime that had governed for 15 years with dissatisfying results. Law and order was a major election issue for Kumar. Given the low level of government capacity in Bihar, criminal elements had a relatively free run of society. In the countryside, an armed Maoist movement (the Naxalites) posed a major security threat. The Bihar police, with a skeleton staff of largely unmotivated and poorly trained officers, lacked the ability to address these challenges. When he came to power, Kumar worked to

empower senior officers of the Bihar police to recruit, train and professionalize the rank and file. He impressed upon them the need to improve law and order as part of an effort to attract investment and stimulate civic life. With Kumar's backing, senior officials undertook bold measures. They developed a system that came to be known as "speedy trials" to expedite police procedures involved in convicting criminals. They invoked a little-used clause of the Indian Arms Act to target illegal possessors of firearms, who were considered most likely to be involved in other serious crimes. They created a temporary auxiliary police force by hiring retired army infantrymen. And senior

officers led by example to spread a sense of professionalism and a new managerial ethic in the police. Four years later, law and order showed significant improvement, and many observers credited the gains to the new government's reform efforts.

Context

If Bihar were a country, it would have the 14th largest population in the world. In terms of annual per capita income, it would be the fourth or fifth poorest in the world. According to the Planning Commission of India, when Kumar became chief minister in 2005, roughly 36 million people in Bihar lived below the official poverty line, defined at the time as per capita annual income of about US\$109 in rural areas and US\$134 in urban areas. That poverty line was significantly lower than international standards of US\$1 per day. With the possible exception of Bangladesh, no country in the world came close to facing such a potent combination of population and poverty.

Popular perception in Bihar held crime responsible for the state's poor economic performance, in particular the lack of a robust private sector, low external investment levels and human and financial capital flight. The police were unable to deal effectively with the situation. Police resources were consistently spread thin by Maoist insurgency in the countryside that often compelled the Bihar government to rely on the government of India's security forces. In addition to organized crime and insurgency, violent crime grew out of social schisms between caste and religious communities. Antagonisms often spawned violent crime as groups tried to assert dominance in a village or local area. The near-absence of the government from civil society at an everyday level exacerbated the problem.

Bihar's efforts to improve law and order offer important insights. First, the state's experience demonstrates the role that political will plays in implementing effective policy. The official and

personal backing of the chief minister played a key role in catalyzing the reform process. Second, the case offers a view into an explicit decision to tackle crime in order to facilitate economic growth, on the belief that there can be no development without the rule of law.

Third, Bihar's experience highlights the importance of image management for governments and law-enforcement agencies. A healthy institutionalized relationship with the media and a public emphasis on improving civic life were important components of the reform strategy.

Last, the case underlines the importance of leadership within a law-enforcement agency, and the impact that leading by example can have on the rank and file's motivation and performance levels.

THE CHALLENGE

Six months into his job as chief minister of Bihar, Kumar appeared on Devil's Advocate, an interview-based Indian television show modeled on the BBC's popular HardTalk series. The host opened the interview with the following question:¹

Chief minister, you came to power in Bihar claiming that law and order would be your immediate challenge and you promised to make Bihar crime free. Within the first 100 days, we have seen 141 kidnappings and over 400 murders, and the police chief says that the crime graph continues to rise. Have you failed?

A somewhat flustered Kumar questioned the validity of the figures and argued that irrespective of statistics, "People have started feeling safe in Bihar, and there is no fear."

This exchange highlighted the challenge Kumar faced when he took office in December 2005. The previous year, according to the Indian government, Bihar recorded the highest share of violent crimes across the country.² Kidnappings,

particularly for ransom, were a major concern. From 2001 through 2005, the Bihar government reported 1,778 kidnappings for ransom, an average of almost one incident per day.³ More alarming, the Indian government reported that in 2005 alone Bihar registered 2,693 cases of kidnapping and abduction for ransom and other reasons—second only to the state of Uttar Pradesh.⁴ Kidnapping, particularly of children, weighed on public morale. Anil Sinha, who became inspector general of Headquarters and Administration in December 2005, said when interviewed, “Nothing can be more heinous... . It hurts the whole psyche of a population, wherever.” Moreover, kidnapping of businesspeople and professionals discouraged private investment and dampened economic growth.

