

WHITHER INTERNAL SECURITY- do we need another Committee?

Country has been rocked by number of bomb blasts in 2008. According to Hindustan Times India has lost the maximum of civilians through terrorism in the world outside Iraq, Afghanistan and Pakistan. Nearly a thousand people had been killed before the recent outrage in Mumbai. The success of terrorists has often been attributed to failure of Intelligence Bureau which has all high profile gadgets. This agency has no other work than keeping track of anti-national elements.

2 The other intelligence agency is Research and Analysis Wing of the Cabinet Secretariat, commonly known as RAW. However, it is felt that these Agencies do not provide specific intelligence that could be acted upon. Instead they give vague warning of threats largely based on analysis of vernacular media.

3. It is no secret that these agencies have usually been preoccupied with the collection of data and preparation of assessment reports about the political opponents of the Government of the day. Two recent books - one by M.K.Dhar and another by Major V.K.Singh (Retd.) provide documentary evidence of the misuse of these agencies. No wonder, that in the era of repeated State/Central elections and coalition politics the two agencies have little time to devote for their mandated work.

4. Very often the cause of terrorism is attributed to delays in courts. In other words, it is felt that inability to punish the guilty quickly boosts the morale of terrorists while demoralizing the investigators. In addition it is said that bodies like National Human Rights Commission and State Human Rights Commission also contribute to delays in investigation and consequent demoralization. It is perhaps true that valuable time of Courts is taken up in increasing number of public interest litigations and endless stream of motivated cases filed by parties with malicious intent. The increasing use of PILs and contempt cases is not primarily due to willingness of the Courts to entertain but due to machinations of litigants and lack of timely response of Governments e.g.

Municipal bodies, State governments as well as the Government of India. The Government procedures prevent filing of sensible replies within the stipulated time frame due to stupendous increase in the number of cases and the fact that most of construction work is done in english.

5 This problem has been recognized and a number of Commissions / Committees have given their own prescriptions beginning with the 8 reports of National Police Commission submitted between February 1979 and May 1981. Later on, recommendations have also been submitted by Justice P.N.Bhagwati Committee as also Justice M.S. Malimath Committee. These committees have tried to address the problems of huge pendency and low rate of conviction in criminal cases. More recently, the Second Administrative Reforms Commission headed by Shri M Verrappa Moily in its 5th Report on "public order" is relevant. The Commissioner has also joined the debate about need for a special law on lines of TADA or POTA in its eighth report on "Combating Terrorism".

6. There is also a wide spread feeling that reform institutions that is Jails breed criminals. The All India Committee on Jail Reforms (1980-83 chaired by Justice A.N. Mulla, had observed a quarter of century ago that :

"Over-crowded prisons, prolonged detention of under trial prisoners, unsatisfactory living conditions, lack of treatment programs and allegations of an indifferent and even inhuman approach of prison staff have repeatedly attracted the attention of critics over the years"

7. While piecemeal efforts have been made to improve the living conditions of prisoners yet, the problem of overcrowding has not been solved even in the Capital of India. It is reported that the Tihar Jail in Delhi is over crowded to the extent of 300%. Another trend is that the rich and the resourceful manage to stay out on bail or in hospitals while the poorer undertrials constitute the bulk of inmates. The Parliamentary

Committee of the Ministry of Home Affairs in its 85th report which focused on legal delays noted that the undertrials constitute 73% of the jail population. It is pertinent to note that an undertrial cannot be subjected to correctional programmes. The Human Rights Commissions should pay attention to jails and mental asylums rather than chase individual relief matters.

8. Another explanation for weakening the public security fabric is sought in the criminalization of politics. With large number of persons with criminal background coming forward to contest elections it is natural that some of them will find their way to the Legislature and the Council of Ministers. Long back, Vohra Committee had also highlighted this phenomena. However, what is disturbing is that all concerned are developing some sought of cynicism towards the efforts at reform. One example is sufficient to illustrate this Justice M.S. Malimath Committee prepared a detailed questionnaire and sent it to 3164 persons/professional bodies enclosing a prepaid envelope to induce them to respond without any expenditure. Surprisingly, only 284 replies were received. Similarly, only 7 out of 35 State / UT Governments submitted their replies.

9. To a large extent this cynicism is well founded because in last 25 years the word reform has become synonymous with posts creation and multiplicity of agencies. Imagine the dilemma, despite all talk budgetary constraints the civil administration i.e. PSUs, regulatory bodies, Commissions/Task Forces and committees have multiplied. Similarly, the size of central police forces has increased manifold. In fact, BSF, CRPF, CISF, Assam Rifles, ITBP have grown beyond recognition. Still, reliance on Army has not been reduced in the North-East or Jammu and Kashmir.

10. The ugly shape of reforms can also be seen in Agencies like Central Vigilance Commission and the CBI. These two agencies are primarily responsible for anti corruption drive in addition to State Lok Ayukts and the Vigilance Bureaus. The number of Central Vigilance Commissioners has increased from 1 to 3 in the current decade.

Similarly, CBI has increased enormously in the last 25 years and, yet, it is openly acknowledged that corruption has increased substantially.

11. There is a growing emphasis on creating a new Central Agency to fight the terrorists. Creation of such an agency means sanctioning of new posts at various levels and construction of buildings. It is conveniently forgotten that in 1985-86 the National Security Guard was raised specially for such a role. Now the Force has been reduced to guarding Buta Singh and Mulayam Singh and the like. An anti terrorist wing was also created in CBI. This wing has handled most of the cases relating to Punjab. It continues to handle more important cases (e.g. Rajiv Gandhi assassination case). However, one needs to peruse an interesting book written by Jogender Singh titled "Inside CBI" to understand its misuse / ineptitude.

12. An important section of public opinion feels that POTA needs to be revived. Shri Kapil Sibal, the Union Minister has ably argued in a newspaper article that a new law was unnecessary. He recalls that conviction rate of POTA cases was very low. Consequently, he feels that a new law would serve no purpose in controlling terrorism. Here one is reminded about the demand made by civil society groups in North East for revoking the Armed Forces (Special Powers) Act -1958 as it has failed to eradicate insurgency. Shri Sibal needs to remember that the primary purpose of laws is to deter the wrong doers. That is the reason we are retaining laws like Prevention of Corruption Act, Suppression of Immoral Traffic Act even though corruption has not ended nor prostitution has ceased to be the oldest profession in the world.

Thus, it is necessary to have stringent laws and also the will to implement them. There is no need to re-employ couple of retired judges and officials by appointing another Committee. In any case, reports of Committees and Commissions, other than the pay Commission are scarcely implemented.

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