

MODERN POLICING FOR A MODERN INDIA

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FORUM
OF FREE ENTERPRISE

I

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by

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A good vibrant stable solid democracy must belong to the people and for this people need information and people need justice. They need easy remedies so that they can enforce their rights.

The big issue is of course that challenges of accessing justice are so large and so much needs repair and remedy that to do anything well needs focus. My focus today is police reform. Surely that will prompt someone to say but what about the Judiciary? I agree we cannot look just at policing if we want to right the whole system. But when the problem is as big as we have in our criminal justice system there is merit in breaking it up to focus on one area. Changes in that area - if it can be brought about - will create tensions in the status quo and have a knock on effect on other areas and hopefully the whole will change.

*The author is Executive Director, Commonwealth Human Rights Initiative, New Delhi. The text is based on a talk delivered in Mumbai on 30th January 2009 under the joint auspices of Forum of Free Enterprise, M.R. Pai Foundation, Action for Good Governance and Networking in India, BCAS Foundation, Mahiti Adhikar Manch. Public Concern for Governance Trust and Citizens Take Charge.

*"Democracy was born with man and
will last as long as man survives".*

- A. D. Shroff
1899-1965
Founder-President
Forum of Free Enterprise

Few human rights groups presently look at and seek to address whole systems but rather are justifiably concerned with individual human rights violations by police. We (Commonwealth Human Rights Initiative, CHRI) are trying to address the problem of violations through seeking to bring about systemic reforms, particularly in the context of developing countries and certainly in the context of India, which is the crucible of our work.

Police Reforms is really a vital issue and it is desperately needed. There can be little doubt about that. I won't rehearse all that is wrong but suffice it to say we don't deserve the police we have. The proof of this lies in the public's perception of the police as inefficient, untrustworthy and ineffective.

Today, even when the police do the right thing and even when their actions are credible there are few who will believe them. They are seen as the most corrupt agency by the Transparency International. Year after year after year, the National Human Rights Commission's statistics indicate that over 60%, 70%, even 80% of all the complaints they receive are against the police. All the Commissions that have looked into the police reforms say that even when they are trying to be effective 60% of all the arrests that they make are quite unnecessary. So much so that now the legislature has recently felt it necessary to pass a law about how and when the police can use their discretion to make an arrest.

If the public are getting a raw deal the police are too. They have their problems. Some systemic, others to do with

outsiders, but a great many brought upon themselves. They too easily allow themselves to be wrongfully used by their political masters and extend too many excuses for doing so. Their unwillingness to face this problem has meant that their operational efficiency has been badly mauled over the years and their chain of command has been broken and compromised by the unconscionable levels of political interference at every level of policing that has come into play. The service conditions their rank and file has to put up with are evidence of poor leadership. The lot of the majority is in desperate need of improvement. Improvements have to go beyond mere hardware and equipment. Attention needs to be paid to fair internal management, honest recruitment, providing soft skills, training and investigation skills and reasonable service conditions: they need specialization and most of all they need the confidence of the public they serve. This is something they are unable in their present situation to get.

But all these deficiencies and difficulties even when taken together cannot be an excuse for the way in which the police function today. I am not talking about large egregious violations that come easily to our minds. They are shocking, shameful and inexcusable it is true, but here I am talking about day to day performance. Surely we as free citizens of a democratic country, whose taxes pay for policing, can expect the police not to be an oppressive force but an essential service with our safety and security as its core function.

The greatest problem of policing today is not that they are unable to be effective in highly dramatic and sensational

circumstances like terrorist attacks. But that they are not everyday effective on the streets. They are not effective against petty or grave crimes or against individual criminals or organized gangs. They are baffled by the subtleties of white collar crime and don't easily accept that it is their duty to implement social legislation against the traditionally vulnerable groups like women, Dalits and children. They are certainly not effective in punishing their own. If they could do just that much, there would be a high level of trust in the police once again. There would be cooperation and respect from a population that badly wants to believe in the police but simply has no basis on which to do this at the moment.