Kidnapping for ransom was part of a larger problem facing Bihar: the alleged nexus between politics and crime. According to Shaibal Gupta, member secretary of the Asian Development Research Institute, one of Bihar’s leading think tanks, under the previous government “if there was a kidnapping, there was any crime, people would always think that this is being choreographed from the chief minister’s house.” For a variety of reasons, the state was seen as nurturing criminals for profit or political ends. Crime in general was intricately bound to politics in the eyes of Bihar’s electorate. These perceptions, bolstered by charges and evidence of corruption in law-enforcement ranks, stained the image of the Bihar police. In a 2005 survey by Transparency International, respondents identified Bihar as the most corrupt of India’s 28 states and seven union territories. The police service was considered by far the most corrupt among all the public services studied in the survey.

Fixing the police force was a stern challenge. At the time of Kumar’s election, the police faced a shortage of about 12,000 personnel in a total force of 35,000. Qualification, training and education also were key human-resource problems. Over the years, Bihar had experienced a classic secession

of the successful, as people with resources and education left the state for opportunities elsewhere. The lower talent and training of those left behind further weakened the state. This phenomenon was prevalent at the highest levels of government as well as front-line staff. Senior officials would use their connections to obtain central-government postings in order to secure their own careers and their families’ futures. Those who remained to serve the government struggled with dilapidated offices and difficult working conditions.

FRAMING A RESPONSE

Kumar campaigned in the November 2005 Bihar state elections on a platform of good governance, development and social justice. According to Chirashree Das Gupta, a fellow at the Asian Development Research Institute in Patna, Kumar understood good governance to mean “the restoration of governance” above all. He wanted to revive the organs of the state and restore government authority. Improvements in law and order were vital aspects of his quest.

Abhayanand (who uses only one name) was appointed to the position of additional director general of police, a high-level post, in charge of Intelligence and Headquarters in 2005. Interviewed in 2009, he recounted the new government’s preoccupation with containing crime: “The elections were fought on law and order. People had talked about jungle raj being there in the state of Bihar, and somebody came up and said, ‘I’ll be able to get rid of the jungle raj.’”

That somebody was Kumar, for whom an essential component of good governance was improving law and order. He viewed curbing crime as essential to promoting economic growth and stimulating civic life. His first priority was to reduce the number of kidnappings for ransom. In Abhayanand’s words, “the goal was basically [to] contain the law-and-order situation, get the fear psyche out of the people’s mind. People were very fearful. After seven in the night, you’d find

almost the streets deserted. The government was very keen that this should go.”

Bringing back talent

Kumar realized that fixing the police problem would be impossible without capable officers leading the force. He intended to reverse the brain drain at the senior levels in two ways: first by improving the working conditions of those who had braved the institutional decline and stayed on, and second by luring Bihar’s expatriate police officers and other senior bureaucrats back into the fold. The chief minister’s office contacted high-ranking officials on deputation to the federal government, some of whom were abroad or on study leave, earning advanced degrees. The message was simple: Now was the time to make a difference in Bihar.

When Anil Sinha heard the call, he was nearing the end of a federal government deputation that had kept him away from Bihar for eight years. “I completed my tenure there, and I was about to move,” he said. “Then I got a call, and then I came back promptly and ... I was given a very important and a very crucial portfolio; that portfolio was actually where things were moving.” He joined as inspector general of Headquarters and Administration in December 2005 and was soon promoted to additional director general of Law and Order.

The spirit of change that had anchored Kumar’s election campaign became infectious. Slowly, officials began returning to Bihar. Some had completed their tours of duty in the federal government, while others gave up attractive postings or lucrative career opportunities. Those who returned were given key positions in the government with ample responsibility to implement their mandates. The return of such officials had two effects. First, the appeal to their professional and (in many cases) personal roots resonated strongly and created a sense of mission. Second, they brought with them a wealth of experience from the positions they had held.

Kumar was thus able to create a motivated cadre of senior officers who would be receptive to his ideas and who had the skills to implement them.

Kumar put in place a handful of key officials at senior levels of the police and gave them free rein to devise innovative strategies to tackle major law and order issues. Sinha recalled a conversation with the chief minister a few weeks into his new position, in which he was told, “I need certain improvements. What can you do about it? Your task is: I need improvement in law and order. I want crime to be controlled. I want corruption to be curbed. What can you do about it?” The urgency of the situation did not leave much time for a finely tuned approach. Measurable gains would be needed within months.

At the same time, Kumar was careful to impress upon Sinha and his colleagues that every act of the police should be above-board and should adhere to the strictest standards of human-rights protection. Abhayanand recalled the chief minister’s philosophy: “The basic principle was that whatever the police [department] does will be absolutely legal.” Sinha and his colleagues had confidence in the chief minister’s backing and the public’s strong support for law and order reform.

