

CHAPTER 15

RECOMMENDATIONS

172.2 The events of December 6th, 1992 and the many subsequent events have already shown to the nation the danger and the disruptive potential of allowing the inter-mixing of religion and politics.

172.3 It is imperative therefore for the people, acting through their elected representatives, to undertake an objective study of whether or not the existing constitutional, statutory and institutional safeguards have proven to be efficacious. It seems highly probable from a cursory study of recent affairs that the measures adopted so far have been overly optimistic and have not entirely succeeded in providing secular governance, unaffected and uncoloured by religious or regional affiliations.

172.4 It is high time that institutions like the National Integration Council were conferred statutory powers. This or any other similar organisation which is set up must call upon the participation of well-known and highly regarded leaders of religious communities and social workers from all over the country, particularly [those] who are not affiliated with any political party, to find ways and means to implement secularism as envisaged by the Constitution. The participants or the ones invited should thereafter be barred from holding any constitutional office or office of profit or public office or from participation in any political activity.

172.5 Political leaders, holders of constitutional offices, offices of profit, public office and especially those holding cabinet positions or other similar positions of responsibility sometimes simultaneously hold offices in religious organisations, charities and trusts constituted on religious grounds, etc...

172.7 A special separate law providing for exemplary punishment for misuse of religion, caste, etc for political gains or illicit acquisition of political or other power ought to be enacted. Regional tribunals for ensuring swift prosecution and effective implementation of the law ought to be set up in the four corners of the country.

172.8 The desirability of establishing a Criminal Justice Commission should be examined, which would comprehen-

sively monitor the performance of all law enforcement agencies and apply corrective measures wherever needed.

172.9 The threat from communal violence needs to be dealt with firmly. Specialised investigating squads need to be formed under the state criminal investigation agencies and communal offences or crimes committed during communal riots ought to be vigorously investigated. Governments should not be able to withdraw charges relating to communal riots.

172.10 The Election Commission of India must also ensure that any complaints brought before it by any citizen of the country, of attempts to misuse religious sentiments or to appeal to voters through the mode of their piety, whether by holding thinly disguised electoral rallies in places of worship or posing as political supplications to god, must result in swift action and possible disqualifications. ...

172.12 It is inherently unfair, immoral and legally dubious to hold democracy hostage to religious and casteist blackmail. The separation of state and religion has been debated at great length in every age and has found favour in almost every organised civilised society.

172.13 The Constitution of India is an endorsement of this principle of separation and goes on to clarify in unequivocal terms that the Indian union does not eschew religion or declare an irreligious state. ...

172.15 The negative covenants specifically bar the state from discriminating against any religious denomination. As a necessary and inescapable corollary, the injunction against state patronage of any religion has to be read within these provisions and has been thus treated ever since the inception of this Constitution.

172.16 The next logical conclusion must therefore be that a government which is formed on the premise of religion or which has religious issues on its political agenda must also be barred. A government which is formed by professing its support to a particular religion or which has a religious issue or purpose as its stated agenda must therefore fall foul of the explicit and implicit proscriptions of the Constitution.

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172.17 I must therefore recommend and reiterate the views of numerous statesmen that in order to achieve the ideal of a secular state, the incorporation of religious agenda within political manifestos or electoral promises is made an electoral offence and should incur summary disqualification for the individual, or for the political party if such blatant resort to the religious and casteist sentiment is part of the party's substantive poll plank.

172.18 It is my considered recommendation that the Parliament, legislatures, elected governments and the political parties themselves must rededicate themselves to ensuring a secular India, whether strengthening existing provisions in the Codes of Conduct or in election-related laws.

172.19 It is high time that the Parliament constituted an assembly to look into the working of the Constitution and the shortfalls observed or noticed in the years since its inception, and to suggest requisite steps for remedying them.

173. Civil services

173.1 The enforcement of law and the maintenance of order in society depend upon a responsive, efficient and upright police force and bureaucracy. In present times the police and the bureaucracy face a crisis of confidence. The general public rightly or wrongly does not trust either as a protector or as an honest enforcer of the laws. This perception is reflected in the appointment of numerous committees and commissions by the Parliament to study and propose reforms. The Law Commission too has examined the various shortcomings which exist in the infrastructure today.

