

Human rights and police practices

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THE police force of almost all countries has nearly the same basic functions which, inter alia, include arrest, detention and question of offenders and suspected offenders. The human rights provisions begin to operate from the moment any police official performs a function which touches upon fundamental freedoms contained in the constitution of the country and relevant international law and conventions. As a society becomes more civilised, free, educated and informed at all levels, its expectations demand that the policy carry out their primary function with greater sensitivity and understanding.

As the general population become more aware of the dignity of the individual and of human rights they are likely to criticise and complain about police behaviour. A closer look may perhaps reveal that higher demands are being made on the police service. Domestic legal and procedural matters are becoming more exacting in respect of human rights enforcement and violations. International and regional organisations are passing resolutions concerning control of police behaviour in the performance of their duty.

The above should not be seen as an attack upon police officials and organisations and should rather be treated as a recognition of their civic importance and of the high standards of conduct which should be manifest in the best of police practice. Policemen as service providers develop a demeanour which embodies a perception for human dignity. The policemen have the occasion to witness human beings in degrading and degraded situations which may give rise to cynicism. However, the policeman must not be indifferent because they have to develop and retain proper judgement of and appreciation for the rights and dignities of all. The foundation of good police practice needs to be based on an understanding and acceptance of ethical principles of duty to the enforcement of laws not as an end in themselves but as a means of securing fairness and justice to all persons irrespective of their race, creed, religion or social standing. The provisions of human rights laws seek no lower standard of police behaviour and practice.

The police as individuals are endowed with powers and duties in excess of those given to other citizens in order that they may carry out their function effectively. They are given rights to interfere lawfully with the liberties of persons suspected of crime or to use force in their duties to protect other people and to maintain order. The use of force by police officials is generally governed by the principles of proportionality or what expressed in national laws as the principles of the minimum use of force. Ideally, the police should aim to achieve their objectives without the use of force at all. By striking the correct attitude it is often possible to achieve these by persuasion. Where force has to be used it should only be in proportion to the problem being encountered. Even allowing for the diver-

sity of police system, however, when it comes to the subject of human rights there are principles and laws of universal applicability. It is desirable for police officials to acquire a general consciousness of concepts of democracy, justice, fundamental freedoms and human rights. But this in itself would be insufficient if police practice is not pervaded and directed in accordance with this consciousness and knowledge.

In their day-to-day functions, police operate on those margins of society where liberties are at risk and where freedoms and rights often have to be curtailed and infringed if police are to be effective. But the police are not a law unto themselves. They are servants and agents of both the domestic laws and of the great body of international human rights law also. It is this rule which protects both police and public. It protects the public from arbitrary and improper interference with their liberties and it protects the police in the proper discharge of their duties.

Stopping and searching of persons and vehicles: The requirement to stop persons or vehicles, and where essential to search them, in the prevention and detection of crime and the maintenance

The examples of the police duty and its relation to the service of human rights are not deemed exclusive. The duties and practices comprising police activities are many and varied. It is important, therefore, for all police officers to have an understanding of the domestic and international dimension of human rights. With this understanding, as expected, every new police duty as well as the ones in the book will be governed by an informed and enlightened approach in the safeguard of human rights.

of public order are fundamental aspects of police function. There are laws in this regard with set limits. The police officer's first duty, therefore, is to understand both the letter and spirit of such laws and duties. The stopping and searching of innocent people, however, is likely to have some adverse impact on the quality of relations between the police and the public. There may be times when it is in the interest of maintenance of laws that people generally will cooperate with the police in this matter. But if this aspect of police duty is carried out with indifference, free cooperation of the public may often the police may be driven to unnecessary use of force. The well-trained police officer of experience will understand how the stopping and searching of people and vehicles has to be carried out without unnecessary humiliation and deprivation of dignity. There has to be an appreciation of the need for proportion between the requirements of law on one hand and the rights of the individual on the other. When stopping and searching people generally are carried out without suspicions it would be

seen that the official action is exceeding the proper infringement of liberty.

Arrest: Although the proper administration of justice and the prevention of serious crimes require that police officials have adequate powers of arrest, the depriving of a person of liberty in democratic countries is regarded as a most grave step. The liberty of the individual is central to all the advantages of a civilised society. It is not surprising, therefore, that international laws and conventions on human rights have much to say on the subject which is of primary importance to police and the public alike.