Even as I am critical of the police I am not against them. They are after all an essential service and provide amazing examples of personal courage in the face of danger. In Mumbai their acts of personal bravery are deeply appreciated and will be remembered long after the recent incidents are forgotten. But frankly, I would rather see an ordinary, average, work-a-day human being working in the police doing a good job and going home to his wife and children than have to look at the coffins of dead heroes. Someone has to look after the public and someone has also to look after the police. That is the responsibility of the government. They are bound to take care of the police, equip them well and make them into an effective service and it is the duty of the public to insist that they get these services.

If there are problems in policing there are also cures. We cannot believe that a solution is impossible. If we did, we must accept that we need to disband the police and start

all over again. But in the absence of such radical surgery, over the decades the experts have indicated many practical ways to cure this institution.

To devise a cure we must begin with the question: what kind of a police we need in a democracy? What kind of police do we want?

Democratic countries need democratic policing. It is true that the colonials left behind a police that was structured for the colonies. But that was over 60 years ago. We cannot keep on pointing to the dead carcass of imperialism and keep saying we can do nothing to change it. If we are retaining an outmoded outdated structure it is because we are comfortable with it.

But there are many alternatives to our present way of policing. We seem to be ignoring them deliberately. For example, the common law countries with which we share a common legal heritage have worked to develop some of the best policing in the world. We need to look at the best and adapt it for ourselves.

In a democracy the first thing to recognize is that the police are not mere enforcers alone. They are upholders of the law. There is a difference. Enforcement has the connotation of unquestionable authority. It assumes all power to the police and no challenge to it; the notion of upholding the law adds the dimension that in doing their duty the police must also act always in accordance with the law, never be outside it and ever be answerable to it.

If the police are to be turned from being a force to becoming a service their functions must be restated to take account

of many things that today are taken for granted as basic Constitutional assumptions but which had no place in the colonial policing.

Colonial rule required that the government of the day own the police. The police had to be a force that could quell any rebelliousness in the population. So it had to be extremely hierarchical, over-disciplined and militaristic. White officers from within the power elite had to rule with an iron hand over less trusted 'coloureds' and finally native men, who were stereotyped as less intelligent and essentially untrustworthy occupied the bottom rungs with no hope of ever rising through the ranks to positions of responsibility. The primary function of the police was the maintenance of law and order; prevention and detection of crime was almost an adjunct function and intelligence gathering was prioritized as a means of keeping the rulers informed. This formula was suitable for a numerically small number of foreigners ruling over a vast heterogeneous population.

That model has no relevance today. Today we rule ourselves. Our leaders are our elected representatives. They, as well as ourselves, the people and the police, function under the Constitution. We are all equal to each other and equally bound by it. The role of the State, the police and the public and their relationship with each other is governed only by what is in the Constitution.

According to the Constitution we all have a duty to live by the rule of law. The State's primary duty is to protect life and liberty, ensure each citizen equal safety and security. As an arm of the State, the police has the duty not only to

protect our lives and our property but also to protect our liberties and ensure us an environment in which we can enjoy our freedoms optimally. This is the true function of the police in a democratic society. This is the only way of understanding what the legitimate role of police is in a democracy, defining its vision and designing the machinery that can fulfill that role. Once the vision is in place it will tell us what the police organizations, their structures, systems, and their functions should look like so that the vision is best implemented.

It is not as if we as a nation have never thought about these things. We have.

State commissions have repeatedly looked at how to remodel policing but stubbornly retained the 1861 Police Act as a template on which to model our present laws. In 1978, after the Emergency, we saw the police acting as prime functionary in the violations and the oppressions of those months. Serious consideration was given to reformulating policing and really good recommendations, relevant even today were produced - in 8 volumes- which examined policing from top to toe. Political considerations again raised its ugly head and nothing was done to implement the National Police Commission's recommendations. Similar State commissions set up from time to time suffered no better fate.