173.2 The efforts of these acknowledged reform experts has been published and presented in a plethora of reports which are available in the public domain...

173.3 Unfortunately, these reports have remained dead letters and the recommendations have not been implemented in a cohesive, systematic and workable manner. The few attempts at police reforms have been patchy at best and have found resistance not only from within the police forces but also from the criminal bar as well as some states worried about the implications for the state-union relations.

173.4 I do not wish to reinvent the wheel nor claim to be an expert on the subject. However, an exhaustive analysis of the facts and circumstances which resulted in the events of December 6th, 1992 in the backdrop of these reports on the policing or bureaucratic system makes it abundantly clear that the failure to take the law enforcement agencies and systems into the 21st century has contributed and continues to contribute to a state of lawlessness.

173.5 The nexus between the politician and the policeman or the bureaucrat needs to be disrupted; the confidence of the common man needs to be restored in the police officer and the administrator. Experts have already written lengthy monographs on the subject and suggested specific changes. We need to ensure that these reforms are undertaken holistically at the earliest.

173.6 Specific offences that have interstate, national and international dimensions should be declared federal offences and investigated by a special crimes division of the Central Bureau of Investigation, which should function under the administrative control of the ministry of home affairs.

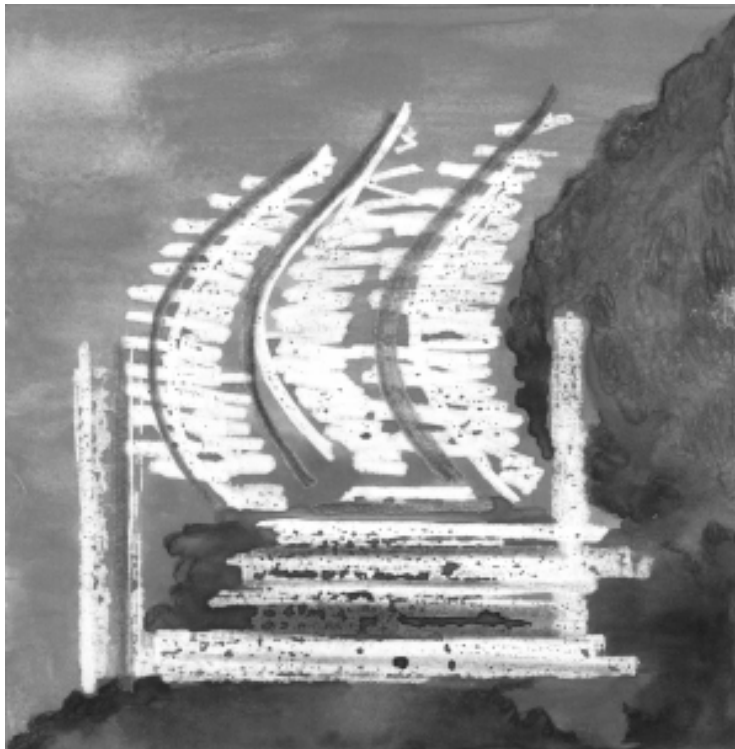
173.7 The problem of a politically and religiously biased civil service and police service is particularly vexatious. The civil servant or police officer who professes or practises closeness to a political or religious leader and who thereby allows it to colour his objective discharge of duties is an anathema to good governance. ...

173.13 It is therefore my recommendation that the recruitment into the civil and police services

should be extensively revamped and recruitment on the basis of aptitude, education, training and experience should be preferred over recruitment on the basis of academic excellence in unrelated fields.

173.14 It may be particularly useful to conduct periodic exercises of screening the members of the civil and police services to identify and weed out the communal or biased elements.

173.15 I also recommend that the nexus between the politicians, religious leaders, civil servants and police officers should be disrupted and rooted out. Civil servants ought also to be barred from holding offices of profit after their retirement. A tenure policy should be put in place to prevent illegitimate political interference in police and administrative functioning.



