POWERS AND FUNCTIONS OF THE POLICE

Police discretion in the enforcement of law is, to borrow a current phrase, an oxymoron if we accept Jerome Hall’s depiction of the police officer as “the living embodiment of democratic law”. After all, the functions of a police officer is to enforce the law equally for all, no more and no less. This in actual practice is a rather naive view. In our country the law enforcement function of a police officer, high and low, is relatively structured, that is defined by statutes. Police standing orders, administrative directions of Government and Court decisions, giving seemingly little room for professional autonomy. Our Constitution has also added a fresh dimension to the traditional control over police discretion, viewing it in the words of the Supreme Court (SC) as an anathema.\(^1\) The rule of law and rule by men, certainly not policemen, is our social order.

While this is the abstract statement of the law, the use of discretion in actual practice is a sine qua non of the job, discretion increasing paradoxically as one moves down the ladder, however much we may deny it officially. A Station House Officer, to take one functionary, no doubt a very important functionary, has discretion almost as vast or even more than Magistrate and this being at the cutting edge level, has significant implications in assessing police role in the enforcement of law. Exercise of discretion is different from discriminatory action.

To the modern mind, the word ‘police’ connotes a body of civil officers organised with prevention and detection of crimes and public disorders authority to maintain order and enforce law.\(^2\) In this sense the word is usually construed as plural. While this popular usage is substantially correct, it fails to popular usage it substantially correct, it fails to recognise the additional and sometimes burden some regulatory duties which police discharge. The historical setting of police has a special value in this connection and it is worthy of note that in its early definitions, and also at various later stages of governmental development, the term has been employed to describe certain
aspects of the control of sanitation or the suppression of political offenses, and has been expended to cover practically all terms of public regulation and domestic order. While it is now primarily used with reference to the maintenance of the peace and the protection of persons and property from the commission of unlawful acts, the police function as customarily administered is somewhat broader in its scope.

Thus, as practically all types of licensed callings, the police are often charged with the preliminary, inspection of premises and with investigations into the personal characters of licensees, and are sometimes required to make periodic reports to the licensing authorities concerning the manner in which the various licensed activities are conducted. When police perform such duties with reference to the licensing of private police and watchman, operators of vehicles plying for hire, storage and cartage of explosives or other inherently dangerous substances, or the sale and possession of firearms, they operate within a fairly well-defined police sphere. They also act to prevent conditions, threatening the public safety or morals including traffic regulation, the maintenance of fine lines at the scene of a conflagration, and in some instances the exercise of certain limited powers of public censorship. This last causes police great difficulty because the public taste does not accept any single standard of decency, and the exceedingly wide range of entertainments and publications which must be regulated lies far beyond the cultural horizons of any bureaucracy that has yet been established. It is also an increasingly common practice for the police to extend emergency relief to distribute during those hours when social welfare stations are not open to applicants.

These are various related duties less frequently exercised may be held to have a certain bearing upon the protective functions of police, but when the same theory is extended so as to include the inspection of elevators or buildings used as place of public assembly, it may fairly be questioned whether there are not some limits to its application. For soon or late the list of such duties becomes so lengthy and their
performance so absorbing that the police force is literally dispersed and cannot be marshaled for any but the most urgent services relative to crime repression.

Such varied activities hold still further implications. When organized society sets up a police force, it is from motives of self discipline. The civil enforcement body thus created must be clothed with broad powers and entrusted with the means of irritating restrictions upon the complete freedom of action of those who consider themselves to be law-building citizens. Under even the most favourable circumstances, there are many possible points of conflict between the public at large and its servants, the police. If the latter do not employ unduly harsh measures, and are moderately successful in the repression, detection, and investigation of offenses which were crimes at common law, they are generally accepted as the guardians of law and order and may win a measure of popular support.

Hence, the people of the police function is a question of the magnitude. It not only affects the routine functioning of the force, but also profoundly influences that close adjustment of the police machine to the popular will without which no police body can ever succeed.

The police is charged with certain responsibilities including Prevention, Detection, Investigation and Prosecution of the wrong doers, who violate law. The police is expected to differentiate between the aggrieved the aggressor and they supposed to safeguard the interests and constitutional rights of the oppressed. By their performance the police must repose confidence among the members of the public and seek their whole hearted cooperation to curb the activities of criminals for maintenance of law and order.

The police approach should be corrective and the officers must function within the framework of law. It is the duty of the police to pinpoint the criminals after proper investigation and produce them before the courts. The policemen are forbidden by law to punish the criminals on their own as they have no legal authority as such which is the
responsibility of the judiciary. The police are supposed to function within the limits of law to deal with the criminals and anti-social elements who have scant respect for law.