Where reasonable suspicion is used to justify an arrest, the good police practice should require that every effort is made to be as definitive as possible under the circumstances. The decide whether reasonable suspicion exists it should be mostly essential to consider the circumstances of the case as they existed at the time of arrest.

Search on arrest: It is customary police practice under the law that search of the person arrested to be carried out for a number of reasons. The search may reveal evidence in support of the charge for which the person has been arrested or for any other criminal offence. It

everyday function of police to seek information concerning the prevention and detection of crime, the maintenance of public order and the prosecution of persons against whom allegations of crime are made. The laws on questioning or interrogating persons in custody of police may vary but no person shall be subjected to torture or to inhuman or degrading treatment or punishment. This is fundamental and immutable provision. An important principle to be borne in mind in this connection is that of the presumption of innocence until proven guilty according to law. The word, "torture" is often used to describe inhuman treatment which has a purpose, such as obtaining information or confessions or the infliction of punishment and it is generally an aggravated form of inhuman treatment.

Search of premises and seizure of goods: The entry into private premises in order to search and to seize goods or other items in connection with the investigation of crime and the maintenance of public order is a prominent feature of police duty. The procuring of evidence of criminal acts and the recovery of stolen goods, unlawfully obtained property, the examination of records, correspondence and other matters are essential features of this duty. Since these duties involve fundamental freedoms and human rights, the domestic laws and procedures along with international human rights provisions are attracted.

Police officials need to remind themselves that invasion of property is forbidden except where it is lawful. There must be a manifest effort to establish balance or proportion between the rights of the individual and the needs of the state.

Fingerprints and photographs: The taking of fingerprints and photograph for police purposes has long been an established practice and there are laws and procedures to regulate the practice. The above activity is necessary in a modern democratic society for the prevention of crime and is, therefore, in the interest of public safety. At times the pressing need to combat terrorism may take precedence over an individual's right to respect for private life in the interest of public safety and for the prevention of crime. Care should, however, be taken in preventing the unauthorised disclosure to third persons of information regarding a person maintained in police records.

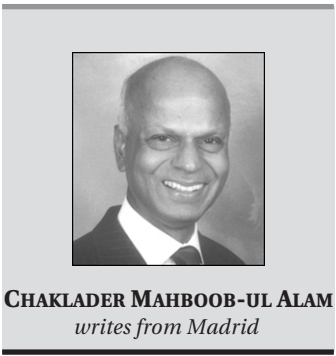
Surreptitious surveillance: Even in democracies police officers are required to perform duties which may be described as surreptitious surveillance. The need to a protect national security and to prevent crime and public disorder is recognised by each country's legislation. This practice interferes with the right to privacy and therefore this duty should be performed by police having due regard for the national laws and procedures and the strict necessity of their action.

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Next week: The stress factor in policing

The US budget for fiscal 2004 and the possibility of runaway deficits



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THIRTY-eight days after his inauguration on January 20, 2001 as the President of the United States of America, Mr. George W. Bush made his political debut by delivering his first budget message to a joint session of Congress. In that speech, Mr. Bush forecasted a federal budget surplus of several trillion dollars over the next ten years. He said that he would use the projected surplus by spending more on education, military, healthcare and energy. He also wanted to "pay down all the debt available to be paid down", which meant approximately \$2 trillion over the next ten years. After all these disbursements, Mr Bush felt, he would still have enough reserves to introduce tax cuts worth \$1.6 trillion "to help revive the flagging economy". Needless to say, at that time the thought of long-term budget deficits did not cross the president's mind. Besides, as a presidential candidate he had promised not only to cut taxes but also to have balanced budgets.

Recently, (a little over two years after that inaugural speech) the president sent another budget message to the Congress, this time for fiscal 2004, which begins on October 1. This message has been described as the boldest budget message since the Reagan period by Mr. Bush's neo-conservative friends and as "sheer banana-republic irresponsibility" by his detractors. Some have even gone so far as to say that the president has "lost his marbles" meaning that he does not know what he is doing. The president is now proposing further tax cuts and record deficits. Instead of a surplus in the current fiscal year (2003), he expects a deficit of \$304 billion. Originally Bush forecasted a surplus of \$262 billion for 2004. One year ago, he revised the figures to give a modest \$14 billion deficit for the same year. Now, those figures have been changed to a whopping deficit of \$307 billion. So the net variance with the original calculations is \$569 billion only for the fiscal 2004. Is it because of the expected costs of a possible Iraqi campaign? No, the president has assured the Congress that those costs have not yet been taken into consideration. (There will be an emergency supplement to the budget to cover the cost of the war.) Will 2004 be the last fiscal year with a budget deficit? No, over the next five years the total forecasted deficit will be more than \$1 trillion. Is this the whole truth? No, the whole truth is most probably even worse.