The decay and degeneration of policing was allowed to continue. It remained a fiefdom of whichever ruler was momentarily in power. Crime and uncertainty increased, distrust and civil disorder thrived, until there was and is no

power in the State to deal with extremism, militancy, violent fundamentalism, communalism, and other types of social unrest - call it what you will. Decades later prompted by concerned citizens and retired police officers who kept calling for attention to this fundamental area of governance the then Central Government set up more committees. Mr. J.F. Ribeiro, an ally of my work for a long time, was the head of one. Mr. K.Padhmanabiah was the head of another. Mr. Soli Sorabjee was head of yet another. There are even now other committees and sub-committees of the Police Mission looking at the same tired issues. A cursory examination of all of them shows their agreement on core issues and the similarity of recommendations, with some variations, can be the basis of serious informed public debate and sound beneficial changes.

In the meantime for over ten years, Mr. Prakash Singh, a retired police officer has been before the Supreme Court in a public interest litigation that basically asks that the sensible recommendations of the National Police Commission be implemented in order to improve the police's ability to do their job better.

Finally in 2006 the Supreme Court directed the Central and State governments to make six major changes that would - if taken together in the spirit of the judgment - tackle the major ills that plague policing today. Simply put, these ills relate to: ensuring the police are at arms length from illegitimate political interference, have professionalized internal systems of management based on transparent criteria, and are much more accountable.

The Court's orders include a fixed tenure for the head of the police and also indicate how he should be chosen. This is in order to introduce the notion of merit rather than patronage and a scheme to strengthen this most important office. Their directions also indicated the way other seniors should be appointed. To make sure that they were selected on a combination of merit and seniority the Court said that each state should have a State Security Commission.

The State Security Commission is a body that is made up of individuals who are independent. They can be experts, can be from the ruling party and most importantly must also have in it, the opposition. This is to ensure that policing is a bi-partisan subject outside the exclusive ruling party zone. Having an independent body with properly appointed people, that creates a panel from which the Chief Minister can choose his chief and which collectively with government and police lays down the overall policing policy for the state and its annual policing goals, makes policing a non-party organization whose unbiased character people can have faith in.

Those who resist the creation of a buffer body say that this amounts to interference with the functions of the elected representatives who have primary responsibility of providing safety and security and should therefore have a completely free hand in how they handle the police. This is a misreading of the intention of the Court, which by the way only reflects the arrangements which are in place in jurisdictions which have very well respected police services.

No police with all its powers to use authorized violence can be completely independent of all executive control. That would be wrong and was never the Court's intention. The responsibility of the political executive and the operational responsibility of the police are interlinked spheres. But the control and supervision of the police by the political executive has to be conditioned so that each one's powers and spheres of responsibility are specifically put down in a way that there is no room for ambivalence or overlap. The Legislations of Australia, New Zealand, Ireland, U.K., South Africa, all lay down clear spheres of responsibility for politicians, bureaucrats and police chief. This is the kind of effort we have to make. It is not enough for legislation to make general statements that leave wide discretions open. Today when something bad happens, we don't know whom to blame. Blame shifts. Accountability suffers and comes to rest on the most powerless. The Chief Minister shifts his problem on to the Home Minister; from there it will likely move to the Home Secretary and then through the police hierarchy. Indeed a very bad precedent has come up of blaming the constable or the mid level policeman and to insulate the Chief of Police from his responsibility. Few heads roll. No lessons are learned and the public remains as insecure and un-served as ever.

The new systems directed by the Supreme Court - and based on various earlier recommendations - is intended to make sure that every single police officer is working to the maximum of his ability to provide day to day security. Not just when, and only when unusual circumstances - like terrorist attacks or communal riots - happen. Good policing

is intended to protect every person everyday: the woman being teased on the street or assaulted at home, the worker going for night work without having to fear for safety or attacks on her person, the Dalit, the migrant, the stranger, the foreigner, the tourist, the minority, must all have a high and equal level of assurance that they can go about their business in an atmosphere of certain safety. This is not the case today and the outcomes are plain to see.

