

## What Do We Do About The Indian Police?

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There are so many contradictions about the Indian Police that one begins to wonder about what the Police is, how it is commanded, how it functions and how effective is it in protecting the average Indian citizen. Let me begin by mentioning a few incidents, each of them in isolation but obviously part of the larger whole. The first one dates back to 1958, when I was posted as Assistant Collector under training in Morena. Together with Bhind this district was most notorious in India for the dacoits of the Chambal Region, who operated in large gangs, armed with modern weapons, quick to murder and intimidate and with whom the police had to contend in the midst of growing public criticism of the government's failure to maintain order. Soon after I arrived in Morena I was asked to conduct a magisterial enquiry into an alleged encounter by the Police with a gang of dacoits, in which a dacoit was killed, about whose death we received a complaint that the man had been murdered by the Police. I enquired at large from the villagers, who all praised the Police for their action because this had rid them of a dreaded dacoit. At the same time at the scene of the incident which was re-enacted by the Police it became obvious that the encounter had been stage managed. Despite this, with the full backing of my District Magistrate, I supported the police version because the person who had been killed would never have been convicted because no one was prepared to give evidence against a dacoit and, therefore, though the execution was extra judicial, I held that the encounter was real and the man had been killed in self defence.

Let us move fast forward to 2015 when on the night of 6<sup>th</sup> and 7<sup>th</sup> April the Andhra Pradesh Police shot dead twenty persons engaged in illicit felling of a wood species known as red sanders or raktachandan. The so called encounter took place at about 0300 hours, that is, the period when the night is about the darkest. The Police had no night vision equipment, the encounter took place in the forest where both the Police and the illegal wood cutters were scattered, the wood cutters were armed only with axes and stray stones, the average policeman can hardly hit the broadside of a barn from ten yards with a shotgun and yet the marksmanship of the Andhra Pradesh Police was so good that it was able to shoot dead twenty people. This is a case of downright murder and though one should not comment on a case under investigation, there are indications that some at least of the deceased were shot at point blank range. The police was obviously under orders to ensure that so much fear was instilled in the wood cutters that illicit felling would stop. Not one person behind illegal trade in red sanders has so much as been questioned, but the police had no compunction in shooting dead twenty poor people. Is this also a face of the Indian Police?

The third case relates to the repeated communal riots in Meerut in the eighties of the last century when the Army had to be called out on several occasions in aid of civil power. I asked the D.M. and S.P. of Meerut why they were so ineffective in controlling riots and they both told me that those who instigate riots enjoy political patronage and for 364 days in the year the D.M. and S.P. have virtually to kowtow to them. When on the 365<sup>th</sup> day riots occur the D.M. and S.P. are asked to put them down with a heavy hand. Both officers told me that they and their Force would have to be schizophrenic to move from deferring to the goonda leaders for much of the year and then suddenly turning on these very people to restore order. This, too, is a reality of the Indian situation.

There are two parallel and similar cases which I would also like to cite. In 1978 when I became head of the Delhi Development Authority there were disastrous floods and DDA was asked to take charge

of East Delhi. At the Delhi end of the Indraprastha Bridge a traffic constable of the Delhi Police stopped me and said that he had been on duty for three days, with no one even bothering to feed him. He was worried about his family in the Kingsway Camp Lines where his family resided and he had heard that flood waters had entered the camp and he had not been able to contact his family. DDA had a contingent of Delhi Police to assist it in dealing with encroachments and I directed the officer in command to take the constable to my office, let him use my bathroom to have a shower, give him a change of clothing, feed him and let him rest in my retiring room. I also directed that the man be put in touch with his family. Meanwhile a constable from the DDA contingent should be put on duty at the IP Bridge. I mention this because obviously the command and control system of the Delhi Police allowed its officers to forget about the welfare of their own jawan and this does not bode well for any disciplined Force. The parallel incident relates to Bhopal when some traffic constables recently met me informally and voiced their complaints about excessively long hours of duty, sometimes at places where there was not much traffic. I requested the senior officers to review the traffic police deployment so that if any rationalisation of duties was needed they could arrange this. The point being made is that the constabulary must have confidence in their officers in the knowledge that the officers will look after the welfare of the men and that the men would thus be able to perform their duties with due diligence.

