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Public Security and the Indian State

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Public security discourse changes how public order has been traditionally viewed by states across the world. India, a country that attained independence from British colonialism in 1947 and has been democratising since, has faced the dilemma and challenges of preparing its security agencies, steeped in colonial culture and politicised since independence, to face the challenges of twenty first century. Organisational, criminal justice system and attitudianal issues dog the public security architecture in India. Since the Constitution of India has assigned the responsibility of public order to states, federal frictions to have arisen lately in dealing with security issues in the national domain such as terrorism and Maoism. The police and other public institutions responsible for the task must be braced up to meet the emerging challenges.



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Abstract

Public security discourse changes how public order has been traditionally viewed by states across the world. India, a country that attained independence from British colonialism in 1947 and has been democratising since, has faced the dilemma and challenges of preparing its security agencies, steeped in colonial culture and politicised since independence, to face the challenges of twenty first century. Organisational, criminal justice system and attitudianal issues dog the public security architecture in India. Since the Constitution of India has assigned the responsibility of public order to states, federal frictions to have arisen lately in dealing with security issues in the national domain such as terrorism and Maoism. The police and other public institutions responsible for the task must be braced up to meet the emerging challenges.

Keywords

police, security, India, justice, federalism, State

Public security has emerged as a significant function of democratic governments across the world. It refers to the duty and function of the state to ensure the protection of citizens, organizations, and institutions against physical threats of any kind to their well-being as well as the traditional functions of law and order. Public Security is increasingly being considered essential to ensuring social well-being and prosperity in a society. Obviously, with transformation of the role of the state in democratic and democratising societies, the focus has shifted from security of regimes to that of the people, and that signifies security of the state too. It naturally changes the role of the public agencies dealing with security, such as police.

The transformation is even more significant for a post-colonial democratising society such as India, where the police, the criminal justice system and other attendant institutions were designed to serve and further the interests of an alien regime. In India, for example, the foundation of a modern police organisation, with a legal structure to support it, was laid following the painful experience – both for the British and India – of the revolt of 1857, which for the first time created among the British the realisation of ruling such a large and diverse country as India. The Indian Police Act 1861, the Criminal Procedure Code 1861, the Indian Penal Code 1861, the Indian Evidence Act 1878, were all framed in the aftermath of the events of 1857 in order to create a framework of criminal justice system to support and strengthen the British administration and its organs against any possible future rebellion. Obviously, police as the strong arm of the colonial administration was designed more to support the regime than as an instrument of public security; the emphasis of law and order was more on order than on law.

The transformation of this framework and the system of law and order administration since independence is so slow and tardy that it appears static, indicating that the public security framework in India is not keeping up with the times either quantitatively or qualitatively. In the mean time, challenges – both conventional and new non-conventional ones – are mounting, leaving the police benumbed at critical crunch moments, as was witnessed during the 26/11 terrorist attack in India's commercial capital Mumbai in 2008. The lack of this institutional reform and transformation to a new age of democratic functioning leaves the police vulnerable to political misuse, which was so brazenly visible during the Gujarat riots in 2002, when one political regime allegedly turned its political ire against the largest minority community, using even the police. A decade on, allegations and counter allegations as well as cries for human rights of the deceased and their families still rent the air. A senior Gujarat Indian Police Service officer Sanjeev Bhatt came out with the allegations of complicity of the state government in the inhuman carnage; he was suspended, harassed and arrested by the organisation of which he was a member. Indeed, this was not the first such instance; national emergency imposed in 1975 by the then prime minister Indira Gandhi was the first realisation that the police as the handmaiden of politicians and political regimes could be disastrous for Indian democracy.