The Supreme Court also recognized that the police themselves were fearful and unhappy within their own hierarchies. It recognized that merit is not respected, that seniority goes by the board; that to accommodate discontent the government creates new posts, without specific and clearly defined mandates, until nobody is certain of what their jobs or their authorities are. No one would tolerate such fuzziness in the corporate world.

To curb ad hocism and patronage the Court has said that there must be established within the force a Police Establishment Board with four people from within the police including the Chief of Police on it, so that promotions are done in a transparent manner against laid down criteria without undue influence peddling and extraneous considerations seeping in.

In order to address the issue of too little police accountability for both everyday performance and serious violations and abuse of power the Court directed states and the Centre to set up Police Complaints Authorities at state and district levels. This is a body of civilians who may be experts or lay people but should be made up of a diverse group of credible

people from various segments of society. Its mandate is to examine complaints from the public against the police for a variety of criminal and disciplinary acts. Police Complaints Authorities can be recommendatory or binding.

Unfortunately, in its order the Court did not specify that these Complaint Authorities must be independent civilian authorities. Nowhere in the world do Police Complaint Authority's members include either serving or even retired police officers. Occasionally you may find one but you can be sure that people will criticize. But in the few states which have set up these Authorities there are inevitably policemen on it which means that you have created nothing. Simple logic indicates that the police have their own independent internal machinery for correcting the police and the new Authorities were intended as outside oversight bodies. This additional level of oversight was necessary because internal mechanisms do not at all function or function very badly or function only to correct small and minimal disciplinary proceedings. They also function behind closed doors and do nothing to persuade the public that there is real accountability for police misbehaviour.

The Police Complaints Authorities presently set up are nascent. They are not fully provisioned and are hardly known. Their design is faulty and their powers weak. Any impact may take a long time to discern.

Has the Supreme Court's scheme for all round improvement in policing been embraced with respect that must be accorded to the Apex Court? The answer is no. It is now

nearly three years since that September 2006 ruling and everywhere there is resistance to bringing about beneficial changes. To get out from under the Supreme Court's orders some states have legislated pretending to obey the Court's orders but in reality subverting and diluting them so they will have little corrective value. Some States have taken the opportunity to introduce retrograde legislation that leaves the 1861 colonial model behind in its unsuitability. Other states have protested the Court's orders and sought a review. The Court has refused to countenance this.

The Centre, which could have provided a reformatory model for others to follow has instead been completely disobedient to the Court's orders and done nothing toward obeying them. In exasperation the Court has set up a monitoring committee under Justice K.T. Thomas, a former Supreme Court Judge. Along with two others he is to monitor what each state is doing and to report back to the Supreme Court.

We at CHRI have analysed the compliance of every state's behaviour up to the present and provide the Committee with briefs on the state that is under review. The Committee which has a two year mandate will present its interim findings to the Court in July or so.

While the matter meanders through the courts and the bureaucracy, hits hurdles and takes steps backwards, forward and sideways toward any discernable progress, time is flying and with it people's discontent with policing. As well, the police are continuing their deterioration through deliberate neglect.

A few days ago I read a report on torture in India. And I thought I was reading a current report when I found that it was dated 1903. We have to recognize that we have had the opportunity in Independent India to do something but we have never done it. It is my view that nothing will change or gather speed unless there is a public groundswell for reform. This in turn will not happen unless there is knowledge about what reform means and how it can be achieved. At the moment there is silence.

It is particularly striking in Maharashtra where the recent bombings of the train, the station and the hotels should have spurred people to ask for reformed policing and question what has been done to improve it. Queries to the Maharashtra Government indicate that, at date, there has been neither compliance with the Supreme Court's orders nor any moves to change things outside of that. The furthest the Government has gone is to have internal resolutions saying that they will set up a Security State Commission and all the three bodies that the Supreme Court has asked for.

Several people have gone to the Bombay High Court in public interest litigation. The judiciary has set up what is known as the State Security Council under Justice Shri Krishna. But that is a Council set up by the Court and has nothing to do with what the Supreme Court has said. In the meantime the Maharashtra State has set up a State Council on its own. It has over 60 people on it from different walks of life. At present one meeting has been held. The ungainly number and broadly worded terms and conditions do not

hold out the hope of developing concrete steps towards ensuring better safety and security for the Mumbaikar.