173.16 Judicial prudence and the fact that I have not been given a mandate on administrative reforms preclude me from giving any concrete recommendations on specific administrative reforms. Be that as it may, the urgent need for reforms to the recruitment, service conditions, service regulations and post-retirement avenues is writ large.

Riot control

173.17 The police service in India is a state subject predominantly. The same police personnel who are deputed to man police stations and to investigate crimes can often – though not in all cases – be found to be posted on crowd control and riot control duties.

173.18 The provincial armed police, wherever they have been established, were ostensibly attempts to free these specialised personnel from routine jobs and were expected to be trained in preventive and pre-emptive measures.

173.19 The training and equipment given to these forces is woefully inadequate...

173.22 At the same time, the attitude cannot be of all-or-nothing. The riot control officer must not choose only from between an all-out attack or a permissive submission. The riot police must be highly trained to disarm, disperse and render mobs ineffectual without having to resort to objectionable methods.

173.23 What also became painfully obvious was the danger of allowing the guardians of peace to sympathise with miscreants to the extent that they become a part and parcel of the problem instead of the solution. If the sympathies of the men are suspect, the senior officers must replace them immediately by withdrawing them and posting replacement personnel instead. If the senior officers are unable to gauge the emotions and the involvement of their men with the miscreants, the senior officers must be held strictly responsible for their failure.

173.24 Police reforms, in terms of men and equipment, are long overdue. The Indian Police Service has replaced the Imperial Police Service more than half a century ago. The attitude and the methods must also change.

173.25 I recommend the establishment of a centralised riot control constabulary, equipped with modern weapons for crowd control, under the control of the Union of India. The deployment of this force should be made by the central government, independent of state, under its own supervision. A law enabling the central government to take over the administration of a specified geographical area for the purpose of crowd management or for maintaining or restoring peace, particularly when the state government itself is unable or unwilling to take action, should be enacted...

174. Intelligence agencies

174.1 There are any number of intelligence agencies which exist inside India. Each state has a myriad system of gathering human, electronic and communications intelligence. The union government has a larger number of agencies and operatives at work collecting information as well.

174.2 The institutional and personal jealousies which abound, and which have been extensively written about by insiders and by experts, prevent the bits and pieces of intelligence from being assembled into usable and actionable information.

174.3 There is a strong need today to ensure coordination between the various state and union intelligence agencies, whether they operate within commercial, revenue, police, international or specialised domains.

174.4 It is also imperative that the state's or union's intelligence agencies do not become mere appendages of the incumbent government. The use of precious intelligence resources and trained personnel for petty political gains is wholly deplorable and must give way to higher purposes. It is imperative that the state and central intelligence agencies share information and cooperate with each other to ensure the overall welfare of the state and of the people. ...

177. The press

177.2 The importance and primacy of the media in a free society cannot be denied.

However, with the enormous privileges that these chroniclers of history enjoy, they must also be alive to the trust that the common man reposes in them.

177.3 Unlike other learned professions like those of doctors

or lawyers, the media in India has no professional standards body capable of effectively dealing with yellow journalism. The Press Council of India as it exists today has no authority to hear complaints from persons aggrieved of questionable reporting and effectively punishing a mischievous journalist.

177.4 There is a dire need for a body on the lines of the Medical Council of India or the Bar Council of India, which has a permanent tribunal which can entertain and decide complaints against individual members of the press corps or against newspapers, TV or radio channels as also media conglomerates.

177.5 I strongly recommend that a statutory body be set up to oversee the media in the country. It is highly desirable that journalists ought to be granted licences just like the practitioners of other learned professions and ought to be subject to disciplinary action, including suspension of the right to work as journalists on grounds of proven professional misconduct.

Specific offences that have interstate, national and international dimensions should be declared federal offences and investigated by a special crimes division of the Central Bureau of Investigation, which should function under the administrative control of the ministry of home affairs. I recommend the establishment of a centralised riot control constabulary. The deployment of this force should be made by the central government