

## **Police & Politics**

### **Call For Freedom From Interference**

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Considerable publicity was given recently to a news item, according to which Mr. Rajesh Pilot, the former Minister for Internal Security, had issued written orders to the Central Bureau of Investigation to arrest the controversial godman Chandraswami. An attempt was also made to link the action of Mr. Pilot to the internal squabbles within the party in power.

The news item raises some vital issues concerning the relationship between politics and policing as it has evolved in this country since Independence. A relevant question to ask is: under what authority, did the Minister issue orders to the CBI? If Mr. Pilot could order the premier investigating agency of the country to arrest a person, he obviously also had the powers to ask the police not to arrest somebody.

We in this country have become so accustomed to seeing the politicians and bureaucrats issuing unauthorized orders to the police that no eyebrows were raised on learning about action taken by Mr. Pilot. Arresting a person suspected to be involved in the commission of a cognizable offence is a part of the process of law enforcement and has, therefore, to be governed by the provisions of law. Law does not empower any person or agency outside the law enforcement machinery to take such decisions.

#### **INTERVENTION**

Frequent outside interventions in the operational jurisdiction of the police, not supported by law, have not been confined merely to the field of crime investigation, but have also been noticed in the area of police work pertaining to the maintenance of law and order. There have been numerous occasions when instructions or orders, written or verbal, have been issued to the police, suggesting how they should act in controlling a particular riot. Though law does not give the authority to any outsider, orders to use or not to use force or to prohibit the police from taking recourse to the use of firearms have often been given by outsiders. Prior to the demolition of the Babri Masjid, the then Chief Minister of U.P. announced that he had passed orders to the police not to open fire on the riotous crowd which had gathered there. The result was there for the entire world to watch

In situations like the ones mentioned above, the police find themselves on the horns of a dilemma-to follow the dictates of the law or the political or bureaucratic masters. This dilemma is invariably resolved in favour of the latter, which produces two immediate interlinked consequences-(i) erosion of the authority of the police as an agency of law, and (ii) undermining of public faith and confidence in the neutrality and impartiality of the police.

The senior leadership in the police in this country cannot be absolved completely of their responsibility in contributing to this state of affairs. The desire of some of them to beat their colleagues in the race to the top and to get and retain coveted postings has been

responsible for creating a climate within the organization in which their own authority to exercise command and control gets eroded, with the functionaries at different levels also looking elsewhere for protection and rewards.

An attempt is often made by us to explain, if not to justify, by mentioning that the problem being faced by us is not something peculiar to India and that what is happening here has already occurred in other countries. It is true that there has been considerable political and administrative manipulation of the police in other countries also, even in the highly advanced and democratic ones. The history of policing and political development in some cities in the USA, for instance, reveals numerous instances of the police being used as a tool by politicians in power.

As early as in 1931, the National Commission on Law Observance and Enforcement, USA, popularly known as the Wickersham Commission, in their Report on Police, had referred to the “corrupting influence of politics” over the police organization. The Commission not only pointed out the example where the Mayor of a city had “appointed his tailor as the Chief of Police because he had been his tailor for 20 years and he knew he was a good tailor and so necessarily would make a good Chief of Police”, but showed as to how “limiting the powers of the police executive by placing absolute control of police under the Mayor. Commissioner or city manager has opened the door to every conceivable type of incompetence, political corruption and organizational demoralization.”

## RULE OF LAW

The type of situation prevailing in our country appears to be fairly close to what the Wickersham Commission pointed out in 1931. What happened in history in some countries however can hardly be a source of consolation for the ills that affect our system today.

In this country, we have adopted a democratic system, with a written constitution which enshrines the basic tenets of the Rule of Law. In a system based on the Rule of Law, according to Dicey, there is absolute supremacy of laws as opposed to the influence of arbitrary powers, equal subjection of all citizens to the laws of the land and equal protection of laws. We have also prescribed a code of conduct for the police in this country, which lays down that the police derive their powers from the law and must function according to its dictates. This, however is all on paper only, as in practice, the police have not functioned according to their Code. The police in this country have never been made functionally independent, free from interferences, influences and pressures of different kinds.

It is this functional independence, which is the hallmark of the police in the U.K. Lord Denning, in the 1968 case of *R.V. Commissioner of Police of the Metropolis, ex-parte Blackburne* emphasized this doctrine in these words “I hold it to be the duty of the Commissioner of Police as it is of every Chief Constable to enforce the law of the land...but...he is not the servant of anyone, save of the law itself. No Minister of the

Crown can tell him that he must or must not prosecute this man or that one. Nor can the Police Authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.” The Royal Commission on Police, U.K., in their report in 1962, recommended that the independent status of the police officer must continue.

## UNHOLY NEXUS

The increasing criminalization of politics in this country has been a subject-matter of debate recently. Feelings of disquiet and concern have been expressed by many, including the politicians. Suggestions have been made to deal with this problem. The package of measures adopted, if any, must include delinking policing from politics. Without granting functional independence to the police, it would not be possible to break the nexus between politics and crime.

Functional independence, however does not mean lack of accountability. The police are armed with tremendous powers and exercise wide influence over the lives of the citizens. There is, therefore, a definite need to impose proper checks on their powers. They must be accountable to the community for what they do and, what is more important, how they do it. It would, therefore, be wrong to question the propriety of political control and interference in all situations. The problem ultimately is one of making a distinction between the legitimate and illegitimate political influences.

The involvement of politics in policing must remain confined to providing adequate, well-equipped and an efficient police force to the community and to improving suitable effective checks on the powers of the police to ensure that they discharge their functions cleanly and in accordance with the law of the land. Any other control or interference must be treated as illegitimate. Functionally, the police must be independent and for this they must resist all illegitimate pressures.

The distinction between legitimate and illegitimate control may appear to be thin but, with the passage of time, it may not remain so, particularly once there comes into existence an alert, mature and enlightened citizenry in the community.