

Too important to neglect, too urgent to delay

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In January last year, speaking to media outside the state legislative assembly Abdul Rahim Rathar, the leader of opposition expressed serious concern over the fake killings by the police and public distrust in the inquiries that follow such incidents. He said people were unhappy with the inquiry by a DIG into the killing of Abdul Rehman Padroo. He added that nothing had come out of around 110 magisterial inquiries held so far in such incidents.

Not long ago, the Anara Gupta case brought the police role in sharp focus. Anara Gupta was accused of featuring in a pornographic CD. The police allegedly illegally confined her and her family for twelve days and claimed that she had confessed to the crime. Later the forensic report stated that the woman in the CD was not Anara Gupta. Some police officials were transferred and a few at the lower level were suspended. In all probability, they have since been reinstated. These two instances are amongst many in which the police becomes a law unto itself with little accountability for their wrong doings. It shows that there is no credible mechanism to ensure police accountability. The public perception is that the police often behave brutally without respect for the rule of law and there are no effective mechanism in place that makes them accountable for their wrong doings. There is frequent political interference in police work and no periodic, objective criterion for performance evaluation. People consider police as an inefficient, corrupt and decadent institution that needs complete reforms. This overhaul becomes a pressing necessity in a region where people's resentment against the state is well known as the police are seen as a direct instrument of the state.

Against this background, one hoped that the government of Jammu and Kashmir would seriously consider and implement the Supreme Court directives on police reform, handed down in its historic judgment in September 2006 in the Prakash Singh and Others vs. Union of India and Others case. It is a matter of regret that the state has turned a blind eye to the issue of police reform that forms the essence of these directives.

The court issued seven directives to the centre and the states to be complied with till the time they enact new police legislation. These directives if complied with integrity can check unwarranted influence or pressure on state police, enhance its performance, promote its professional autonomy and make it sufficiently accountable for its wrong doings. The state of Jammu and Kashmir has opposed a major part of these directives in its affidavit filed in January 2007 before the Supreme Court. It sought the suspension of setting up of the State Security Commission on the grounds of the prevalent security situation in the state stating that there are multiple security agencies that have a unified command chaired by the Chief Minister and at this time, creation of the State Security Commission would amount to destabilising this tried and tested security set up.

It seems that the mandarins in the state administration have not understood the import of the directives of the Supreme Court because it has little to do with maintaining the internal security of a state. On the contrary, the Court envisaged it as a means to check unwarranted influence or pressure on the state police, set policy frameworks and evaluate policing performance. The Jammu & Kashmir government has adopted the security situation affecting a part of the state as

an excuse to take no steps to address the prevailing systemic problems of frequent unwarranted political interference in operational policing, a lack of clear policy guidelines to promote efficient, responsive and accountable policing in accordance with the law, and inadequate methods and parameters for assessing police performance.

The state government has also opposed the directive on the separation of investigation and law and order functions of the police on the ground that such a move would be counter productive to public safety and would disturb the existing security set up. Further, most of the terrorist related crimes are accompanied by law and order and vice versa and have to be dealt with together.

The state government's contention however has little merit. The intention behind separating investigation and law and order functions is to ensure speedier investigation, better expertise and improved rapport with the people. The state government does not address how it proposes to improve investigations whilst maintaining their law and order priorities. It continues to emphasise the over-importance of security concerns whilst overlooking the everyday policing and speedier investigation needs of the people of the state.

One of the major directives of the Supreme Court relates to the accountability of the police for their wrong doings and providing people with effective redressal mechanism for the violation of their rights. It directed that independent Police Complaints Authorities be set up at the state and district levels to look into public complaints against police officers in cases of serious misconduct including custodial death, grievous hurt or rape in police custody. The court also maintained that the recommendations of these bodies should be binding on the government. The state government has sought suspension of implementation of this too on the ground that it would provide a fillip to the large groups of separatist organisations with their links to terrorist organisations to lodge false and frivolous complaints against the police to demoralise them. It further stated that the statutory bodies such as the State Human Rights Commission, State Accountability Commission and State Vigilance Organisation are functioning most effectively to deal with complaints against the police.

It seems the government has needlessly pitted preserving the morale of the police against its responsibility to protect basic human rights of the people of the state. It shows no commitment to address the genuine complaints of people against police officials, poor police accountability and the prevalent culture of impunity. How else does one explain the government's stand that people will make false complaints if it creates complaints authorities? Besides, the ineffectiveness of existing structures such as the State Human Rights Commission to adequately deal with public complaints against the police and to get errant officers punished or prosecuted is widely recognised. The Court specifically directs the establishment of an independent accountability mechanism at the state and district levels so that public credibility can be restored. The overall resistance of the Jammu & Kashmir government to initiate the much needed and long overdue process of police reforms through implementing the Court's directives is deeply disturbing. The existence of security threats and terrorist activities and the state's efforts to deal with this in parts of the state must not overshadow and negate the very real problems in everyday policing encountered by the public. The state government is obliged to respond to these systemic problems promptly and with integrity because democracy is not only about winning elections but also responding to people's needs and aspirations.

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