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CORRUPTION IN POLICE
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The Criminal Justice System (CJS) may not have become less effective had effective steps been taken to stem the rot of corruption in the police set up. Any study of CJS cannot be complete without a mention of this hydra-headed monster which has rendered the police a heavy blow. Legal and administration reforms are needed to reduce the incidence of corruption in the police so that the CJS can deliver.

Criminalisation of politics has resulted in the increase of corruption in the police. Political instability where governments survive by slender majesties and are heavily dependent on a few legislators creates ample ground where corrupt policemen can make hay. Corruption can exist only if there is someone willing to be corrupt and capable of corrupting. It is regrettable that both this willingness and capacity to corrupt is found in ample measure in the policing realm. Corrupt policemen have become an inalienable part of the nexus between all the players of this social drama.

The NPC has dealt on this vital topic and has recommended changes in both the legal and administrative spheres. They are reported below:

Several administrative and legal measures for plugging the loopholes and securing better supervision over police performance for the avoidance of corruption and allied malpractices have been recommended to the States following the Conference of Inspectors General of Police and the Head of State Anti-Corruption Bureaux. Most of these malpractices can be substantially reduced by a system of surprise checks and inspections and effective supervision by honest and well-motivated officers at different levels of command within the hierarchy itself. However, the reward and punishment mechanism of the system has become totally ineffective because of increasing political interference and, therefore the senior officers, however, determined and committed they might be to the cause of anti-corruption work, find themselves unable to deal with some
corrupt officers who have political contacts and are able to draw political intervention on their behalf whenever anything is attempted to be done to discipline them. The patent inability of a superior officer to deal with a known corrupt subordinate immediately lower his prestige in the department and induces other subordinates also to seek and develop political contacts as a protective cover to escape punishment for their malpractices. We earnestly believe and trust that the implementation of the measures suggested in chapter XV of our Second Report to insulate the police system from political interference would go a large way in promoting an appropriate climate for effectively dealing with the problem of corruption in police.

The basic responsibility for maintaining the honesty of the force and weeding out the corrupt elements should rest on the supervisory levels in the force and they should be enabled to discharge this responsibility effectively. In this context, their capacity to punish the dishonest personnel should not be diluted in any manner, and likewise their capacity to place honest officers in important and sensitive posts should not also be interfered with.

To secure honesty and integrity for the system as a whole it is important that the postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police and likewise the Chief of Police should have the inclusive responsibility for selecting and posting Superintendents of Police in charge of districts.

The provisions in the service rules for compulsory retirement after completion of 20 years of service should be resorted to without hesitation to weed out officers with corrupt reputation. Evidence regarding this reputation should be assessed by a suitably constituted high level committee in the police headquarters whose satisfaction on the adequacy of material for this purpose should be held final and acted upon. A senior representative from the State Judiciary or the Law Department of the State may be associated with this high level committee to ensure objective assessment of the available
material. This committee should function as a Standing Committee and go through this exercise every year without fail. In the case of compulsory retirement ordered on an assessment report from this Committee an appeal may lie to the Government except in cases where the compulsory retirement has been ordered by the Government itself when the appeal shall lie to the State Security commission envisaged in our Second Report. There shall be only one appeal and the matter shall be deemed closed after the disposal of that appeal. It would be desirable to lay down a time limit of three months for the disposal of such appeals.

In extreme cases where the stipulated minimum number of years of service may not have been crossed, action for weeding out corrupt officers should be taken by availing the provisions of Article 311(2) (c) of the Constitution. To avoid any doubt regarding the legal propriety of such action under this Article, we would recommend that sub-clause (c) of the proviso to this Article may be amended to read as under: -

"(c) Where the President or the Government, as the case may be, is satisfied that in the interest of the security of the State or the maintenance of integrity in public services in the State it is not expedient to hold such an inquiry."

There should be constant interaction and exchange of intelligence between the Chief of Police and the Head of the State Anti-Corruption Bureau to identify officers of doubtful integrity and plan conjoint action for collection of intelligence to expose their corruption. For this purpose the Chief of Police should freely use his powers under the Conduct Rules to demand from a suspect officer a complete statement of his assets, movable and immovable either owned in his name or in the name of any member of his family, either acquired from his own resources or from the resources of his family members.

The Conduct Rules applicable to the State police personnel in different ranks may be suitably amended to incorporate a provision on the lines of Rules 16(5) of the All India Service (Conduct) Rules, where it does not exist.
It is most important that the highest standards of rectitude and straightforward dealings are maintained at the stage of recruitment and training. Personnel for manning these branches in the police should be specially selected with reference to their record of honesty, integrity and commitment to genuine police work, and enabled and encouraged to function without interference.

Procedures for recruitment to any level in the police (other than the Indian Police Service, regarding which our recommendations will be made separately) should be evolved within the police system itself without involving non-officials or functionaries outside the police department.