The police, according to the general impression of the public, has still to earn goodwill and confidence of the public whom they are supposed to serve. Discourteous and though behaviour at the police stations non-registration of cases, illegal actions, implication of innocent persons in false cases, use of third degree methods, illegal detentions resorted to by police, corruption and nepotism, excessive use of force in dealing with various strikes, labour trouble, student unrest to unjustified lathi charge or firing, extensive violation of human rights by policemen at times at the instance of vested interests, are factors which lower the police image in public estimation.

Misuse of powers due to political interference results to failure of the police in the performance of their lawful duties. The Constitution of India has provided to every person equality before law. Article 14 of the Constitution says “the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”.

It is the honest application of law, impartiality, efficiency that counts for building up the police image. The police officers irrespective of their ranks, must treat every member of the public visiting police stations with courtesy. The concept of the ‘Rule of law’ as enshrined in the Constitution of India requires that police should act only as custodians of the law and not as agents of the Government. No doubt they are date bound to remain loyal to the government in power but they are supposed to act within the framework of the law.

Law enforcement service is not only difficult but also unpleasant. Because of the very nature of duties, the police cannot be as popular as any other service, but nonetheless, if the police officers perform their duties efficiently, impartially, objectively, fairly and with devotion and dedication to the principles of justice, they can certainly overcome their difficulties.
The police service is, by no means a bed of roses, but still it is undoubtedly as honourable profession. The policemen, if they are straight and firm in the discharge of duties by way of their character, individuality and personality would certainly be able to overcome the odds against them. Perseverance, steadfastness and self-confidence is the honest accomplishment of their task shall certainly bring them laurels. The policemen by their conduct and impartiality can withstand the pressure. The top brass must give full protection and extend support to such officers, which would not only encourage other officers to function impartially but also raise the morale of the force.

Efficiently of senior police officers lies in the leadership they can provide to their subordinates. Sometimes the administrators at various levels find themselves beset with influences and are in a predicament to take a decision. Their firmness should never yield to pressures at any cost. They may suffer for a short whole but they are going to win in the long run and uphold the morale of the force.

When one reads the discretionary powers vested with the police, it cannot be gainsaid that discretion is a must and it should be exercised judiciously for the overall welfare of society, and that the power to exercise discretion should not be construed by the policemen as power to act in an arbitrary manner.

A police officer derives his fundamental powers from the Police Act (1861), the Criminal Procedure Code (1898), Indian Penal Code (1860), Indian Evidence Act (1872) and various state police acts such as the Prevention of Corruption Act (1986) the Prohibition Act (1968) etc. The code is important for it reflects the injunction of law making the police answerable and accountable to a court in its law enforcement work and circumscribes any tendency to exceed exercise of what is commonly referred to as ‘police powers’ degenerating into unbridled arbitrary action.

This position was admirably stated by Sri Robert Mark in his (1973) Dimbleby lecture when he said, “power is an emotive word particularly in relation to the police. It suggests a right to punish at will free from effective control. It actual fact, of course we have no such power .... The fact that the British Police are answerable to the law
and that they act on behalf of the community makes them the least powerful, the most accountable and therefore the most acceptable police in the world.\textsuperscript{5} That of course is an ideal, and like all ideals, it is partly myth and partly fact. But in a way it sums up the discretionary jurisdiction, though there are some distinctions between the British Police and the Indian Police, the most important being that it is centralised here and under the control and mantle of the government while our English brethren have no such inhibition. That of course does not seriously affect the operation of discretion in the enforcement of law, though policemen and the public often-times canvass it as an alibi to serves their own purpose.

The duties of the police are said down in Section 23 of the Police Act 1861, and in Chapters IV to XIV of the Criminal Procedure Code (Cr.P.C) of 1898.\textsuperscript{6} It shall be the duty to every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate, intelligence affecting public peace; to prevent commission of offenses and public nuisances; to detect and being offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient grounds exist; to investigate cognizable laws and send up offenders to competent courts for trial; and to maintain public order in streets, through fares and other public places.

