

POLICE REFORMS –

A SOLUTION FOR THE INTERNAL SECURITY CHALLENGES

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ABSTRACT

Police reforms is a long awaited proposal since 1980s. The challenges of the internal security can not be resolved without a proper and systematic police reforms. The ex cops, civil society, commissions for administrative reforms and judiciary were insisting on the police reforms but the executive and legislature are not thinking in the same direction. As long as the police administration is haunted by the colonial hang over, it can not meet the contemporary internal security challenges and ultimately the external security issues and the virtual security challenges.

The governments in the name of police reforms are focusing just on the police modernization that emphasizes only on equipment and modern infrastructure. The real focus should be on autonomy and accountability of the police. To day the police is neither autonomous nor accountable for their actions and inactions. As a result, they are not only breaching the human rights but also have failed to deliver their minimum functions of maintaining public order and internal security.

In view of these, it is pertinent to reform the police with a focus on inculcating – autonomy, accountability and professionalism in the policing activity that will depoliticize the police on one hand and brings professionalism in the working of the police on the other hand in dealing with internal security challenges. It is needed both at the state level as well as the union level.

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In A major boost for police modernization, the Union Cabinet in September 2017 approved a Rs 25,000-crore outlay for upgrading the internal security apparatus in states. The Cabinet Committee on Security, chaired by Prime Minister, approved an umbrella scheme, Modernization of Police Forces, with the money to be spent in three years from 2017-18. Under the scheme, J&K, the northeastern states and those affected by Left-Wing Extremism (LWE) will receive a boost of Rs 10,132 crore for procurement of modern weapons, mobility of police forces, logistics support, hiring of helicopters, up gradation of police wireless, a national satellite network, a crime and criminal tracking network and systems project, an e-prison project, etc.

As government is claiming it is not a boost for the police reforms it is only a matter of police modernization. Though police are given modern weapons like automatic machine guns, but they will not have power to pull the trigger. The trigger is still in the control of the political executive. As long as the police recruitment, postings, transfers, promotions, salaries, disciplinary actions, and other service matters are regulated by the political executive, the police is not autonomous. When they are not autonomous, they can not be expected to be accountable for their actions, misfeasance, malfeasance, and nonfeasance. Politicization makes the police unprofessional.

Historical back ground:

Policing in India, is continuously evolving from the ancient period. In the Kautilya's Arthashastra, reference about the internal security were given extensively. The focus on the maintaining wide variety of spying system is a part of it.

In the medieval period, the Mughals have focused their administration on law and order maintenance. The law and order activity was carried under the in charge of king himself. The National Police head was known as Sahib-i-surtah. Kotwal was the incharge of provincial law and order who similar to City Police Commissioner. There were also Quiladars who were the incharge of law and order in the hill stations. At the block level the law and order administration was under the charge of Thanedar. A village Policemen was known as Faujdar.

The British administration laid foundation for the present police administration. The government of East India Company in India was a police state. Its primary role was maintaining public order. After the 1857 Sepoy Mutiny, state authority transferred from East India company to British Crown. The new government enacted the Indian police Act in 1861. It was enacted in the back ground of the sepoy mutiny. Hence it was containing such provisions as to prevent the police from repeating the mutiny. The provisions of the act were suitable to the conditions existing at that time. The crown rule has also established Imperial Police in 1905 which was later converted as the Indian Police Service.

After the independence, the same police system established by the British continued. The need for reforming the police was not recognized till the end of 1970s. The present police administration is characterized by the following principles.

Present set up of policing:

According to the constitution, public order and police are the state subjects. However, nothing can stop the union government from making legislation and policies and establishing institutions of public order importance. More specifically, it is the responsibility of the union to protect the states from internal disturbances and external aggressions under article 355. Policing has emerged as a virtual concurrent item.

The state police is controlled by the home minister and ultimately the chief minister. The DGP holds his position at the whimsical fancies of the political executive. The police from the DGP to Sub inspector in a police station have to carry their functions according to the whims and fancies of the political executive. As a result, the police officers who do not follow the discretionary orders of the politicians are frequently transferred. It is not only a matter of politicization of the police, but also absence of a fixed tenure for the police.

The Supreme Court for the first time in history, on 24-04-17, ordered the reinstatement of ousted Kerala DGP T.P. Senkumar, sending out a clear message that police officers cannot be made “scapegoats” by politicians in power. The decision is likely to have repercussions in States where police chiefs were removed by the political dispensation against the Supreme Court’s ruling in Prakash Singh Case in 2006 that DGP should have a fixed tenure of two years and not be subject to the whims of the political powers in the State.