The last set of circumstances under which the police has to function is in anti terrorist operations, anti Naxalite operations and the general insurgency situation in different parts of India. Here the Police is facing a well armed, highly trained and motivated enemy (let us not pull punches and describe those people as merely misguided) and, especially in anti Naxalite operations, the police has to face ambushes in which hitherto it is the insurgents who have inflicted heavy casualties on the police. In one incident in Bastar alone 76 men of the Central Reserve Police were killed in an ambush. Hundreds of policemen had died under these circumstances and yet in terms of armed aerial support, equipment which could break an ambush, adequacy of deployment and proper leadership, the government is still hesitating. The Army does not want to intervene, but if in a single ambush the Army virtually lost an entire company it would certainly retaliate hard. One cannot think of any other democracy where the police has to operate under these conditions and yet be expected to retain cohesion.

This is a very serious paper because ultimately the survival of a country as a civilised nation requires a civilised, adequately equipped, properly trained and led police force whose main job is to protect the citizens and to be deemed by the citizens to be their friend and, therefore, be accepted as a respected part of society. Such articles are not supposed to be anecdotal or first person singular dominated. It is submitted that the anecdotal and personalised beginning is there only to highlight the magnitude of the problem. In any society of laws the police represents the civil coercive arm of the State, but the coercion is limited to what is prescribed by law. The two principal functions of the police are: (1) To maintain law and order, ensure public peace and create an environment of security in which the citizens can go about their normal business without let or hindrance. An environment of safety ensures public tranquility and protects the average citizen from anti social elements, criminals and terrorists. (2) To take necessary steps to prevent commission of offences and violation of law and, where offences do occur, to bring the culprits to book in the shortest possible time, bring them to justice and by the meticulousness of the investigation, to present a case which can lead to a conviction and punishment by a court. That police is the best which controls crime, develops high forensic skills for the investigation of offences and then is able to prosecute and successfully prove to the court that the accused person had in fact committed the offence.

In India the Code of Criminal Procedure governs two aspects of the Police. The first relates to cognisable crime. Chapter XI Cr.P.C. directs the police to take preemptive action to prevent the commission of cognisable offence. Under section 151 Cr.P.C. a police officer may arrest any person,

without a warrant, who, in the opinion of the police officer, is designing to, or is likely to attempt to commit a cognisable offence. Chapter VIII permits an Executive Magistrate to bind over a person or persons to keep the peace or to be on good behaviour. Both the police and the Executive Magistracy, therefore, have the authority, in fact the duty, to prevent offences and to ensure peace, good order and good behaviour.

In this context mention must be made of Chapter XII Cr.P.C. which covers every investigating agency in India, especially the police, in the matter of investigation of offences. Section 154 makes it mandatory for the police to record the first information of the alleged commission of a cognisable offence given to it by any person and to enter it into what is known as the First Information Report Book. The power of the police to investigate offences stems from the FIR and investigation is done under section 156 and other sections of Chapter XII. The moot point about Chapter XII Cr.P.C. is that the police, after the FIR is recorded, is the authorised agency to investigate an offence and no one other than a superior police officer as per the provisions of section 158 or a Magistrate or a superior court may in any way intervene in a criminal investigation. Autonomy of the police in this behalf is absolute and regardless of the provisions of any Police Act in India, it is under Cr.P.C. that the police acquires its powers regarding criminal offences and it is under this provision of law that the police enjoys autonomy. No amount of so called police reform can give the police greater autonomy and operational freedom than does the Code of Criminal Procedure.

The second aspect of policing is the maintenance of public peace. In the matter of maintenance of law and order the police is governed by Chapter X Cr.P.C. and by various powers in detail which may be vested by the Police Act. Under section 129 it is the duty of the police and the Executive Magistracy to maintain public order and tranquility, for which purpose it can use necessary force, including lethal force, to disperse an unlawful assembly, prevent any disturbance of the public peace and ensure that there is an environment of safety in society.

The question remains about how successful is the police both in the maintenance of order and in preventing and investigating offences. The report card here is mixed, particularly because in counter insurgency situations, major break downs of law and order and even investigation of politically sensitive cases, State police forces are often found wanting because they have been subjected to so much politicisation by local politicians that they have become both inefficient and hesitant in performing their legal duties. That is why there is repeated intervention by Central armed police forces and central investigating agencies such as CBI and NIA. The politicisation takes place by day-to-day intervention by politicians as in the Meerut case and is experienced throughout the country, including in advanced States such as Gujarat and Maharashtra. The failure of the Delhi Police to protect the Sikhs in 1984 after Indira Gandhi's assassination is too well documented to require repetition. Suffice it to say that in major break downs in law and order heavy recourse has to be made to central armed police forces and to the Army. Demoralisation in the State Police forces is evidence of a command and control failure, the only parallel to which is probably what happened to the pre 1962 armed forces under the leadership of Krishna Menon. The near mutinies in certain regiments after the anti Sikh riots have been attributed by the Army itself to a command and control failure, which means that even in a force relatively immunised from political pressure, such things can happen. In the police the whimsical transfer and posting of senior police officers, including D.G. Police, has virtually wrecked the command structure and this becomes evident when the police is unable to control a situation. Every Police Commission, starting with the Dharam Vira Commission and the Supreme Court itself has stated that there must be security of tenure of police officers. Government's authority must be limited to superintendence and the command of the force must vest firmly the head of the Force. Even the 1861 Police Act clearly states that the administration of the force will vest in the Inspector General. Most State Governments are reluctant to allow such freedom to