GETTING DOWN TO WORK

Police leaders knew that a major obstacle to curbing crime was the force’s lack of success in pressing for convictions in criminal cases. Procedural delays in collecting evidence, completing paperwork and finding cooperative witnesses were compounded by political interference, intimidation of witnesses and a lack of capacity in the police force. As a result, police investigations and criminal proceedings could take years and many cases were never closed. The previous government had earned a reputation for nurturing criminal elements for political ends and interfering in police work. The devolution of decision-making authority to senior officers, as well as the chief minister’s hands-off, results-

oriented approach, helped lower this hurdle. To shorten procedural delays, senior officials worked to improve efficiency and timeliness. Abhayanand created the concept of “speedy trials,” based on an idea he had developed while serving as a district superintendent of police. His theory was simple: Of 100 cases, he said, “let 95 cases not be detected; but if you are able to detect five cases, then ensure that the perpetrators of those crimes which have been detected are punished, and punished as expeditiously as possible.” Swift convictions and punishments of those five cases would send a powerful and discouraging signal to other criminals, Abhayanand said.

Still, no matter how quickly the police concluded their investigations, they could only achieve speedy trials if witnesses testified within a matter of days rather than months or years. The effort thus had a twofold aim: first to expedite investigative procedures, and second to produce witnesses in court without delay. Abhayanand believed that by accomplishing these two aims he could lock up a significant number of criminals and make a serious dent in crime. As a policeman, he considered it his job to produce witnesses in court. He would say to his men, “Just do this: Get your witnesses, put them before the court, let them depose whatever they want to. But then insist that the witnesses come to the court.” Whether defendants were convicted or not was out of police hands, but at least the police could create the conditions for a quick trial.

Taking aim at firearms

The police found it difficult, however, to persuade civilian witnesses to testify in order to speed up trials. Trials were faster in cases where the police themselves were witnesses. At this point, Abhayanand took another look at the problem in light of a relatively mundane law known as the Indian Arms Act of 1959.

Three conclusions emerged. First, most violent offenses in Bihar were committed using firearms. Second, most criminals who indulged in

any sort of violent activities were at one time or another accused of possessing firearms that were illegal under the Arms Act. Third, convictions were won relatively easily in Arms Act cases, because illegal firearms were easily detectable and the witnesses were nearly always police.

Abhayanand said, “Suppose I try and get a kidnapping case tried against him [the criminal]. The witnesses are all private citizens. The chances of their getting threatened are quite high. So I picked out the Arms Act and first went for the Arms Act cases. When the convictions started streaming in on the Arms Act cases, then I opened out into the other offenses of kidnapping.”

Abhayanand also faced the challenge of reorienting the police toward taking more interest in pressing cases to conviction. Traditionally, police considered their job done when a case was sent to court. Abhayanand worked hard to persuade them that the police had a role in ensuring that justice moved quickly, by bringing witnesses to court, protecting them from intimidation and, in Arms Act cases, showing up themselves to testify.

Faced with initial reluctance on the part of his 40 district superintendents, each of whom was in charge of one of Bihar’s districts, Abhayanand spent the first four months of his tenure talking to each of them. Every evening from 9 o’clock to midnight, he would talk to superintendents about their progress and their experiences, guiding them through the process. “When I talked to them, I talked to them very passionately. Each one of them responded so well that the results were just astounding,” he said.

Within a matter of months, nearly 6,000 criminals were convicted for Arms Act and other offenses. When the results started coming in, Abhayanand began instilling a sense of competition among his officers by sharing conviction statistics from each district and highlighting good performers. In order to publicize the achievements of the police, he began holding regular press meetings on the first day of

each month to share crime statistics and talk to the media. Every month, the media would cover the number of speedy-trial convictions. As a result, the term itself “became an adage of sorts,” he said.

Supplementing the regular police

While Abhayanand focused on catching and convicting criminals, Anil Sinha looked into the workings of the Bihar police. Staffing was a major concern. He quickly realized it would be impossible for the police to recruit and train the 12,000 required personnel within a relatively brief timeframe. Faced with this hurdle, Sinha hit upon an unconventional idea. He knew that the Indian Army’s *jawans* (infantrymen) retired in their early 40s, much sooner than the Bihar police did. These retirees represented an untapped pool of talent because they were trained and willing to serve the government but lacked the opportunity.

In mid-2006, Sinha asked the chief minister for permission to create a special police force composed of retired army infantrymen who would fill the gap while the Bihar police worked to fill its regular ranks. His request was quickly approved, and the Special Auxiliary Police was formed. Abhayanand and Sinha oversaw the recruitment of 5,000 retired constables from the Indian Army on a contract basis. Recruiting standards were strict.