India's two million plus strong police forces, highly diverse and decentralised, face 1,210,193,422 (India's population in 2011 census) multi-faceted problems. This gives a ratio of less than one police person per 1,000 people. Crime in India, an annual publication of National Crime Records Bureau (NCRB), Ministry of Home Affairs, Government of India, in its latest edition (2009) gives the 'actual strength of civil police (including district armed police) in twenty eight states and seven Union Territories in India as 1.56 million against a 'sanctioned' strength of two million police personnel. The Armed Police at 342,447 constituted over one-fourth of the total strength. Seven Central Police Forces – Assam Rifles, Border Security Force, Central Industrial Security Force, Central Reserve Police Force (including Rapid Action Force and Commando Battalion for Resolute Action acronymed CoBRA), Indo-Tibetan Border Police, National Security Guard and Sashastra Seema Bal – had 528,000 personnel in 2000. The 2010-11 Annual Report of the Ministry of Home Affairs, Government of India does not give total strength in absolute numbers, it gives organisationwise battalion strength. The total strength of the IPS officers, the elite leadership cadre recruited by the Union government on the basis of an all-India examination and personality test conducted by the Union Public Service Commission and allotted to various states, was 4,720 on 31 December 2010. Obviously, a decade hence the police strength has risen, but not in proportion to the population. Moreover,

the strength of the civil police for day-to-day law and order duties has not increased sufficiently. Nearly one quarter of the police strength continues to be of the armed police

The Indian police guards twenty eight states and seven Union Territories (UT) and an area of 32,87,782 sq. kms., some parts of this area is not easy to access. While the country's 14,000 kilometres of land border with six countries – including uncomfortable coexistence with two and numerous operational problems with three – and a coastline of 7,517 kilometres are guarded by the defence forces and specialised Central Police Organisations, the police of the concerned states too come into the picture for micro-management of public security. Commenting on the Indian police in 1971 David Bayley said:

> The most surprising feature of the contemporary Indian police is that its activity remains so largely colonial in mould….Of greater importance is the persistence of behaviour patterns and philosophy. The primary function of the police continues to be containment of trouble once it occurs – whether it be mob violence or individual criminal activity. It reacts to threats to law and to government, but it does not actively seek to serve the peculiar security needs of individual citizens. From the citizen's point of view, the police are largely a passive force, difficult to energise, bureaucratic in working, impersonal and off-handed in operations. ('The Police in India', *Economic and Political Weekly*, November 6, 1971).

This observation has not lost its validity four decades hence. Evidently, the police in India, and hence the basic foundation of the public security system in India face challenges arising out of historical (colonial origin and persistence of organisational culture then developed), organisational, socio-political and contemporaneous (fresh challenges arising out of organised crime, terrorism, Maoist rebellion and technology generated or cyber crimes).

The sheer challenge of securing 1,210,193,422 persons requires sufficient personnel and complexity of challenges mentioned above means that they must also be well-trained and proficient in their job. We have mentioned poor police-citizen ratio, which cannot be hurriedly bridged because the police require a high degree of proficiency in their job that combines physical fitness (alertness), sensitivity to people, strategic orientation and legal competence. Since the colonial framework did not quite care as long as the police could evoke awe amongst people and the post-independence Indian state did not bring in the desired change despite realization, debate and discourse, the police lack in training an orientation to meet the demographic and qualitative challenges. There is a shortfall in filling up the sanctioned strength, an assessment of and correspondence with increasing population obviously is a far cry.

To say that nothing has changed would be inappropriate. Indeed, the changes in the face of mounting challenges are too slow to be visible, at least from the perspective of performance. It is significant to focus on training and democratic orientation. That would need then to correspond with democratic functioning, where the police are not totally autonomous. The democratic structures of the Indian state would have to facilitate democratic functioning of the police. For the police to survive and function in a virulently critical public atmosphere is not easy. Despite not too ideal a situation the police indeed create a sense of orderly life. Public judgements of the organisation must take that into account and look and strive for a better and more effective police organisation.

While the task of public security is getting challenging by the day, three major challenges aside from growing intensity and complexity of day to day police work must be briefly underlined. Though not in any order, I would like to emphasize collective violence, terrorism and Maoism.

Collective violence of various nature and kind has been part of the Indian social and political life since independence. However, it is communal violence manifesting mostly in violent conflict between the majority Hindus and the largest minority Muslims that has cast its shadow on the public security framework of India. In fact, India attained independence in the shadow of large-scale communal violence flared by the politics of partition on both sides of the border. Various social, economic and political factors have precipitated it since. It is the play of politics that not only vitiates the syncretic Indian culture, but also impact the functioning of public institutions such as the police. There are numerous examples of the police being politically motivated by the regimes in different states in events of such violence, but

its worst manifestation was in Gujarat 2002, when allegedly the chief minister of Gujarat personally guided the pogrom against the Muslims and police was directed to be silent against Hindus and tough to the Muslims.