the police, but by doing so and interfering with the police in the manner that they do, the politicians are only weakening it and ensuring that instead of being servants of law the policemen are forced to become servants of politicians. In the long run a police force which loses its cutting edge superiority because its command structure has crumbled would be an inadequate instrument for crime control and maintenance of public order and this is in no one's interest, not even that of politician.

With autonomy of command comes accountability. Accountability is of various types, including accountability for professional competence. There is also accountability for one's actions and if the Police acts as an instrument of tyranny then there must be an authority to which the average citizen can go easily and obtain quick redressal. There was a time when the District Magistrate was such an authority, who was trusted both by the police and the citizens, but we have weakened him to an extent where he himself is no longer very effective. Police complaints authorities of the type suggested by the Soli Sorabjee Committee will not be really effective instruments of giving immediate redressal to a person who, for example, has been illegally picked up by the police and is subjected to unacceptable pressure. This is a real challenge if we want a people friendly but professionally competent police force. How ineffective is the redressal machinery is proved by the massacre of twenty people in Andhra Pradesh and the parallel killing of five unarmed prisoners by the Telangana Police in Nalgonda District.

In the matter of equipping and properly manning the police force one has to start with the police station, the basic unit of policing which, unfortunately, every Commission or Committee has neglected. When the 2008 attack took place in Bombay, ten terrorists of Pakistani origin and under Pakistani leadership landed by boat on the Bombay coast near Colaba. It is reported that they were seen by some fishermen, but because they were not intercepted they spread to three or four different destinations and created mayhem for more than three days. It is said that 166 innocent people were killed by these terrorists. Had the Colaba police station, which had jurisdiction, been properly equipped, had adequate manpower, good telecommunications and transport, it would have been a beat constable to first see these terrorists. He could have ensured adequate deployment of the police from Colaba police station so that the encounter took place at the point of landing itself. Neglecting the Colaba police station has cost this country 166 people dead. All police reform, therefore, must start with the police station. Today Madhya Pradesh has an average police force of about one policeman for 870 citizens. The international norm is one policeman for 160 citizens and even if we were to put this figure at one for 250, M.P. would need a police force of between 2, 85,000 and three lakh personnel. The total strength of the M.P. police is 83,000. Ultimately policing is a function of the number of policemen on the ground and unless we strengthen the police numerically we cannot have an efficient police force.

Between the police station and the other end of the spectrum, the armed police forces which are required to handle terrorism, Naxalism, insurgency, etc., there is wide range of police disciplines and services, including forensic services, which have to be strengthened. Let us not stint on this. So far as the functions of the armed police are concerned, in the past when the number of armed police battalions was limited, such units were mentored by the Army. We must go back to a system whereby different regiments of the Army mentor the armed police battalions in the matter of training, handling of fire arms, use of ground for defence and attack, handling of ambushes, aggressive patrolling and road clearing and in all the tactics which would enable the police to handle guerilla warfare. The police must also strengthen its own training establishments so that right from unarmed civil police duties right up to paramilitary functions the police gets adequate and effective training.

The police is not an instrument for coercion of the law abiding citizens. It is an investigating agency but it does not have the power to judge and punish. It is an instrument for maintenance of law and order and prevention and investigation of offences but it cannot thereby become an instrument for

harassment of innocent citizens. Its attitude towards the citizens should be one of extreme respect and friendship so that citizens warm up to the police and accept it as a friend. A police station is not social club, but it should be adequately people friendly for a citizen to willingly visit a police station and expect the police to sort out his problems. The police has to be consistent in law enforcement, it should show zero tolerance to violation of law, but it must be oriented so that the citizens look on it as a reliable friend. The real challenge before government, society at large and the newly founded India Police Foundation and Institute would be to accept the challenge of restructuring and reorienting the police in order to make it an effective instrument for maintenance of public order and prevention and detection of crime.

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