

BEYOND POLICE REFORM

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Whenever there is a crime wave or a mishandling of any situation by the police, which is not very infrequent, a public debate on police reforms invariably assumes centre stage. Ever since the constitution of the National Police Commission about 40 years ago, we have been talking of police reforms but the situation on the ground defies change. Even the directives following the September 2006 detailed order of the Supreme Court have been processed with great reluctance. In fact, in the larger public interest, an enthusiastic implementation of these directives would have been desirable.

Today, the media is replete with stories of the brazen manner in which some heinous crimes have been committed, indicating scant respect for the law. That cases of molestation and rape showing an upward trend, even after the Supreme Court judgment of the December 2012 Delhi gangrape, is a clear indication of the fact that a harsher punishment in the statute book does not offer much deterrence. Criminals continue to shock society with their daring. On the other hand, the common man expects to secure speedy and inexpensive justice. It is precisely because of this that we ought to start focusing on the urgent need for reforms in the criminal justice system.

In our legal system, more or less every action of the police has to come under judicial scrutiny. This is also a basic requirement specified in all the state police rules. Since the police is a vital part of our criminal justice system, it is necessary to institute a wider spectrum of reforms rather than focusing simply on police reforms. In fact, the National Police Commission, in one of its reports, had made a specific suggestion for the constitution of a criminal justice review commission.

As may be observed, the thrust of the existing directives of the Supreme Court is limited to postings, transfers, personnel, policies, the creation of security commissions at the state and the national levels, the separation of investigation from law and order, and, the constitution of a police complaints authority at various levels. A closer look at all these recommendations reveals that none of them would be able to address the expectations of the general public for a speedy and inexpensive justice delivery system. As such, these reforms can be taken to be only the first step towards the larger goal of reforming the entire criminal justice system.

A number of glaring malpractices, including the one of fake encounters, are clear manifestations of the lack of confidence in the existing system, even at the level of senior police functionaries themselves. Separation of investigation from law and order can be very fruitful, provided the basic police procedures are also revised. Something which the common man is arguably the most concerned about is the delinking of arrestability from the cognizability of an offence. To some extent, this should take care of a large number of cases where the facts are deliberately stretched to make a non-cognizable offence into a cognizable one. There are several other police procedures of investigation including recording of statements, confessions, etc which have now become outdated, considering that they were codified in 1898. The Code of Criminal Procedure was indeed amended in 1973, but the police procedures did not undergo much change. In order to ensure greater accountability, for example, the refusal to register a complaint regarding the commission of a crime can be made a punishable offence for the police.

In the courts, the trial procedures need to be simplified. The separate nature of the burden of proof required for crimes against the human body and property or social welfare-related offences

needs to be recognised. The same goes for economic crimes and cyber crimes besides terrorism-related offences.

Over the years, the technology and modus of crimes have changed, and, society too has moved on, raising the expectations of the public — befitting the progress of a modern nation. The time is now ripe to look beyond the Supreme Court's recommended police reforms and fashion out-of-the-box remedies, and an early review of the entire criminal justice system.

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