“We said that you select only the best, the (most) outstanding,” said Sinha. “Anyone with even the slightest blemish would not be there.”

Although the retired infantrymen required almost no physical training, their operational background was a major concern. Because the army recruits were accustomed to military operations and rules, Sinha ensured that they were kept under the strict supervision of Bihar police sub-inspectors who were familiar with civil law. Strict supervision implied, in Sinha’s words, “one act of misdemeanor—no questions asked, no answers sought—straight-away dismissals.” The stern policy improved accountability and

effectiveness. Putting junior-rank retired army officers under the control of mid-level police officers also resolved any potential organizational conflicts in the field. Everyone involved was made keenly aware that the Special Auxiliary Police was a contractual unit of the Bihar police and nothing more.

The creation of the auxiliary police was a success on more than one front. The retired army infantrymen were happy to be re-employed, and the Bihar police force was bolstered by highly trained people who were willing to venture into the most dangerous corners of Bihar. Units of four or five auxiliary police officers in army fatigues began effectively patrolling areas that entire platoons of the Bihar police would hesitate to enter. This deterred organized crime, and even the Naxalites began to fear the Special Auxiliary Police.

Organizational procedures

While augmenting the size of the Bihar police, Sinha also focused on improving procedures, many of which were not being followed. For instance, many superintendents had stopped personally overseeing investigations within their jurisdictions. As a result, many investigations remained inconclusive, and cases stayed open for years. At the same time, deputy inspectors general did not adequately oversee the work of the superintendents under them, leading to poor accountability. Although Sinha was critical of his fellow servicemen, he was also aware of their potential. He was confident that with motivation and training, the Bihar police could once again be a functional organization.

Sinha pushed high-ranking officers to adopt a businesslike, managerial approach to their jobs. Senior officers began contacting superintendents directly to obtain status reports on particular cases. In daily business, officers no longer covered up their subordinates’ mistakes out of “misguided loyalty” to the force, said Sinha. Senior officers no longer tolerated tardiness and excuses, and they

began to penalize weak performers. Sinha described the thrust of his new policy this way: “If we think that you can be tolerated, we would tolerate you to this extent. ... But if we think you cannot be tolerated, there would be surgery involved.” To head off morale issues related to the strict new policy, senior officials had to take care to be fair and even-handed in addressing the personal needs and concerns of subordinates.

Public relations

Sinha also had the job of managing the image of the Bihar police, as the department’s first official spokesman. He said he followed a simple principle: “If I’m in the wrong, I’ll admit that I’m in the wrong.” While participating in live televised debates on state and national television, Sinha would openly admit the failings of the Bihar police and accept responsibility for specific instances of wrongdoing or poor administration. Moreover, if a failing were pointed out during a media session, Sinha would commit to addressing it, following up and informing the media person who had raised the issue about what had been done. When he believed police actions were correct and legally defensible, Sinha vigorously defended the police. In doing so he earned a reputation for even-handedness, both in the media and among his colleagues.

Sinha understood the importance of transparency and regular interaction with civil society in terms of building public support for law-and-order reforms. “That particular transparency made people believe us, and they could realize that things were changing. And that built up the public mood and the morale,” he said. He also realized that he as an individual could not be viewed as more important than the role of spokesman for the organization.

To institutionalize his gains as spokesman, Sinha began withdrawing from the public eye and encouraging his colleagues and subordinates to talk directly with the media. As a result, the police as an institution began to develop a mature

relationship with the media, which acted as both its strongest critic and most influential supporter.

OVERCOMING OBSTACLES

Corruption was another critical issue on Chief Minister Kumar’s mind. Legally-backed entrapment was a standard method for catching public officials in the act of accepting bribes or benefits. If an official was suspected of demanding or accepting a bribe, a case would be registered and a trap would be set. Although the system of entrapment was in place under the state Vigilance Bureau in the previous regime, little had been done to arrest and prosecute corrupt government officials.

Under Kumar, cases of entrapment jumped to 289 between 2006 and 2009, from just a handful prior to 2006. The police officer in charge of such cases ensured that every aspect of the entrapment process was documented and followed legal protocol. As the process gained momentum, the police widened their efforts to other types of corruption, especially cases involving disproportionate assets. Here they would investigate public officials’ assets and dealings, and, with sufficient evidence, raid their houses or offices and seize the illegal assets and arrest the individuals involved.

These steps were targeted mainly at those lower in the government hierarchy. For those higher up, Kumar sanctioned a special vigilance unit. Within a matter of months the unit raided and charged a former director general of police (the highest rank), a senior Indian Administrative Service officer, a district magistrate and a chief comptroller.

