

NHRC, POLICE and RIGHTS

MAYBE IT SOUNDS SURREALISTIC. MAY BE NOT. THE NATIONAL Human Rights Commission (NHRC) quite often lectures the police on how to respect human rights. It is simply ludicrous to expect humane behaviour from Indian policemen. In truth institutional approach to strengthen human rights situation in this country has come too late, given the fact that violations of human rights by the Security Establishment have long been at alarmingly high levels. No doubt NHRC in association with its statewise local affiliates, is progressively becoming a crucial element in Indian people's lives, allowing it to gain entry to concerned citizens' circles. But in the absence of mandatory power it could hardly reform the policing system that is basically repressive as the police can come up with all kinds of pretexts to take law into their own hands. Policing system throughout the world is so brutalised that it is unlikely for the police to get reformed under any dispensation, authoritarian or democratic. Policemen in the biggest showpiece of democracy believe that it is next to impossible to discharge their duties by abiding law and work-rules which has led to such abominable practices like fake encounters, custodial deaths, third degree torture and all that. They abuse authority in most naked fashion while violating human rights with impurity, registering false cases, confining the innocent wrongfully and investigating arbitrarily with ulterior motives.

Right now a process for enacting the Prevention of Torture Bill is under the consideration of Parliament. Even if this Bill becomes Law in the immediate future nothing will change on the ground unless people are motivated to fight against deceit and repression. There are enough provisions in the Evidence Act to stop confessional statement using coercive methods, including third degree torture. The confession which the police and paramilitary forces extract from the accused in custody, police custody to be precise, has no evidentiary value before law. Also, the IPC [Indian Penal Code] sections 330 and 331 specially provide for punishment for voluntarily causing hurt to extort confession. But torture, both physical and mental, in custody coupled with customary ill-treatment that sometimes, lead to death, continues unabated. And NHRC just records the event, failing to punish the guilty. If anybody enjoys unlimited human rights in this country it is the police.

One area that has reached a crisis proportion for the jail administration is over-crowding of jails with undertrial prisoners. As the government has no immediate plan to build more jails or what they call correctional homes, NHRC came out with a unique solution, partially though. 'Over crowding of jails can be addressed to some extent by early disposal of cases of undertrial prisoners whose number is very high'. So said Justice K G Balakrishnan, Chairperson, NHRC, at a 3-day training programme on "Human Rights and Custody Management of Undertrials" in August 2011 in Chandigarh. The roots, however, lie in the arbitrary arrests and the very repressive trajectory comprising the cops, the courts, the whole legal system that feeds mass incarceration. And NHRC has nothing to do about it. Nor can they stop the arbitrary and vindictive behaviour of the police and yet they think it is a nice idea to organise, somewhat periodically, seminars on 'human rights and police'.

While custodial violence i.e. violence in police custody is endemic, jail custody is equally horrific. Most jails are in a shambles, lacking adequate infrastructure to provide basic amenities to the prisoners. And overcrowding of jails, of late, has made the situation worse, thanks to maoist and terrorist phobia.

Given the present state of Indian judiciary quick disposal of the cases of undertrial prisoners is simply unthinkable. They routinely deny bails even in bailable offences, because the police never get satisfied without taking any suspect, even in case of minor offence, in their custody at least for 7 or 14 days. Then the judges too do not find it justified to grant outright bail without sending the accused to the jail custody at least for a certain period. In other words this very process of PC (Police Custody) to be invariably followed by JC (Jail Custody) has bureaucratized the system to such an extent that early disposal of cases of the undertrial prisoners seems a remote possibility. Mr Balakrishnan specifically cited the examples of the states of Chattisgarh, Gujarat, Maharashtra and Uttar Pradesh where prisons are housing inmates beyond their capacity. But this is the general scenario. Things are equally horrifying in the jails of West Bengal, J and K, Andhra Pradesh and North-Eastern States. And Delhi's Tihar Jail that gets media attention all the time for wrong reasons, of course, is also over-crowded beyond tolerable limits. All this suggests India's growing crime chart and how the system is rotting at the core. No doubt NHRC has mooted the idea in unison that judiciary should be more liberal in granting bail in minor offences. Whether the criminal justice establishment is listening to NHRC recommendations is another matter. So far most complaints reaching to NHRC are against the police authorities and on issues concerning law and order problem but the state also violates political, cultural and social rights of the people. True, custodial violence is not at all in the interest of professional efficiency but police professionals are the final words in anything related to 'Law and Order', not NHRC. □□□