The duties of the police have multiplied in the recent years. Many non-police duties are entrusted to them e.g., Registration of Births and Deaths; submission of statistics and reports about epidemics; crops and weather; census of human beings and live stock; service of summons, execution of warrants and other processes in non police cases; enforcement of the various acts which have very little to do with the police. It is also noticed that the number of petitions send by Magistrates, including those send under Section 202 of the Cr.P.C 1898 for enquiry is on the increase in a almost in every state. This has increased the workload of the police and at the same time given opportunities to the officers to indulge in corrupt practices. From all that has been said it is clear that the burden of work on the police has grown with increasing speed in recent years, and therefore, another urgent problem is how the burden can be reduced. The police should be relieved of as many extraneous duties as possible.
In order that the police can discharge their multifarious duties effectively they are vested with statutory powers. Section 20 of the Police Act, 1861 lays down that police officers enrolled under this Act not exercise any authority, except the authority provided for a police officer under this Act and any Act which shall therefore be passed for regulating criminal procedure. Section 30, 30A and 31 of the Police Act, 1861 authorise the police to regulate and license public assemblies and processions and regulate the extent to which music may be played on the streets and keep order on public roads and public places - Section 34 of the same Act, enables the police to take steps for preventing obstruction, inconvenience, annoyance risk danger and damage to the members of the public. For preventing and detecting crimes, the police have been similarly given power under the Police Act and the Cr.P.C. Section 23 of the police officer to apprehend persons for whose arrest sufficient grounds exist and empowers every police officer for the purpose of discharging his obligation, to enter and inspect disorderly places.

Powers to prevent commission of cognizable offenses injury to public property, and use of false weights and measures are derived from Section 149 to 153. Power of arrest are derived from Sections 54, 55 and 151 of the Cr.P.C. 1898, power of search and seizure are derived from Section 165 and 550; power of recording of statements and collecting evidence are derived from Section 161; powers of sending accused persons to a court for trial after investigation and laying information before Magistrate are derived from Section 170; powers of dealing with unlawful assemblies are derived from 127 and 128 of the Cr.P.C. and the powers to use force in exercise of the right of provide defense are vested in them by Sections 96 to 106 of the I.P.C. 1860; under Sections 155 and 156 of Cr.P.C. the police is given the statutory power to investigate or a non-cognizable and cognizable offences. Section 497 of Cr.P.C. stipulates the terms and conditions under which an officer in-charge of a police station is authorised to release on bail, a person accused of a non-bailable.

The police have to exercise these powers on their own initiative just as they have to investigate cases in the manner indicated in the Cr.P.C. Besides these
substantial legal powers of the police, their powers in respect of certain classes of offenses are also provided in the IPC.

The policemen's duty includes prevention and detection of crimes and prosecution of offenders. One often wonders where exactly is the central element of discretion located, and whether any discretion should be permitted at all.

I. POWER TO ARREST:

In preventing a crime and for detection, a police officer has the power to arrest under Section 41 Cr.P.C. The Section reads 'may arrest'. We also have several decisions from our courts to say that 'may' is very nearly a mandatory command. But the fact remains, 'may' is not and cannot mean 'shall'. The two are different. Occasions do arise when the community does not feel strongly on moral grounds that an arrest is justified and the police officer is called upon to take a decision. The policemen has often to choose between 'may' and 'shall'. All these vexed questions can be ordinarily solved by a judicious exercise of tact and discretion bearing in mind that a police officer is the delegate of the community within the parameters set by the law and therefore, ordinarily cannot act in contempt or hostility of the feelings of the public whose servant he is.

In real life, most policemen are not rigidly sticking to the letter of the law. But trouble arises when extraneous considerations enter the calculations. The position and influence of the offender, political inducements or pressures, financial or, to put it bluntly, corrupt considerations or rarely communal bias, tend to affect a proper exercise of the powers conferred on a police officer by law.

There are other occasions when a policeman can and should let a violator off with a warning than arrest him and produce him before a Magistrate. That will not only enhance police reputation and prestige, but in course of time establish better report between the community and the police.
II. TO SEARCH WITH OR WITHOUT WARRANT:

Arrest, according to law, in cognizable and non-bailable offenses, is a power vested in the police but the said power should be exercised with restraint. According to some, a classic instance of exercising improper discretion in making an arrest was the arrest of a former Prime Minister of our country.\(^8\)

Another area where police discretion has connection with the investigation of cases in search of houses and premises. Often, police officers at lower levels search without warrants on the plea that there was no time to obtain it under Section 93 Cr.P.C. This tendency to exploit an emergency power conferred by Section 165 of the code is a discretion that can be used as well as abused and recall Pitt's ringing words very relevant in India. "The poorest man may in his cottage, bid defiance to all the forces of the crown, the wind may blow through the trail roof, the rain may enter, but the King of England cannot enter. All his forces dare not cross the threshold of the ruined tenement".\(^9\)

While it is necessary to be discreet in exercising authority. Sometimes it may be equally necessary to exercise authority very firmly at the first moment itself to nip any possible mischief in the bud. The daily or common day read accidents point to such firm action. An offense under Section 304 (a) IPC is bailable. It is not incumbent on the Police Officer to take the accused straightway to the police station under arrest and keep him in custody for a little while when his immediate release on bail on the spot is perfectly legitimate. But when a child is run over by rash and negligent act, and when the whole community around is screaming with age by the tragedy, a police officer should exercise his discretion prompt arrest for two reasons - (i) he will save the driver's life from the lynch law and, (ii) establish in the eyes of the people that the law will not spare an offender.
III. REGISTRATION OF CASES:

In the case of regulatory offenses involving read traffic laws, the offenses are absolute and no men’s area is necessary to prove the offense. Such offenses are not normally to be included within the scope of the criminal law since persons committing minor traffic offenses would often take exception to the formal procedures associated with reporting offenders to which they are subjected. Some traffic offenses could and with verbal caution.