It is important to understand where the resistance to reform is coming from so that one can counter it. First the resistance comes from politicians. They do not want their unfettered control over the police to be curbed but want to retain their present ability of using them for narrow political ends and to intimidate enemies and stifle dissent. To my mind this is a short sighted view and does not in the end benefit politicians. Increasingly as each government changes, the ones in power level the most horrendous charges of rape, murder, corruption, against the opposition. When their five years are up the process reverses itself with the obliging police now doing the bidding of another set in power. The upshot is that the criminal justice process has become a locus for political bargaining and not for the delivery of justice.

Then there is resistance from within the police themselves. They want better conditions, less interference, perhaps, but they don't want accountability and many are simply comfortable with the present system of patronage, unevaluated performance and unchecked power.

There is also resistance from the bureaucracy. There has been a traditional rivalry between IAS and IPS and an increasing inter-service tension which sees any improvement as a gain for one service that will threaten present power structures by removing the police from the clutches of the bureaucracy. So, maintaining the status quo becomes a goal in itself.

I must immediately add here that this analysis is a broad brush and does not take into account those voices from within each system of government that do want change and will argue for it. It is just that the space for this is limited and the voices still muted.

Finally there is ambivalence within the public itself. Everyone wants better policing but differ on what that may mean. Some want a police that will in all circumstances uphold the law, provide a service and enhance the environment in which we can realize our human rights. But there are many others who are quite content with the way the police is because there are favours to be bought, influence to be pedalled and also because many of us - within the middle class particularly - like the notion of 'tough policing' 'Tough policing' is usually a nice way of saying there is a willingness to go along with illegal policing if it eases the way and so long as it does not impact on you yourself in a negative way.

My talk today is intended to be a call to action. Mumbaikars deserve a better police than they have at present. They deserve that the government acts to ensure future safety and security even if it could not provide it earlier. Their efforts and actions have to go beyond merely giving police arms and ammunition but insisting that underlying systems change and be responsive to the public's needs and rights. I am not sure we have evidence of that intention today.

II

MODERN POLICING FOR A MODERN INDIA

by

Julio Ribeiro, IPS (Retd.)*

Maja Daruwala has made an important point that we require the support of the citizens to carry our demands forward because even going to the Supreme Court and the Supreme Court issuing orders, nothing really drastic has happened and the police force continues to function in the same manner as it was functioning yesterday or day before, even after 26/11. (On 26th November 2008 terrorists struck *Mumbai* killing hundreds.)

26/11 was a watershed, everybody got together, particularly the middle class which normally does not bother too much about such matters because they have direct pipelines and connections with the big bureaucrats and the politicians and they can get their work done. And this was a watershed because even young people got worked up and one of the

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things that was talked about was about police reforms. And nobody really understands what it means. Most of the Mumbaiers were talking about the equipment, about the weapons. The police said they didn't have good weapons. Well I can tell you that with good weapons I do not know whom they would have shot, perhaps they would have shot each other or lots of people who were standing around watching. When I was in Punjab and they used to make their demands that we also require AK 47 I pointed out to them that AK 47 is an area weapon. It does not shoot straight at an individual - it shoots all round in an arc of fire and innocent people could get killed. In a battle situation it is fine because you get into a battle and you do not mind which of the enemy is shot. But here you don't really need AK 47, what you require here is some training - you keep on firing and shooting and ensuring that you shoot straight and which unfortunately they did not do because they had not fired for years. It is not their fault, it is not the fault of the policemen at all. They were on duty every day and had no time for training.

There is so much duty. People talk about their 15 hrs. duty, 16 hrs. duty. Sixteen hours for me is a little exaggerated. Certainly it goes above 12 because 12 hours is the time shown on the books and beyond that the time taken for travel. So this problem about their hours of duty, about their personal involvements, about the education of their children, about their housing which is so awful, all that has to be looked into by their own seniors, their own leaders. Of course the seniors have to go to the Government for money because the Government has to open the purse.