Tax cuts occupy the central position in this budget -- a total of \$1.3 trillion over the next ten

years. The administration will spend an extra \$41 billion on domestic security and \$380 billion (a 4.2 per cent increase) on defence. \$400 billion over the next ten years have been earmarked to reform Medicare. The intention is to encourage old people to switch to less expensive health-care plans. Funding for Labour and Justice departments will be substantially reduced. With a view to reducing the federal government's involvement in

tax cuts require a number of years to generate extra revenues, in my opinion, everything is set for the United States soon to reach the budget deficit of 6 per cent GDP of early Reagan years.

Now that Mr. Bush has launched the second Reagan Revolution (Reaganomics), he should take time to read a book called, *Why the Reagan Revolution Failed*, written by none other than David Stockman, the Director of President Reagan's Office of

but the federal budget deficit and the country's trade deficit had reached all-time highs. The national debt increased to such an astronomic figure that the US changed from being the largest creditor to the world's largest debtor nation. This was the Reagan legacy. The Reagan programme, which was designed by supply-side economists, offered economic growth, more employment, lower inflation, lower interest rates an unprecedented five-year tax cut, enormous increases in military spending and above all, a balanced budget. No wonder, some economists dubbed it as "voodoo economics." One had to be a magician to achieve all this at the same time and Reagan was no magician.

Even Alan Greenspan, whose crucial support two years ago helped Mr. Bush to push his first round of tax cuts through the Congress, has challenged the virtues of the second round of tax cuts. Greenspan has cast doubt on the administration's arguments that big budget deficits can simply be offset by faster economic growth. He is of the opinion that budget deficits must be closely monitored, otherwise they have a tendency to "spiral out of control" with disastrous effects on interest rates and economic growth.

Management and Budget. He will then realise that it is one thing to listen to the passionate arguments of the gurus of supply side economics and it is quite another to put them into practice. When Reagan came into office, he inherited a stagnant economy with a small trade surplus, low unemployment, a modest budget deficit but high inflation and interest rates. At the end of Reagan presidency, unemployment, inflation and interest rates had been successfully brought under control

different social benefits going to the poor like free school lunches, refundable tax credits and Medicaid (healthcare programme for the poor) etc., they will come under increasing federal scrutiny. As mentioned before, no money has been provided for the war against Iraq, which can be anything from \$50 billion to \$250 billion. There is a 4 per cent increase in discretionary spending. Fiscal 2004 is projected to have a deficit of 3 per cent GDP, which is definitely better than the deficit in 1981 (6 per cent of the GDP). Guess, who was at the White House then? Another Republican called Ronald Reagan. What are the chances of a similar performance under Bush? Mr. Bush is trying very hard to win the elections in 2004. That is why his team is forecasting a modest budget deficit of just under 1.5 per cent of the GDP for 2008, last full year of the administration's forecast. But hardly anyone trusts these figures. Despite a series of important tax cuts, which includes dividend tax, income tax and child tax credits, Mr. Bush makes few proposals to compensate the consequent loss in revenues by clawing back money from other sources. Referring to the proposed dividend tax cuts, Alan Greenspan has recently commented that these revenue losses "should be offset by other tax increases or spending cuts". Cost of modernising the Social Security system, which is one of the priorities of Bush administration has not been provided for. Then what about the much-publicised alternative minimum tax? That would cost anything between \$500 and \$575 over the next ten years. At this stage, this item has conveniently been left out. Military expenditures will most probably shoot up as a result of increasing imperialistic adventures abroad, (Afghanistan, Iraq, North Korea and who knows where else). Homeland security, under the current climate of fear will most certainly demand further expenditures. Finally, since under the best of circumstances, current conditions can not be described as good) supply-side