Prohibition of processions and public assembly and dispersal of crowds are again areas where police discretion has to be properly used. A discreet enforcement of the law is preferable to a strict interpretation of one’s powers under the law.

Another area of police discretion is in the registration of cases itself. A case of cheating can be camouflaged as a civil dispute, a brazen trespass can be palmed off as a matter for litigation later. A case of pure and simple civil dispute can be misinterpreted to make it a criminal offense and a cognizable offense can be transformed into non-cognizable one and vice versa. These may be even occasions when a non-cognizable offense which seriously irritates the feelings of the public should be taken up for investigation by the police.

While in other organizations, discretion is exercised at fairly high levels, in police, even the constables exercise the greater discretion. This feature causes the greatest concern to senior police administrators and the remedy lies in tightening of police supervision by effective domestic controls.

IV. POWER TO INVESTIGATION

Investigation is a legal process, by which an investigating officers ascertains the facts and circumstances surrounding the occurrence of a crime and arrives at the truth. In order to facilitate this task and by full information before the court, the law has
invested the police with the necessary powers Criminal Procedure Code Section 154 to 176. The term investigation includes all procedures under all proceedings under the code for collection of evidence by a police officer. A cognizable offense under Section 154 Cr.P.C. is one, in which a police officer may, in accordance with the first schedule of criminal procedure code, arrest without warrant. Non-cognizable offenses are those, in which such arrest is not warranted and investigation may only be authorised by a competent Magistrate under Section 155 of the Criminal Procedure Code.10

The power of the police officers regards investigation are to go to the locality of the offense, to inspect the scene, to make enquiries, to request attendance of any person who appears to be acquainted with the facts and to examine him orally. It is obligatory on a person so requested in the course of a police investigation to answer to which would incriminate him. If a person refuses to appear or answer to questions put to him, he commits penal offense under Section 174/179 I.P.C.

V. THE FIRST INFORMATION REPORT(F. I. R) :

A careful and accurate record of the first information regarding the commission of a crime has always been considered a matter of the highest importance by the courts. Being the earliest and most important document on which the proceedings started, it can be used to corroborate or impeach the testimony of the person lodging it according to the provisions of the Evidence Act, 1872. In rural areas Village Administrative Officer records and the statement of the complaint reads it over, obtains his signature or thumb impression and send it to the police station. The latter is then registered as the FIR when a report is directly given by the complainant at the police station, this become the FIR. The FIR has been prepared by the OIC of the police station then the copies of the FIR are sent to the Magistrate having jurisdiction, and the Superintendent of Police and the Superintending Officer or Administrative Officer or Office of the S.P. The substance of the information recorded in the FIR is entered in a book known as the General Diary of the Police Station.
VI. CHARGE SHEET (OR) FINAL REPORT:

Every investigation should be completed without unnecessary delay. In the case of delays beyond six months in summons cases, the required code vests the courts with powers to drop the case and release the prisoner. After completion of investigation, the officer-in-charge of police station, shall forward to the Magistrate empowered to take cognizance of the offense on the police report, a report in the form prescribed by the State Government setting forth the names of the parties, the nature of the information and the names of persons who appears to be acquainted with the circumstances of the case and stating whether the accused, if arrested, has been placed in custody or has been released on his bond, and if so whether with or without surities. Investigation is normally considered closed when the report contemplated under Section 173 of Cr.P.C. is sent. But the police have a right to reopen investigation even after submission of the charge sheet if fresh facts come to light. This provision will enable the investigating agency really difficult and complicated cases, with the concurrence of the court, to get over the limitation of six months for completion of investigation in all cases. When a Magistrate receives the police report under Section 173 Cr.P.C., he will commence proceedings for enquiry or trial. If he considers on the basis of the police report or otherwise that there is no case against the offender, he will take no further action.