While assessing the qualities of supervisory officers at various levels, the positive action taken by the officer to detect the corrupt elements under his charge and deal with them effectively should be specifically commented upon. A new column with an appropriate heading should be included for this purpose in the Annual Confidential Report.

The present arrangement of recording the integrity certificate in the Annual Confidential Report may be revised to give the reporting officer three options; one will be to record a positive certificate of integrity if he is convinced that the reported officer enjoys a good reputation and has performed his work with honesty and rectitude, the second will be to say that he has no material to express a precise opinion on the reported officer's integrity at the stage, and the third will be to say specifically that the reported officer lacks integrity, if the reporting officer becomes aware of any material to suspect the former's integrity.

If annual entries regarding an officer's integrity are recorded in the manner suggested above, there will be no need to obtain a special certificate of integrity at the time of an officer's promotion if he has a consistently good record with positive entries of integrity to this credit. But in cases where the entries do not disclose a precise assessment of integrity, a special certificate of integrity should be called for from the officer who is designated as reviewing officer for the purpose of his annual confidential report, and in
the case of officers of the rank of Inspector of Police and above an additional certificate of integrity should be obtained from the Head of the State Anti-Corruption Bureau. In line with the procedure we have earlier recommended for the appointment of the Chief of Police in a State we suggest that the posting of the Head of the State Anti-Corruption bureau should be from a panel of I.P.S. officers of that State cadre prepared by a committee of which the Central Vigilance Commissioner will be the Chairman and the Secretary in the Department of Personnel and Administrative Reforms at the Centre, the Head of the Central Bureau of Investigation, the State Vigilance Commissioner (or in his absence the Chief Secretary of the State) and the existing Head of the State Anti-Corruptions Bureau will be members. Posting of the other staff for the Bureau should be left to the Head of the Bureau.

The tempo of anti-corruption work within the department will largely depend on the initiative and seriousness of purpose shown by the senior officers. If their conduct in day-to-day administration and the manner in which they treat and move with known corrupting elements in society do not inspire confidence among the subordinates from the angle of integrity, it will be very difficult to sustain effective anti-corruption work in their charge. Senior officers whose time is mostly taken up in the management of their own private business in the shape of farms or other property to the prejudice of their regular official duties can hardly inspire and enthuse the subordinate officers to remain straight and honest in all their dealings. We would, therefore, like to underline the special responsibility of the senior cadres in police in function effectively as champions of integrity and cleanliness in all that they do.

Several policemen are under an erroneous impression that an arrest is mandatory under the law while investigating a cognizable case. A sample study has disclosed that a major portion of arrests made by the police is really not justified from the point of view of crime prevention. There is a clear case for reducing the number of arrests in police work. This will also reduce the scope the scope for allied corruption.
Sections 2(c) and 2(1) and 2(1) Cr. P.C. should be amended to remove the emphasis on arrest in the definition of cognizable and non-cognizable offences.

Section 170 Cr. P.C. may be amended to remove the impression that it is mandatory to make an arrest in non-bailable cases. In the amended form as recommended in the report, the section would also provide for taking security from an accused for appearance before the investigating officer or the court, without a formal arrest as such.

Guidelines may be laid down for making arrests as indicated in the report. Departmental instructions may insist that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby, clarifying his conformity to the specified guidelines.

We endorse the recommendations in the 78th Report of the Law Commission regarding release on bail.

While on one hand the suggested amendments in law would secure release on bail for a larger number of persons than at present, we are anxious that it should not on the other hand enable hardened criminals to escape restraint on their movements which may be very necessary in the context of certain situations. We are aware of many instances in several States in which hardened professional criminals after getting released on bail in a case under investigation or trial had committed further offences while on bail, and again got released on bail after the second arrest! To provide for such cases we recommend that the following proviso be added under sub-section (3) of section 437 Cr. P.C.

"Provided that before ordering the release on bail of such person, the Court shall have due regard to –

(a) The likely effect on public order and public peace by the release of such person, and

(b) His conduct after release on bail on a previous occasion, if any.

as may be brought to the notice of the Court by the police officer investigating the case in connection with which the aforesaid person was taken into custody."
Guidelines may be issued for the use of handcuffs on arrested persons, on the lines in located in the report.

Police stations may be provided with adequate imprest amount to meet a variety of contingent expenditure in day-to-day work. It is very important to remove this deficiency in police stations since it compels even honest officers to wink at certain malpractices by their subordinate officers which in turn breed downright corruption for personal gain.

Apart from the administrative measures, the reforms in Cr.P.C. that have been suggested are of major importance. Removal of the emphasis on arrest by appropriate amendment in the Cr.P.C. can limit the charges and scope of corruption in the police. The police also need to release the accused on bail in bailable cases from the police station. These measures will also improve the general image of police amongst the population. Improving the living and working conditions of the police personnel will have a salutary effect on the level of venality in the department. The practice of rewarding officers of integrity and punishing the corrupt has been given the go by. This has to be brought back and implemented with rigor, if we are to control this menace.