Bolstered by the chief minister’s support for senior police officials, the service became an effective law-enforcement agency with the equipment, resources and autonomy required to carry out its duties. Kumar took pains to insulate the police from political interference. His own reputation as “a clean politician in a nest of vipers”⁵ helped him to resist patronage pressures

on the police. The unprecedented arrests of several high-profile government officials, politicians and even members of Kumar's own party in his first year as chief minister were an important indicator of the police's ability to function without fear of political repercussions.

ASSESSING RESULTS

Statistics underlined Bihar's gains in law and order. Government figures showed that between 2005 and 2007, the number of murders dropped by 13%, robberies by 46% and kidnappings for ransom by 65%.⁶ According to a news report in 2008, more than 26,000 criminals, including more than a dozen elected state- and federal-level legislators, were convicted between January 2006 and October 2008.⁷ The newly bustling capital of Patna was often cited as an example of Bihar's turnaround. Interviewees in Patna said that businesses were flourishing and private capital was beginning to flow from other parts of India and the world.

Despite the improvement, in mid-2009 it was too early to tell whether the turnaround in law and order was sustainable. On the one hand, some officials in the Bihar government believed that after voters had seen what was possible, they were not likely to accept a relapse. On the other hand, concerns grew about the ability of the criminal justice system and the penal system to handle the higher numbers of people passing through them. In 2008, Bihar's jails held more than twice as many prisoners as they should have.⁸ Moreover, the Arms Act convictions that contributed significantly to the police's success carried maximum sentences of only three years. There did not appear to be any serious thinking about a policy response toward criminals who would soon be released from prison. While some efforts had been made toward instituting rehabilitation programs, journalists and some in the government questioned their effectiveness.

Concern also centered on the extent to which the reforms were dependent on the individuals

behind them. Kumar's political support for senior police officials had underpinned their success. However, the system lacked an institutionalized mechanism by which the police might be insulated from future political pressures in the event of Kumar's absence or the election of a different chief minister.

In mid-2008, news of serious friction between two senior police officials further highlighted the perils of individual-based reform efforts. Kumar ultimately had to resolve the personality clash by transferring the officials from their respective posts. This allegedly caste-based public clash, reported widely by the media, tarnished the police's image and strained a hitherto positive working relationship between the police and the chief minister.

Anil Sinha recalled that after the event, reforms were slower because the "warmth" of close relations was lacking. To a great extent, reforms continued partly because of what had already been institutionalized. The new procedures remained in place; the new working culture appeared unchanged. It was clear, however, that the future challenge would be to extricate the reform effort from the interpersonal realm and entrench it in the organizational realm.

REFLECTIONS

On the whole, Bihar made impressive gains in law and order during this period. Its success story was one of political will, individual leadership and institutional innovation. Bihar's turnaround derived from its reformers' ability to revive existing systems and to use existing legislation to greater effect, without having to create new structures or mechanisms.

However, the key architects of the changes were also aware of the need for continuous improvement and evolution in the government's approach to law-and-order problems. "As people say, if you keep doing what you were doing, you'll get what you already got. You'll have to keep everything, reforming it and changing it," said

Abhayanand, additional director general of police. Although questions remained about the effectiveness of Chief Minister Nitish Kumar and his officers' reforms beyond the five-year tenure of a single government, the officials were confident

that public support would sustain their reforms. The results, Kumar said to a reporter halfway through his term, were obvious: "Please move around Patna in the night and see how safe you are."⁹

Notes:

¹ CNN-IBN. Devil's Advocate – Nitish Kumar. 28 May 2006. <http://ibnlive.in.com/news/devils-advocate-nitish-kumar/11675-4-single.html>.

² Government of India, National Crime Records Bureau. Snapshot-2004.

³ Government of Bihar, Three Years of Development with Justice: Report Card 2008.

⁴ Government of India, Ministry of Home Affairs. Retrieved from www.indiastat.com.

⁵ Prem Shankar Jha. Out Of Their Mud-Pond. *The Outlook*. Dec 5, 2005.

⁶ Government of Bihar, Three Years of Development with Justice: Report Card 2008.

⁷ Indo-Asian News Service (IANS), "Fast convictions help Bihar turn around lawless image." 21 Nov 2008.

⁸ Ibid.

⁹ *The Outlook*, Interview with Nitish Kumar, 5 May 2008.



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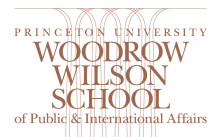
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