VII. POLICE AND PROSECUTION

Prosecution of the criminals in the courts of law formed an important part of the process of the suppression of crime. Hence special officers known as Government advocates or Government pleaders were appointed to help the police in the work of prosecuting the criminals in the district. They performed all functions of a public prosecutor within the meanings of Criminal Procedure Code. They appeared in all enquiries or trials before Magistrate or Judge and in appeals before the sessions Judge. In Madras State prosecution work in Magistrate's courts was entrusted to prosecuting Inspectors, of whom one was appointed for each district. So was the case in Bombay, except in a few districts where a number of the local bar had been brought on the strength of the police as court prosecutor for magisterial cases. In all taluka courts as
well as at certain district headquarters where no such court prosecutors before the Magistrates. In Bengal, the prosecution work before the Magistrates was entrusted to the Sub-Inspector of Police. They were sometimes assisted by Head Constables. But it was found that there prosecuting police officers were illiterate and incapable of handling effectively the prosecution work in the court.\(^\text{12}\)

Another area relates to prosecution, sometimes, policemen in actual practice get mixed up with persons committing offenses of gambling, prostitution and allied crimes, police have genuine grounds for not taking and when they are genuine courts are willing to accept their bonafides. Prosecution or non-prosecution, detection or non-detection, are still within the realm of police authority in actual practice, though denied in theory.

Lord Denying had the following to say in the "Black Burn Cases".

In 1966, Mr. Black Burn was concerned about the way in which big London Clubs were being run. He complained to a representative of the Commissioner of Police of the Metropolice and told him that illegal gambling is taking place in virtually all London Casinos but nothing appears to have been done. There was a confidential instruction issued to police officers to take no proceedings against clubs for breaches of the gambling law.\(^\text{13}\)

"I told it to be the duty of the Commissioner of Police, as it is of every chief constable to enforce the law of the land. He must ensure that crimes are detected and that honest citizens may go about their affairs in peace. He must decide whether or no suspect persons are to be prosecuted. In all these things, he is not the servant of any one, save of the law itself. No Minister of the Crown can tell him that he must not prosecute this man or that one. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone".

He adds, "We heard Mr. Black Burn was ready to grant mandamus against the Commissioner of Police - Except that, as it happened we were told that the
Commissioner had recently taken the position into his hand, it was a new Commissioner Sir Rober Mark, he was a police officer of such outstanding qualities that we were confident that he would clear it up. And he did so”. “Justice, public interest and community support and be harnessed in plenty by wise exercise of discretion”.

VIII. CONSTANT AND BALANCE:

Direction can be regarded an another element of the fundamental principles of 'constant and balance'. Exercise of discretion lays at the heart of the policing function.

The good reputation of the police as a force depends upon the skill and judgment which policemen display in the particular circumstances of the cases and incidents which they are required to handle. Discretion is the art of suiting action to particular circumstances. It is the policeman’s daily task.

Discretion covers a wide area of police activity both regulated and unregulated. Much of it is left to the good sense, training and judgment of individual officers particularly at lower levels of police hierarchy. Discretion is based on a number of factors and conditions which require careful analysis. Discretion needs to be exercised by the police in a fair and important manner to the best advantage of society for which the police exists.

Occasionally, a police officer has to cut a corner. Then, he should remember those lines Shakespeare wrote 400 years ago - “Wrest the law once to your authority. To do a great right, do a little wrong”. Portia’s advice is all that discretion is about.

IX. POLICE IN THE CAMPUS:

Police’s entry into educational institutions is generally resented as people feel that the police’s presence inside the campus is going to mar the sanctity of the institutions. Frankly speaking, the police are hesitant to walk onto the campuses to avoid various complications. Indeed, such actions may stir the sentiments of the
students community. Secondly, it gives an excellent handle to the interested persons to besmirch the police and the Government. No one carries a cudgel for the police even for the just actions to maintain law and order inside the campus.

By and large, the police want to maintain sanctity of the schools, colleges and Universities inspite of provocation. Even in pre-independent days, the police followed this laudable norm. Sir Charles Taggard, the legendary Police Commissioner of Calcutta, once had to enter into the campus of the Ripon College Hostel. The Principal, an eminent educationalists of the time, Mr.R.N. Ghosh firmly asked Taggard to withdraw at once and it was respectfully obeyed.15

Today, it is unpleasant task for the police to enter into a campus. It is equally unfortunate when the head of an institution has to seek police’s help and request them to take charge of miry situations perpetrated by unruly students. Many educationalists feel that socio-economic adversities are the root causes of the students’ unrest. Professor Munis Raza, former Vice-Chancellor of Delhi University asserts that it is not an unrest but restlessness of the student community which is ultimately responsible for untoward incidents where police’s intervention is sine qua non. Relying on experience, “I may add that the police initiate action against the students with reluctance and under compelling circumstances”.16 Similarly, the institutional heads seek police’s help to tackle the students as a last resort. Of late, the trend to disrupt examinations, adopt unfair means in large scale organised vandalism etc., necessitate police’s interference. The police have to camp inside the institutions, guard the examination and evaluation centres, escort questions and answer papers, escort and protect the teachers, invigilators, tabulators etc. The problem is highly sensitive and inspite of patience and infinite tact, often it pinpricks sentiments of the student community.