India has been exposed to the politics of terrorism pretty early since independence. However, the outbreak of politics of terror in Punjab by Sikh separatist groups in the 1980s exposed the police. Indeed, the police alone tamed it, but questions on their human rights record remain. The politics of terror in the Kashmir valley too has tested India's security establishment. The involvement of the country's western neighbour Pakistan, which became bare in Mumbai attack on 26 November 2008, has only complicated the security scenario. The police and the public security architecture of India still appear unprepared to meet the challenge.

The politics of Maoism has a long history in India. At least twice, in 1951 and 1972, it appeared to have been eliminated. However, since the mid 1980s it has gained deep roots and since the merger of various groups and organisation of Communist Party of India (Maoist) in 2003, it has acquired lethal dimensions. They have apparently created a compact revolutionary zone from north to south in 16 states and over 200 of India's 622 districts. Though even central paramilitary forces have been used, the Maoists have had dominance over the public security establishment. No wonder, in 2006, in his annual communion with the people of India on Independence Day (15 August) from the ramparts of the Red Fort in Delhi Prime Minister Dr. Manmohan Singh described Maoism as the biggest security threat to the country. Though Maoism has been described also as a socio-economic challenge, but no one undermines its security dimension. The police have been unable to come close to combating the security challenges Maoist guerrillas pose.

Has the Indian state been unaware of the emerging security challenges and the strength and weaknesses of the Indian police? No is the clear answer. The question of police reform was put on the agenda in the 1960s after four stages of stabilisation of the Indian polity was achieved – the impact of partition and rehabilitation of refugees (1947-1950s), framing of the Constitution and inauguration of the republic (1950), general elections and forming of the elected governments in New Delhi and in States (1951-52) and reorganisation of States (1956). Since public order and police were entrusted to the States by the Constitutions of India, States were left with the responsibility of taking the lead. Most States appointed police commissions during the 1960s and early 1970s, which made useful recommendations. However, exigencies, even expediency, of politics led to tardy and negligent implementation. In any case, none of them reviewed the Indian Police Act 1861, neither did the Union Government motivate them to.

The Union Government looked at police training in 1971, but that too went largely unimplemented. The national emergency of 1975 created an awareness of misuse of the police and the first National Police Commission under the chairmanship of Dharam Vira, a noted civil servant, was constituted in 1978, which submitted its report 1980 onwards. The turn of the political full circle meant that the report, regarded by most experts as a milestone in police reform discourse in India, was cold-storaged. All the subsequent discourse has revolved round what the NPA 1980 recommended. The appeal to the Supreme Court of India (1996) by Prakash Singh and N.K. Singh, two retired police chiefs from Uttar Pradesh and Haryana respectively, the Juilio Rebeiro Committee (1998), the Padmanabhaiah Committee (2000), the Soli Sorabji Committee (2001-03) to suggest an alternative Indian Police Act (which it has done since) and the Supreme Court's pronouncement on the Prakash Singh petition (2006) directing the Union and State governments to bring about police reforms have all their frame of reference in the NPA 1980. Indeed, the discourse is on to reform Indian public security and police, but state response as well as public demand is low. The public sadly is happy to rest with criticising and condemning the police for its failure rather than press for institutional reforms.

Entries 2A of List 1 (Union List) and entries 1 and 2 of List 2 (State List) (supported by Article 246) of the Constitution of India sanctify the police as a public institution of rare significance. In fact, complementarity of the entries in the two lists that significantly determine division of powers between the Union and State governments in India, public security emerges as a significant responsibility of the Indian state. Article 355 of the constitution that ordains it to be the duty 'of the Union to protect every State against external aggression and internal disturbance...'

too puts public security as an important responsibility of the Indian state. However, public security cannot be ensured without strengthening public (and constitutional) institutions responsible for it. The police and other public institutions responsible for the task must be braced up to meet the emerging challenges.

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