At the district level the line control of police is under the SP, who is controlled by the generalist administrator i.e. the District Collector. The district police report is formulated by superintendent of police and submitted to the state government by the district collector. This may negatively affect the police morale.

In India, the same police is used for the crime detection and public order. This indicates an absence of professionalism in the police work. This is mainly because, inadequate police strength. There is only one police man for every 720 population. It said 68 per cent of police report working 11 hours a day, and 28 percent report 14-hour work days. Nearly half report that they are called to duty between eight and 10 times a month during offs. There were 17.2 million police officers across 36 states and union territories, when there should have been 22.6 million, according to the ministry of home affairs. There should be an officer for every 547 Indians, according to a government-mandated ratio -- called “sanctioned strength” in official jargon -- but the number is one for every 720.

This is among the lowest police-population ratios in the world. In the US, there is an officer for 436 people, Spain one for 198, in South Africa, 347.

In a ranking of 50 countries, India was second from the bottom, better only than Uganda, according to a 2010 report from the United Nations Office on Drugs and Crime. That year, there was a police officer for every 775 Indians, so the figure presented to the Lok Sabha represents an improvement.

There should be an officer for every 454 people, according to UN standards quoted in the South Asian Terrorism Portal. Using those standards, Bihar needs more than three times as many police officers; even using Indian standards, the state needs 2.7 times the number of police that it has.

All these facts are going to show that the police have failed to maintain their fundamental role of public order and internal security.

In all the police system is characterized by -

- a. Politicization
- b. Unprofessionalism
- c. Generalist domination
- d. Un accountability.
- e. Lack of autonomy.

In this context the need for police reforms arises to maintain better internal security through –

- a. De politicization of the police force.
- b. Inculcating a sense of autonomy and accountability
- c. To make the police professional in terms of day to day functioning, human resource management and public relations.
- d. Creating a sense of respect for the human rights

All these are preconditions for a just society and foundation for the social welfare and economic growth and development. A society that doesn't guaranty justice to the people will fail to ensure security. Civilian uprisings becomes a common phenomenon. Convulsions and Skirmishes emerges as normal criterion.

What are the reforms to be implemented?

Police Reforms are in pending since 1978 when National Police Commission was constituted under the chairmanship of Dharam Veer. The commission recommended whole some

reforms in the police system to improve the criminal justice system and make the police autonomous and accountable. But the government did not implemented the recommendations.

In 1996 a former DGP Prakash Singh file a Public Interest Litigation in the Supreme court seeking it to direct the government to implement the police reforms. The court finally given its judgement in 2006 with 7 directives.

The seven directives of the supreme court on police reforms:

1) Directive One: Constitute a State Security Commission (SSC) to:

- a. Ensure that the state government does not exercise unwarranted influence or pressure on the police.
- b. Lay down broad policy guideline.
- c. Evaluate the performance of the state police.

2) Directive Two: Ensure that the DGP is appointed through the merit-based transparent process and secure a minimum tenure of two years.

3) Directive Three: Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years.

4) Directive Four: Separate the investigation and law and order functions of the police.

5) Directive Five: Set up a Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police.

6) Directive Six: Set up a Police Complaints Authority (PCA) at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct.

7) Directive Seven: Set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organizations (CPO) with a minimum tenure of two years.

After this, 14 states have passed legislation but these were mainly to circumvent the directives but not to implement them. The Supreme Court's directions on police reforms have not been complied with in letter and spirit by any state. Many states have enacted laws to

legitimise the status quo and circumvent the implementation of the Court's directions. Some states have passed executive orders which dilute or amend the SC's directions. No wonder the Justice Thomas committee, which was set up to monitor the implementation of the Court's directions, expressed a sense of "dismay" over the indifference to judicial directions. Till today, the government has not shown its commitment to follow the directives of the court in true letter and spirit.

Next steps to implement the police reforms ?

1. The civil society should pressurize the state government
2. The central funding for the police modernization should be linked to the police reforms
3. The union government may consider the shifting the public order into concurrent list.
3. The central government should persuade the states towards this task through the NITI ayog
4. The Supreme court should treat those states which have failed to implement the reforms as have recourse to contempt of court .
5. The union government should enact a model police act to replace the 1861 Indian Police Act. Every state should be given one year time to enact their respective police act to amend in accordance with the union legislation. The new legislation should be enacted in line with the recommendations of the Dharam Veer Commission, Supreme court judgement in the Prakash Singh case and Soli Sorabjee committee recommendations of 2005.

The verdict in TP Senkumar case was in continuation of the Prakash Singh case that would be applicable to all the States. It's high time that the states should obey the Supreme Court directives. Urgent steps should be taken by all states to set up police complaints authority, Security Commission and separate the law and order and investigation wings. It should be realized that the social and economic development depends on good law and order.

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