Earlier non-involvement of the police in affairs within the campus in a sense, was a considerable relief to the police. Today, frequent requisitions to tackle problems inside the educational institutions have increased the police’s worries and commitments. The heads of the institutions anticipating disorder can only hand over the problems to
the police and have sign of relief. Thereafter, the original issue rests in the limbo of oblivion and the conflict looms large between the police and the students community.

To conduct examination and publish results is no more a cake walk. Bedlam, Vandalism, group clash and malpractices in mass scale often upset examinations. In addition, threat to the teachers, invigilators and staff needs serious attention of the law enforcing agency. Often many desperate examines carry knives, bombs, dangerous missiles, threaten the guards and invigilators and indulge in unfair means with impunity. Instances are not rare when the teachers, guards, invigilators or tabulators are manhandled, assaulted or stabbed.

Irregular and ill-repaired students hit upon plans to write examination indulging in mass copying. Their notoriety precedes them and hence, their physical presence in examination centres and insolent gestures are enough to the teachers, guards and invigilators, to leave them alone. They blatantly and recklessly adopt unfair means and get away without any panel action. After examination, they try to locate the examiners who have been earmarked to evaluate the answer papers. Generally, they succeed in unearthing such clues with the help of the ministerial staffs of the units. Here also the 'modus operandi' of threat and high-handiness triumph. Once the examiners are pinpointed, the ruffians either by fair or foul means try to influence them. Needless to add, one can easily imagine the evaluators, and plight. Majority of them have to succumb to the pressure tactics. If someone wants to resist and act according to his conscience, insults, threats or injuries will be freely showered on him.

Unfortunately, even the press reporters are not spared. A news item published in a leading daily revealing incidents of mass copying and expulsion of 35 examines had led to a furor. The students brought out a procession, gathered in front of the house of the local correspondent shouted slogans, burnt effigies of the editor and the correspondent. Finally, police's firm action quelled the disorder.¹⁷

The Government of Orissa had enacted the Orissa conduct of Examinations Act, 1988 (Orissa Act 2 of 1988). It has defined unfair means, prohibited unfair means,
prohibited loitering near examination centres, evaluation and tabulation centres etc. Violators of the act are liable to be punished with imprisonment upto three months or with fine upto three thousand rupees or with both. All offenses under the act are cognizable and non-bailable. Nevertheless, such a stringent measure has failed to produce the desired result. In some isolated cases, the police have take action, arrested the students for copying or indulging in malpractices on receipt of specific complaints.

Special squads have been organised to pay surprise visit to check and detect malpractices in examination halls. Frankly speaking, such a lofty ideal remains generally confined to files only. Such squads are hardly put in operation. In fact, they evade tangible action on various pretext and prefer delusive negotiations with the police or other agencies. The teachers and invigilators are reluctant to lodge complaints to the police against the examinees for obvious reasons. They overlook copying etc., with a view to avoiding complication and wrath of the unruly students.

Evidently, the relationship between the teachers and students is fast decaying. Teachers are unable to win over the students by love and affection. Socio-economic conditions are greatly responsible for frustration and disarray in all walks of life. It has equally affected the student community. The people are aware of the police’s sullied image and devious style of functioning. Yet, the discomfited people seek police’s help and protection.

Phenomenal growth and deployment of armed police on slightest pretext in maintaining routine social orders, like holding academic examinations, admissions, disciplining the students in schools and colleges etc., are not at all healthy signs. Rather it unfolds squeamish facts of the social order. To sum up too much dependence on the police is despicable as it is susceptible to authoritarian trend.

X. STATE POLICE FORCE OR FORCE:

Citizens are frequently involved with exasperating and often humiliating brushes with the enforcer of the law - the policeman. The most unhappy experience is that of
being charged with an offense that entails of detention in police custody. The State policeman is largely feared and often hated by the weaker section of the society. For the affluent sections, the policemen is an object of amusement and derision with, in most cases, his huge stomach sticking out. Several inches beyond his belt, it makes one wonder how this corpulent arm of the law could be expected to act in a situation demanding speed and ability. All he can actually do is literally throw his weight around.18

Fifty years after Independence, the police force has grown about two million, about half of them in State Police Force has grown to about two millions, about half of them in State Police Forces and the remaining distributed among centrally controlled para-military forces like the Central Reserve Police Force, the Border Security Force, the Indo-Tibetan Border Police and Assam Rifles. The Central Industrial Security Force and the Railway Protection Force are separate entities with specific functions. While the Central Police Forces are still physically fit, trim and reasonably well disciplined, the State Police Forces on the other hand have the private militia of the state political bosses and, like them, largely overweight and devoid of discipline. In lackey fashion, they carry out the difacts of political bosses and throw their weight around in so offensive a manner that the public loses all respect for the police. It is most shameful lament of our times that the tax payers are bearing the financial burden of maintaining a million policemen as private militia of the political bosses to help them stay in power. The State Police Forces, taking their cue from their political bosses, have become far more corrupt than they ever were during the British rule and quite a number of officers, too have adopted the line of least resistance, to make hay while the sun shines.

