

Talk more for a modern police

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The year seems to be moving very fast with some flutter around the subject of bringing change in the police forces with the Home Minister announcing the setting up of a committee to prepare a draft legislation to replace the Police Act of 1861. This was also echoed by our Prime Minister when in the Chief Minister's Conference he emphasized the need for humane policing. Similar thoughts were viewed in early September at the superintendent of police conference where it was discussed that good policing is a precursor for a modern economy.

Not surprisingly therefore the formation of a committee to review the police act comes as a major boost for civil society and the citizens at large who have often faced the brunt of police excesses without any impunity for a long-long time. So, on an occasion like this, when a historic opportunity like drafting a new police act is provided to us it is pertinent that the committee to review the draft law is open to public domain for wider civil society participation and consultation unlike the past two committees formed earlier this year as well other previous committees in the past that was never open to the public and which hardly achieved anything except merely submitting its draft report and recommendations to the government only to gather dust.

The Police Act Committee, which is a Committee of sorts, has a daunting task ahead of them. Looking closely at the composition and the terms of reference of the Committee, it makes one wonder as to how serious is the government in heralding reforms work? This is because there are several limitations within the committee itself. For example the period within which the Committee is required to prepare a legislation is as short as six months. The committee therefore has to be systematic and prepare a draft and take inputs from the civil society. Going by the past track record of the previous committees that has never consulted civil society, it remains to be seen how it will be done. Secondly the panel is composed of more retired government people than ever before. On closer examination, it will be observed that it is nothing but a high level advisory group, which will put its proposal, and then possibly it will depend entirely on the government babu for the suggestions to be forwarded to the places where decisions can be taken. Thirdly if the Committee has no statutory powers, then it will depend on the whims of the government and the higher officials to accept or reject the draft or the provisions in the draft. Fourthly the composition of this Committee does not reflect the race, caste and religious compositions of the varied segments of the democracy; there are no women members, there are no SC/ST members and no member from a major religious group has been represented. So, who will adequately place the views and the possible solutions of the voiceless and those who have limited access to justice especially since one of the important considerations of this committee is to look into the concerns of human rights, weaker sections, women and SC/ST?

Whatever be the limitations, the Committee nevertheless will have to take into consideration the dozen obscure draft legislations that are floating around in the country which have never seen the light of day due to lack of political will or on another occasion due to inter-service rivalry and resistances within. Of consideration will be the Model Act which is in the eighth report of the National

Police Commission Recommendations prepared almost 25 years ago and certain modifications maybe suggested for the new legislation. Given the fact some profound changes have taken place in the complexity and magnitude of policing in the past two decades, this would certainly limit the scope of the Committee and dilute the vision of the Prime Minister.

While it's true that the present challenges to policing are more than ever before especially because the country has been facing the growing incidents of insurgency, militancy and naxalism for decades, no one will dispute that violence of any form needs to be condemned and contained. But the broad philosophy of a democratic and modern police which is required to bring in people's cooperation and trust may get side tracked for wide ranging powers given to the police without adequate checks in terms of more intense scrutiny mechanisms within and outside the police.

Police Reform is not about strengthening a police that is unaccountable; the fact is police are strong today but they still perform badly; they don't satisfy the public's need for safety and they don't have the public's trust or the trust of the executive or the judiciary. They have at best the trust of those that can manipulate them the politicians and those they themselves depend upon the mafia the politicians. It is true the world has become more complex but more powers without a minimum of accountability which is not there now will worsen the situation even more. The National Police Commission at the onset of placing its eight reports had taken wide-ranging terms of reference covering practically the entire gamut of the police system. For example for detailed study in the first report, only two important criteria were taken: to look into the modalities for credible inquiry into complaints of police conduct so that it could provide public satisfaction and the second criteria was to look into the working standards and welfare of the constabulary. The present Committee has a limited set of criteria which may prove to be difficult for the committee to elaborate on.

The Committee needs to draft a new and very modern piece of legislation replacing the 150 year old Act reflecting the expectations of the people regarding the police in a democratic set-up. The common citizen needs to participate in its policing and also take decisions; besides for the police to function in a professional manner there is need for complete functional autonomy including removing extraneous control over the police; provide the best scientific equipment through well planned budgets and not allow anyone to indulge in the purchase of fancy cars for the personnel at the headquarters or to provide comforts to the political masters; security of tenure to all personnel is an absolute must; the need for the finest candidate to be nominated to the post of the police chief will provide the leadership which is lacking at present; and yet along with this provide accountability of police actions by setting up stringent internal and external accountability mechanisms in the form of performance evaluation boards, complaints authorities and independent oversight mechanisms.

These terms are not new to India and nor are they novel to democracies. The National Police Commission, the Ribeiro Committee and Padmanabhaiah Committee's have emphasized the need for these concepts to be brought to reality in the shape of State Security Commission, Police Establishment Boards, Police Performance and Accountability Commissions, District Inquiry Authority/ district Police Complaints Authority etc. A few months ago Mr. Kamal Kumar and his

colleagues had collated 49 recommendations from previous Commissions/Committees that require urgent implementation. Most of the accountability mechanisms that have been mentioned earlier have found space in his advice to the government. The present Committee has a simpler task, to follow the recommendations of its predecessors.

The committee can also look to the new reform processes that have been undertaken in many jurisdictions. For example in Pakistan, a Public Safety Commission and Police Complaints Commission at the provincial, federal and district levels have been proposed in the Pakistan Police Order 2002 to take steps to prevent the Police from engaging in any unlawful activity arising out of compliance of malafide orders. In Sri Lanka, the National Police Commission have wide ranging powers for appointment, promotion, transfer and disciplinary control. Other path breaking initiatives have been undertaken in Ireland which has gone through internal conflict and has provided wide powers to the police, yet has set in place several internal and external checks and balances. The UK Police Reforms agenda has brought together schemes to protect public safety and have instituted bodies such as the Independent Police Complaints Commission. If other countries can take such steps, one wonders why India cannot.

The illustrious committee though narrow in its scope has a galaxy of best practices and initiatives from across the democratic world to learn from. Some of the efforts taken elsewhere will definitely add value and scope to prepare a draft legislation for good policing. Unlike the previous committees this newly appointed Committee needs to bring the debate of preparing a legislation into public domain so that it truly displays the values of a democracy. A wide consultation process will broaden and enrich the committee's work so that finally it will help the people in getting satisfaction and the honest ordinary citizen is able to lodge a complaint without fear or favor. Again its not enough to use the Model Act as a template because we need to do more. We need a vision of policing and that is no where in the terms of reference but must be decided before one can decide how to get the police into the shape one wants it.