

India towards a police-state?

Dr. Prem Singh

(1)

"Members of the police shall exercise their functions, powers and duties as impartial servants of the general public and the Government of the day. ... No member of the police may be ordered or forced to exercise his other functions or powers or deploy police resources to promote or undermine any political party or interest group, or any member of such a party or group. The police have the duty to uphold the rights of and afford protection to all political parties, persons and organizations equally without fear or favor." (United Nations Guidelines on the Role of Police in Democracy)

Colonial, monarchical and dictatorial systems are essentially police-states. But even in democratic systems, the tendencies of being police-state are ever present and are seen from time to time. In police-state the ruling party/government uses the police force to oppress opposition leaders, dissenting civil society activists/intellectuals and to violate civil liberties/human rights. The United Nations has issued clear guidelines about the role of police in a democracy. Reports about the role of police in various countries are published by the United Nations and some voluntary organizations from time to time on the test of democracy and civil rights. These reports show that even in countries with democratic set-up, the political class makes unfair use of the police force to uphold its power. If there is a nexus between political power and police power, the police further develop an autonomous zone of arbitrariness. In this zone, there are a variety of police acts ranging from alignment with traffickers/mafias to weekly extortion on one side and from custody death of under trials to encounters of 'miscreants' on the other. The arbitrariness of police affects the weaker sections of the society in the worst possible manner - minorities, tribals, dalits, women etc. Governments that use the police for their self-interest generally ignore police's arbitrariness. Due to the provision of almost impunity for the police in the law, the cycle of police-repression never stops.

In the democratic system of pre-colonized countries, police-state tendencies are more visible than in the independent countries. The reason for this is that the police system of pre-colonized countries is a direct product of colonial rule. The police and its intelligence wing were used to work to keep the colonial system firmly in place at that time. The responsibility of maintaining law and order in the society was a secondary objective. The role of the police in maintaining law and order was also ultimately linked to the strength of the colonial power. Because the real purpose of law and order was to instill fear and loyalty in the public mind towards the colonial power. The colonial power used to claim fair justice to justify its rule. But during the investigation of any case, the partisan role of the police in fixing the sections of the Criminal Procedure Code was done to obliterate any possibility of fair justice. Actually, the sections of the Criminal Procedure Code were created with the intention of maintaining hegemony. It is obvious that

during the freedom movement of every country, the attitude of the police towards the leaders and the public was that of repression and atrocities. The history of each colonized country is replete with incidents of police-repression, police-atrocities and police-corruption.

In view of this fact, it was necessary that the countries which attained independence from colonialism should have established an independent and fair police system compatible with democracy. Sadly, this important task was never done in India. Underlining this truth, Dr. Ram Manohar Lohia wrote in 1967, "The fact of the matter is that the Congress government eager to establish itself as the successor to British rule, rather than to the popular revolution, blindly accepted all the oppressive laws that the British had framed to keep the Indian people in bondage." Lohia called the nation-wide freedom movement, launched to get rid of colonialism, as popular revolution, which included the revolutionaries. Lohia made several important suggestions to the non-Congress governments formed in 1967 in the context of 'Civil Liberties and the Criminal Procedure Code'. Lohia, as a radical democrat, had deeply contemplated the problems related to the police system and their solutions during the freedom movement and after independence from the point of view of democracy and civil rights. Being a socialist, he had naturally considered this problem from the viewpoint of poor India. He envisaged a police for India which would treat the poor and weak as citizens. Lohia considered it to be a political problem, which should have been resolved with principled dedication by the political parties and leadership of independent India.