No sooner than the politicians got wind of the substance of the National Police Commission’s Report, that there began a whispering campaign against it. The State politicians could not endure the thought of losing their cherished control over their police forces, indispensable for their day-to-day survival and prosperity and also for ensuring a return to power in the next elections, for which the police force is the most potent and blatantly misused weapon. The arguments carried weight with the Centre
and the report of the National Police Commission was left to gather dust in the records of the Home Ministry. A cardinal need of our times was thus sacrificed on the altar of political compulsions.

Rajiv Gandhi, when he became Prime Minister in November 1984, excluded a refreshingly open approach to all national issues, one of which was the deplorable image of the state police forces. He got the National Police Commission report exhumed and called a conference of all State Chief Ministers early in 1985 to discuss the issues involved. But, again political discards worked the oracle with the Prime Minister. The Chief Minister's Conference was canceled and the whole matter forgotten. The upright and competent among police officers were solely disappointed. One of them is reported to have bitterly remarked. "What sort of game are the authorities playing? The State Police Forces are already devoid of discipline and now we are rapidly losing control". That was in 1985.19

Since then, we have witnessed further debilitation of the state police forces which has rendered them totally incapable of dealing with the rise of insurgency, terrorism and even communal disturbances. Every Chief Minister begins clamouring for more and more Central Police Forces to deal with any law and order problem in his state. This ridiculous drama has come to such a pass that the common man begins to wonder whether the Khaki personnel in State uniform with their bulging stomachs are a police force or force.

With insurgency raising its ugly head all round and unprincipled politics generating communal, caste and religious disturbances before, the Centre cannot afford to let close to a million policemen in the States be treated as private militia of the State political bosses, devoid of discipline and dedication to duty, and keep rushing central forces to deal with law and order problems which fall within the purview of the State Government. To make matters worse, due to the limited strength of the Central Police Forces, the Centre has to send in the army in increasingly frequent cases.
The history of all serious breakdowns of law and order in any State, be it, Punjab, Jammu and Kashmir, Assam, Bihar, Orissa, Tamil Nadu, Uttar Pradesh, Gujarat or Karnataka, point to the pernicious nexus between unprincipled state politicians and the State police forces. Out the tie that binds the State Police Forces in servitude to the political bosses and have eliminated the most deadly dilemma of our times. But it needs political will, honesty and courage which are rare commodities today.

The smuggler/poacher Veerappan has been allowed to flourish in Karnataka for over five years, committing more than twenty gruesome murders including those of two senior officers in Mysore district. He could not have grown without political patronage and enforced convenience of the State Police. Only after twenty persons have been sacrificed to political greed did the Karnataka Government start hovering for army help. The Uttar Pradesh Government is unable to check terrorist activity in its Terai belt that has flourished over the years and has now climaxed in spite of killings and a vital take over of the Corbett National Park by terrorists. The Uttar Pradesh Chief Minister has also sought the help of the army to pull his chestnuts out of the fire. Mercifully, the Centre has declined to resort to army action in either case and has sent CRPF Units instead to assist the State Police in dealing with both situations.

It is a grave blunder to treat the army as a fire brigade or a riot task force for dealing with internal law and order problems or even for relief work after natural disasters just because the political leaders at the Centre lack the courage and resolve to tackle the decadence of the State Police Forces. No time is to be lost in tabling the report of the National Police Commission in Parliament and getting a consensus on the imperative, need for a National Police Force to do away with the State Police Forces which have already done enough damage to the unity and integrity of the nation. Communal and separatist forces have been allowed to thrive on the sickening obsession of politicians with power and wealth in furtherance of which the State Police is used with unabashed abandon. This must come to an end immediately if we are to avert the holocaust that is rapidly closing in on the nation. But politicians, like the proverbial ostrich, prefer to bury their heads in the sands of political prosperity and are so blinded by the lust for power that they fall to
see that law and order has already slipped out of their control, giving rise to widespread, vicious insurgency, that, once it takes firm hold of the masses, will sweep away everything in its fury, including politicians and police forces, leaving only the armed forces to race the music. Drastic changes in attitudes and rapid revival of moral values in our political leaders are imperative if the impending nemesis is to be averted.