But all that is not police reforms we are talking about. We are talking about something quite different. So when different citizen organizations came together after 26/11, they took up three matters. One, police reforms; Two, about getting the middle class registered as voters, coming out to vote because then they can get rid of the people who should not be in the municipalities and assemblies and Lok Sabha. Otherwise they will come back again and make laws for us, the same laws which they break! It suits them to make laws which they want people to break for reasons which are quite obvious; and Three, disaster management because we expect localities to get organized to look after their own needs. If there is a disaster in your own area, please get involved. If it is a big disaster like 26/11 then of course it will require a little more work. But then if you are organized with small disasters you will get acclimatised to a bigger one. So these are the three areas in which we citizens intend to work on. The one that is important is police reforms and now I will explain what exactly we mean by police reforms.

What exactly the citizens should know about police reforms and how they can get involved? I agree that every citizen cannot get personally involved, but they can lend their support with their signatures if they know what they are fighting for. Whenever we go and meet the Ministers, whenever we write to them, if we know their support is behind us and the Ministers know that your support is behind us then they take notice. They do not take notice if they think that it is not going to affect their electoral chances but if they know that it is going to affect, then they will take notice. This is what we appeal to you.

But before you lend your support I suppose you should also know what we are fighting for. Now it's a very very simple proposition.

Any organization, whether it is public, private, particularly an organization like the Army, requires good leaders. Without a good leader, the men are not going to perform. We require good leaders. This is a proposition for any organization. But do we have good leaders in the Government? In the bureaucracy, in the police, in the different branches of Government? If we do not have them, then please tell us why? Is it that we do not have competent people? We have them, there are very good people; people of integrity, we have people of competence, we have people committed to service - because you have IAS, IPS. It is service. We have to serve the people. There are people who are committed, I can give you names but are they the ones who are chosen? Why are they not chosen. Now this is the problem that we have to tackle. We have to insist on the people who choose - that we want good leaders. We are not saying give us this leader or that leader but we want good leaders. We do not want corrupt leaders because if you have a corrupt man at the top of the police or as Chief Secretary, just imagine what the people down below are going to be. There's going to be havoc and which has happened before and it is happening even at times whenever there are bad leaders. We don't want corrupt people. The Government has the authority to eliminate these sort of persons. After 20 years service, at the age of 50, at the age of 55, the Government is empowered to pension them - have they done it? They have never done it.

So one is good leadership and the best should come up in the range of consideration. Please ensure that nobody who is corrupt or incompetent gets into the zone of consideration. Now, after having chosen the leader, give him operational independence. You know this is sort of being misconstrued by vested interests. They say "how can we give independence to the police? No police force in the world can be independent. It has to be accountable. I agree that the politicians in the Assemblies have been elected by the people. And there is a Minister in charge. Fair enough. Be responsible to him. Report to him. But I can tell you the difference between the time when I joined service in 1953 and what is happening today. I know that the politicians in those days were a different breed. They really bothered about the people. This doesn't happen today. In fact there is a partnership between corrupt politicians and corrupt bureaucrats and police officers. There is a partnership. And that partnership is to our disadvantage. We don't want that to happen. Hence, police reform - good leaders to be chosen and given operational independence. We can put the pressure for that to happen.

What is operational independence? From the rank of Deputy Superintendent of Police downwards to a constable, don't interfere in their postings, transfers, punishments. That is the job of the leader. If you interfere, nobody will bother about the leaders. This is what is happening today. Because even a constable has a pipeline to some politician or the other and having that pipeline, he ensures that he can do anything he likes and get off!

The other day, I went to court in a PIL. One Minister, was reinstating in service officers who had been dismissed for crimes. The man was doing it as a regular business. When we came to know about it, I went to court and asked how this is happening? And that the public has been taken for a ride by the reinstatement of such corrupt officers who have been dismissed. And the court had a look at my application and they made the Government reverse the orders and I won the case. So I hope that we are always vigilant in such matters. But this should not happen. They should not have the powers to do it. That is what we are saying, that the powers of administering a force, running the subordinate level, ensuring that the subordinates look up only to their own leaders, not to somebody outside their hierarchy - that is the reform that we want to bring in.