(2)

The Praja Socialist Party (PSP) was formed the government on 16 March 1954 in Travancore-Cochin (now Kerala). Pattum A. Thanu Pillai, known as 'Bhishmacharya' in Kerala politics, was the Chief Minister of that minority government. There was an agitation under the Travancore Tamil Nadu Congress (TTNC) to separate Tamil-majority areas from Travancore-Cochin into the state of Madras. The details available show that the movement was orderly and peaceful. TTNC had 12 MLAs in the assembly who were elected from Tamil dominated constituencies. On 11 August 1954, police opened fire on the agitators at two places. The first firing was carried out on agitators, including school students, outside the high school in Marthandam, in which 9 people were killed. The second firing was conducted at a public meeting held at Pudukkadai Junction, in which 6 people were killed. Dr. Lohia was the general secretary of PSP and was imprisoned in Naini jail. On August 12, through a telegram he sent a 'personal recommendation' to the Chief Minister Thanu Pillai from jail, stating that the miscreants may have been completely at fault and created a disgusting situation. But police firing, in which people have lost their lives, except in a state of rebellion or murder, is unfair. According to this principle, I recommend non-governmental investigation, suspension of officers involved in firing and resignation of the government simultaneously. (The above-mentioned numbers of the dead are identified later. When Lohia sent the telegram, the firing was reported to have killed 4 people.)

Lohia did not receive any reply from the Chief Minister. He wrote two letters to party president Acharya JB Kripalani on 17 August and 23 August. In the first letter, Lohia wrote, well he (Chief Minister) is not obliged to answer. But after visiting the area where the police killed people, the Chief Minister made a public statement. He said that it was as necessary to avoid excesses in the use of power as softness and his police has shown this. (Earlier, on July 12, the Chief Minister had announced to suppress the movement with an iron-hand during an adjourned motion tabled in the Legislative Assembly. On August 8, he had said in a public meeting that the Tamils could leave the state if they wanted.) Commenting on the Chief Minister's public statement, Lohia lamented that the time has not yet come when an Indian minister could be eligible to do his own job as a judge. Also, the first Socialist government in India has not done well by making such meaningless and dangerous generalizations about power and softness. There is always an autocracy hidden behind such generalizations. In the same letter, Lohia sent his resignation from the post of general secretary and the national executive of the party in protest against 'firing in democracy', saying, If I was out, I would have asked the executive to consider this question immediately. If the executive had taken an opportunistic approach, I would have taken it to the General Council. In the history of India's socialist movement, this chapter is famous as Goli-kaand Vivad (firing-scandal controversy).

While rejecting Lohia's demand for resignation from the Cabinet on the issue of firing, all the arguments propagated in favor of the government are given till date. For example, unarmed people have been fired several times in Congress governments, but there the party leadership never demands the resignation of the government; The cabinet cannot be held responsible for firing ordered by an officer, nor can it be asked to resign; Resignation will hurt the government's reputation and fame, and ultimately the reputation and honor of the party; The mob descended with violence and arson; The Communists had instigated the movement; The disgruntled Congressmen from Travancore-Cochin state incited the police against the Tamil agitators; Resignation will adversely affect the morale of the police; For the first time a socialist government has been formed in a state, it is not sensible to lose it by resigning itself; Gandhi had also accepted the justification of the police's loyalty to the government; First the government should investigate the incident and then punish the guilty police officers; If a minister is found guilty during investigation, he should be asked to resign; Seeking the resignation of the government is only valid when the inquiry committee declares the government guilty ... etc.

Lohia believed in principle that no police firing could be justified except in situations of mass murder. Describing the firing issue as basic, he urged that a long-lasting solution should be found by all political parties. At the same time, a socialist government should resign and present a vision for the future. No government that depends on its police rifle can do anything good for the public. He was strongly of the opinion that there could not be a fair inquiry under the government under which the firing was done. He said that if the government had resigned over the firing incident, it would have affected the conduct of other parties and the police as well.

