



POINT OF VIEW | *Kanwar Sandhu*

Police accountability far cry?

DESPITE INCREASING internal and external oversights, police accountability remains a far cry in most parts of this region. Reports of custodial deaths are commonplace and available figures indicate that close to 200 people die in police custody in the country every year. So are instance of torture and police high-handedness, the most recent one being the one relating to a minor boy in Panchkula last month. During communal riots, like the one in Gujarat in 2002, police have often failed to intercede effectively. When they do intervene, as they did during the industrial unrest in Gurgaon a few months ago, they often over-react, causing deep embarrassment to the political bosses.

In fact, the problem is not endemic to the police in our country alone, as was evidence during an international conference on police accountability held at The Hague in the Netherlands last fortnight. During the conference organised by Altus Global Alliance, an organization encompassing six independent think-tanks in different parts of the world, including the Chandigarh-based Institute for Development and Communication (IDC), numerous dimensions of the phenomenon came to the fore. The issue affects all countries, regardless of their policing systems. For example, unlike many countries, the USA has no national police department; state police and sheriffs departments enforce the law and there is a system of federal marshals. India treads the middle path; while law and order is a state subject, the country has a number of Central police and paramilitary organisations which intervene wherever and whenever required. Almost all countries, including the US, UK, those of the erstwhile Soviet Union, besides the former colonial African and Asian states, are engaged in devising effective oversights. While details of the five-day deliberations (attended by some of us from here) are too voluminous to find space here, some of the points that emerged could help in making police accountability a reality in at least this part of the country.

On the basis of the experience of various countries at The Hague what emerged was that efforts to bring about police accountability have not succeeded because they have been disparate and not collective. Internal controls have been slackening either because political will is not there or because the leaders of the force do not think these to be necessary. Most outside non-

Various oversights have failed to ensure police accountable because the approach has been warped. Though finally accountable to public at large, police are an important organ of the criminal justice system and a handy tool of the political establishment. A collective and collaborative mechanism, starting from within, has to be in place to make police accountability.

state oversights (including human rights commissions) have not provide to be as effective as initially envisaged because they were put in place more in response to external pressures than because of commitment to justice. Besides, while in some places there has been a multiplicity of oversights (like in South Africa), in others there has been multi-directional accountability. Very often, there has been a division of labour and duplication of effort. Outside controls usually do not bring about police accountability because they come into confrontation with the police (and indirectly with the state). Oversight by media is effective but only till it does not assume the shape of "trial by media".

In the final analysis, what emerges is that police is one important organ of the criminal justice system. As such, police accountability is not an isolated commodity that can be threshed and winnowed. It is a cumbersome whole that requires a collective and collaborative effort, starting from within. For example, the policeman is accountable to his superior in the chain of command. At the same time, he is accountable to his "customer(s)", who could be his paymaster (that is, the government in power), a crime victim or an accused - in different times or all at the same time. Besides, the police is committed to the Rule of Law, which itself could be a subject of contention at a particular time. Finally, the police, like other organs of the state, are accountable to the public at large. No wonder that the worst of police brutalities happen when the criminal justice system collapses

and more so when the political system either abdicates authority or ceases to exist or may pretend to be overwhelmed. In India, this has happened repeatedly while police were dealing with terrorism and insurgency or whenever riots have erupted.

The experience which won general acceptance at The Hague conference was that of the Los Angeles County Sheriffs department. The department expects its employees to adhere to certain core values, which decry racism, sexism, anti-Semitism, homophobia and bigotry in all its forms. The most noticeable aspect was the oversight system devised by the department. Besides oversight by a special counsel, the Sheriff has instituted an Office of Independent Review (OIR). Functioning for the past five years, the OIR consists of six civil rights trained attorneys who supervise all internal criminal investigations performed by the police personnel. Thus, unlike Home Ministries and police departments in India and elsewhere, who skirt issues and shield their employees (and themselves), the Sheriff has delegated some of his own oversight powers to trained outsiders. Besides, the Sheriff's Department mans a 24-hour media office which employs a former newspaper professional to continuously engage the media. Not that all is hunky-dory in LA; despite such an internal oversight in place, police have been known to transgress their powers occasionally. In one case, for example, the police fired 120 shots to neutralize a recklessly driven vehicle. But the fact that the Sheriff could talk about it unabashedly speaks volumes for transparency.

Perhaps, if the government in Punjab (as also elsewhere) were to institute a similar office of independent review consisting of five top lawyers of the Punjab and Haryana High Court to supervise all internal criminal investigations and make their findings public in a time-bound manner, the role of the State Human Rights Commission and all the NGOs and others would become redundant. Such measures may appear drastic but they would be in tune with the changing times. Since police and heavily politicised, probably all over the country but certainly in Punjab, unless there is political will, "oversight" will remain a joke. In coming years, with globalization of crime and terrorism, there would be new thrusts in policing and also in corresponding parameters of accountability in order to measure up to the global standards of justice.