We don't say that there are officers who don't play mischief themselves. There are. Unfortunately the value systems have changed. There are many officers in the IAS, IPS who are corrupt. These services were meant to ensure that the subordinate level did not trouble the people - that they did justice to the people. Unfortunately this is not happening because some of the officers themselves are interested in lining their own pockets. So here I say, ensure that such officers do not come up the line. Encourage only officers who are honest and are fit and who are really wanting to serve the people. We want good service because it is our right. It is our right to have service. It is the service that the Govt. has to give us and if they don't give that service, we are going to object and we are going to fight. We want all to come up and join us in this fight. We will write the letters, we will go and meet the Ministers, we will pursue the matter but if we know that all are behind us, it is so much easier.

Another important aspect of police reform besides the operational independence of the leadership (of good leadership) is the separation of the Investigation Part from the Law and Order part. The political leadership will always have its say in the Law and Order part. The policy will be laid down by them. But what policy has to be laid down for investigation of a crime? If somebody commits a crime, he or she has to be brought to book under the law. Why is it not happening? You are disregarding law, you are allowing the law to be sent for a six. This is not something that we are going to accept. You have to enforce the law. Somebody commits an offence, he has to be taken to task. If you don't do it, we will go to court. And we will agitate these matters in court. And it is being agitated. So we demand the separation of the investigation arm so that the investigation arm is not under political control. Under the Bombay Police Act, the supervision of the police is with the Government. What does this mean? Does it mean that the Government should say who should be arrested and who should be released? It is not. It is the law that the man who commits an offence should be prosecuted. We can't let that person go. So this is why things are going out of control and all are taking law in their hands. The rule of law is not enforced, what is the Government meant for then? What is the police meant for? To enforce the rule of law. If they don't enforce the rule of law, they are not doing their work and we are not going to accept it. That should be our stand.

Finally, as Maja Daruwala has mentioned the Police Commission had seen this coming. The Police Commission

was appointed with Dharma Vira, an ICS Officer, a very wise and sage man, to head it. The Commission had seen this politicization coming. That the police force was being more and more politicized by the misuse of the power of appointments and transfers. It is that power that is misused the most. So they said, let us recommend that there should be a Security Commission made up of five or seven people with the leader of opposition also involved and that there should be a transparent method of appointing the top boss, the Chief of the Police, and he should be given operational independence. No interference in transfers, promotions and things like that. There would be a Police Establishment Board and there would also be a tenure for the Chief so that he does not have to look behind his shoulders to see that he pleases the political establishment. He doesn't have to please them. He has to serve the people. He has to serve us. That is what we are here for. These are the main recommendations of the Police Commission.

There are checks and balances. The police has to be accountable, not only to the law but to the people, and to the elected representatives. The Security Commission has the power to see that the person who has become corrupt or inefficient or just not doing the job that he is supposed to do. The professionals have to be given a chance to run the force professionally. And only when they run it professionally, then it becomes effective. So this is what the people expect and the people's expectations have to be fulfilled.

The views expressed in this booklet are not necessarily those of the Forum of Free Enterprise

"People must come to accept private enterprise not as a necessary evil, but as an affirmative good":

- Eugene Black

FORUM

of Free Enterprise

The Forum of Free Enterprise is a non-political and non-partisan organisation started in 1956, to educate public opinion in India on free enterprise and its close relationship with the democratic way of life. The Forum seeks to stimulate public thinking on vital economic problems of the day through booklets, meetings, and other means as befit a democratic society.

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Published by S. S. Bhandare for the Forum of Free Enterprise, Peninsula House, 2nd Floor, 235, Dr. D. N. Road, Mumbai 400001, and Printed by S. V. Lirnaye at India Printing Works, India Printing House, 42 G. D. Ambekar Marg, Wadala, Mumbai 400 031.

5/June/2009