The party reached on the verge of breakdown due to the firing controversy. Despite the intervention of stalwarts like Jayaprakash Narayan (JP), who had left politics and Acharya Narendra Dev, who often kept unwell, the firing controversy in the party did not stop. It is believed that JP and perhaps Kripalani also agreed with Lohia's opinion at the party's national executive meeting held in Delhi after the firing incident. But Lohia's harsh and uncompromising language spoiled the case. JP made changes in the first draft resolution that he had prepared on the issue of police firing. Lohia and his supporters were defeated at a special session of the party held in Nagpur in November 1954. However, in the meantime, the party formed a committee headed by HV Kamath on public order compliance and prepared a general report on the subject. But the controversy did not stop. The change of leadership in the party took place in the Nagpur session itself, but the rift created due to the tug of principle and practice could not be filled. The party finally broke up in 1955. On the other hand, Thanu Pillai government set up an inquiry commission under the chairmanship of justice K. Shankaran, of the High Court. The commission in its report submitted after three months justified the police firing thereby exonerating the police. On 12 February 1955, Thanu Pillai's 'popular government' fell as a result of a no-confidence motion brought by the discontented socialist MLA TS Ramaswamy.

(3)

I have mentioned this almost seven decades old political episode because the leadership of all political streams should have done the necessary work of determining the right relation of democracy and police in the early phase of independence. In the event of this not happening, the political power-police power nexus gradually became stronger. As a result, even the fundamental values of the democratic system collapsed one after another. On many occasions it seems that there is only a skeleton left in the name of democracy in the country. Governments shamelessly enact stringent laws that violate civil liberties/rights. This chain can be seen in the Unlawful Activities Prevention Act (UAPA), enacted in 1967 and amended in 2019, and the infamous Sedition Act which has been in operation since the colonial era. The victims of these laws are mostly the marginal sections of the society and the political activists/civil society activists who advocate their interests. Further, police firing and arrest incidents on agitating farmers, laborers, students etc. have become a commonplace occurrence in the country.

In the reign of the present government which has come to the power through the ladder of communalism the obscenest form of government-police nexus is often exposed. People are accused of being traitors and terrorists even if they utter a word against the present regime. The Delhi Police, which works under the Central Government, is said to be the elite and civilized police of the country. Some of its actions can be seen in the recent times. Police brutally carried out beating and humiliation of students on 15 December 2019 by raiding the campus/library of Jamia Millia Islamia University. As a teacher, I feel that the injuries were not only on the body of the students but also on their self-esteem. The anti-Citizenship Amendment Act (CAA) movement

could not raise its head again as the situation normalized after the Corona epidemic, the Delhi Police has, on its part, done the work of forestalling during the Corona period. The script of the Delhi Police to declare the February riots in North-east Delhi as pre-planned is open for everyone from the society to the court. The Special Police Commissioner Praveer Ranjan has written an official letter to the officers investigating the riots, directing them to keep the 'Hindu sentiments' in mind while making arrests of the accused in North-east Delhi riots.

It is true that the discussion and efforts about police reforms intensify on any particular incident that reaches the culmination of police-repression. Some concerned senior police officers give concrete suggestions based on their experience on such occasions. Since independence, several committees and commissions set up by states and the Center have presented several recommendations/ measures on police reforms. There are also important recommendations based on 8 reports of the National Police Commission (1977–81). The Supreme Court too has issued detailed instructions to the states and the Center regarding police reforms in 2006. But the fundamental problem - political power-police power nexus - remains unchanged. The reason is clear, the police system of independent India rests on the colonial era Police Act 1861, and with it the Indian Penal Code 1862. The Police Act and the Penal Code were created in the backdrop of the Revolt of 1857, so that Indians would not be in a position to show dissent and protest. After 1857, nearly 90 years of India's freedom struggle was fought in the black shadow of and against these laws.

One can note that in the neo-colonial era, the colonial character of political power-police power nexus has emerged in a strong fashion. It's obvious. The political-class engaged in selling the country's resources needs the police, so that it can protect itself from public anger by calling opponents as traitors. Indian and foreign companies buying resources on throw away prices also need police, so that their profitable business can continue to operate safely. In 'New India', a new dimension of corporate power has been added to the already formidable political power-police power nexus. A large part of the country's civil society is either an outspoken or silent supporter of this power-triangle. This is not without reason. They happily partake from the leftovers of the neo-colonialist loot and remain engrossed in verbosity. The question is whether the 'New India' formed and flourished under neo-colonial slavery is a police-state like it was under the colonial rule?

(The author teaches Hindi at the University of Delhi)