XI. INSPIRATION FOR POLICE TO OVERCOME CRISIS:

A psychologist on the staff of the Human Resources Research Organization U.S. recommends 'situation groups' to devise new approaches to handle changes crisis. This will enable members of the group to see their problems with more objectivity, says Dr. Herbert Gerjuoy. Useful ideas and insights can be exchanged. Alternatives would emerge when planning practical strategies for defusing crisis situations. Opportunities are created to pool personal experiences and ideas before they are tested on the anvil.

The Police organization is always in the throes of a crisis because it deals with human situations. Human beings react differently in identical situations because of the change and transitions sweeping over them and also because of the utter unpredictability of their passions and emotions. As individuals they are usually rational and logical in their behaviour, but when the mob mentally develop they lose their individual identity. Dr. Frederic Peris, a Freudian, analyst says 'many personalities can become fragmented under pressure. In such situations, they become aware of only parts of themselves rather than the whole self'. For example, a frustrated student under this condition wants to destroy and object that come in his way. Similarly, a terrorist may view anyone who does not believe in his cult as a total enemy who should be physically destroyed. He does not have the time or patience to stand tensions and frustration that go along with growing up to consider an opposing view. The police are required to battle with these important narcotics. Is the policemen properly equipped or skilled to fight this battle?

Ordinary persons turn to expert-doctors, marriage counsellors, psychiatrists, vocational specialists and other for personal advice. The police force is one of the
specialised areas although the personnel are not appropriately trained experts. Human conflict touches the law somewhere and the police station remains the referral agency. But do policemen have the expertise to guide the person caught in a crisis? Can everything be enforced within the letters of the law? Can the courts decide about guilt or innocence correctly. Purely on the evidence presented before them? Human relationship does not bind or break any applying the provisions of law. There is an element of correctional input which should accompany the implementation of the law. This is a very grey area and needs expert counseling.

As the quality of police service revolves round the leadership of individuals all decisions become psychological games to win and not to lose. The police leader has to be a law enforcer, a mediator, a counsellor and, in short, a jack of all trades. Blind enforcement of the law does not always yield the desired results. The spirit of the law and its enforcement alone promote healthy human relationships. By giving the law a practice role rather than just reacting to problematic conditions that arise due to conflict, the policeman contributes and promotes more harmonious social changes. The police force becomes an instrument of change as it can either practice dehumanisation or humanise the system which stimulates growth and progress.

XII. INDICATION:

In a perfect society, where values are acknowledged and unopposed there is no need for control by the police. However, the fact is that all societies have dissident elements with conflicting commitments and have a human need for forces to control, conduct and maintain order. There are many institutions in the society influencing one's attitude to religion, the family, school, work place and so on. The police, however, are unique in that social control is their sole function and this function has to be performed in a highly professional manner. More use of police to control social behaviour is an indication that the social institutions have failed to do so, a warning of days function with the society. The types of behaviour declared as criminal and the amount of public support in general for police action are also valuable indicators of the health of the society.
When the decay sets in the police swing into action to control the slide. But what exactly does the police force expect to achieve? It is only restoring order or restitching the torn fabric or mutual trust, or is it something else like acting as a catalyst to raise the level of human relationship? As such crisis leaves a scar, the social defenses setup laboriously crack and crumble. Even experienced police officers are unable to cope with the environment and change. They are perhaps forced to accept the fact that they will probably not achieve the fulfilment of their dreams or they can no longer adopt to changed values. They develop a feeling that they are being pushed aside by a generation practicing a different philosophy altogether. It is in this context that crisis counseling becomes imperative and this becomes relevant only when a crisis is building up and not when it has already blown over.

Various methods have been tried to improve public relations with the police. They have to work because they are unwieldy and members speak in different languages and wave-lengths. The police chief himself can choose a forum of like-minded persons who can understand the problems, analyse them from the outside, feed the solution from inside, stand by the chief and maintain the morale of the service. Such people cannot be politicians and journalists, but only those few who genuinely care for the happenings around. There are non-controversial social workers, retired officers, police watchers who can objectively analyse problems and come out with suggestions and so on. The fact is that the forum should be functional and not become a platform for recrimination.

XIII. INFERENCE:

As policemen are fallible and are creatures of the society in which they live. It is the duty of the society to build them up and give them credibility. If the aim is to maintain peace and order which contribute to progress, then let there be a policeman who is a combination of a saint and sinner, dust and deity, who can segregate and strikers from the sacred discrimination of the donkeys from the thoroughbreds and above all remain basically a human being. Since such an ideal policeman is nowhere in
sight, let the available one be molded fashioned and counseled into one so that he can stand up firmly and do those acts which the society would like him to do. Some believe that all improvements can be made through mere training. That is not true, for the perfect policeman would have already ruled out of the training institution. Let those at the decision making level start a small forum or group of counsellors not only to advise the policemen, but also to keep them company, when they make efforts to me out of the crisis.
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