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REPORT OF THE
LIBERHAN
AYODHYA
COMMISSION
OF INQUIRY

CHAPTER 15

RECOMMENDATIONS

172. RECOMMENDATIONS

- 172.1. The constitutional scheme to separate religion from politics was intended to insulate the issues of governance from those of theology. While it may be useful and indeed desirable to import certain aspects of ethics and morality into the political arena, the use of religion, caste or regionalism is a regressive and dangerous trend, capable of alienating people and dividing them into small sections.
- 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 intermixing 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 organization 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 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 organizations, charities and trusts constituted on religious grounds etc. The temptation to allow one's judgment in one sphere to influence opinions in the other is irresistible and easily leads to dissatisfaction and disenchantment in the other sections of the population.

172.6. The extraneous interference in democratic affairs for acquiring political power through criminalisation of political office or mixing of political and religious affairs has become the order of the day.

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 comprehensively 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.
- 172.11. This subject requires the consideration not just of the Parliament of India, but also of religious leaders and statesmen alike. While I cannot prescribe a code of conduct or regulations for the running of the democratic process, I must recommend that the demerger of religion and politics must be studied and implemented at the earliest.
- 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 civilized 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.

172.14. The liberties granted to individuals and religious aggregations extend to such activities which can be construed purely for the welfare of the general public, members of that religious aggregation or for preserving and promoting its culture. The intermixing of the two aspects of human social life is neither envisaged nor permitted under the constitution or law.

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.

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 constitute an assembly to look into the working of constitution and the short falls 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 the 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. A conspectus of these reports reveals a clear consensus of the ills which plague the current system. The problems which have been documented and widely commented upon include the nexus between the police and the politician or the bureaucrat and the politician, the rampant corruption which exists at the bottom and at the top levels, the stark insensitive and unhelpful nature of the frontline forces, the deplorable state of training and the reliance on brute force rather than scientific investigation techniques. These same reports also present a wide spectrum of solutions from which once again, a common set of suggestions can be distilled.

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 inter-state, 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 practices 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.

- 173.8. The root cause of the problem may possibly lie in the very process which is used to recruit these officers. Just as in areas requiring excellence such as the profession of medicine, the profession of governance cannot admit of candidates whose merit is not of proven providence.
- 173.9. It serves little purpose to squander the skills and talents of a doctor or an engineer by posting them to positions requiring a combination of skills including administration, diplomacy, logic and legal acumen. The civil servants who are posted at the helm of affairs ought to be picked for the skills that they are required to exercise, rather than for completely unrelated academic skills or for casteist or regional basis.
- 173.10. It is inexplicable how our current system takes the brightest academicians of the country and based only on their *inter se* merit, train them variously as specialists in foreign service, revenue, police, administrative or a veritable spectrum of “lesser” civil services. The aptitude, training, experience and suitability of a particular candidate are of the least concern of the current recruitment process.
- 173.11. It is also inherently dangerous and unsatisfactory to allow civil servants to seek patronage of political or religious leaders. The *en masse* exodus of civil servants from positions of power after each election is the best evidence of the malaise that affects our system.

- 173.12. In the first half of their career, most officers fall prey to extraneous influence for securing transfers and postings or other benefits for themselves. In the latter half, the emphasis is equally on finding out and securing a roosting ground for their post-retirement period.
- 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 the police officers should be disrupted and rooted out. Civil servants ought also to be barred from holding office 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 specialized 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. Bamboo sticks and flimsy sticks offer scanty protection to these forces and pose little deterrent threat to miscreants. The use of lethal force is rightly eschewed in favour of less deadly method which at present predominantly includes rubber bullets or tear gas.

173.20. The crowd control equipment provided to these forces is at best *ad hoc* and home grown or whatever can be locally fabricated. There are few scientifically conducted studies into the efficacy or correct usage of these measures. The training to the peacekeepers is inadequate and equips them neither in the optimum use of whatever material and equipment is available, nor in the conduct which they must adhere to.

173.21. A duty to quell an unruly mob must never be confused with a license to attack, molest or hurt unarmed malcontents or miscreants who may have been whipped up into frenzy by some occurrences or by some vested interests.

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 sympathize 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. It should prescribe the duration for which such a takeover over of the administration is possible, subject to strict review by the Parliament. Such a law would be less drastic than the imposition of President's Rule or the dissolution of a legislative assembly.

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 specialized 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.

175. Centre State relations

- 175.1. It is trite that the state and the Central Government exist for the promotion and welfare of the citizens of the India. No State Government can claim that it acts only for those people born solely within its boundaries or that it will actively discriminate against those who live outside its area. The caveats that accompany the preceding observation are few and imposed only for particular exigencies or to protect a particularly weaker or underprivileged section of society.
- 175.2. The State Governments and the union government occupy and fulfil complementary domains. The goal of either government is the same and the audience it addresses is also the same. There are hardly any reasons for a State Government to treat the union government as an adversary or vice versa. Each has a specific purpose in our constitutional scheme.
- 175.3. Party politics must come to an end upon the swearing of the oath by a legislator. Upon taking oath, a person ought to cease thinking like a party member and instead assume the larger and loftier role of a statesman and a member of the government. The sworn-in ministers and the chief minister are responsible for protecting and upholding the rights even of those who opposed them at the hustings. The incumbent government is not entitled to discriminate against those who belong to other political parties, religions or castes – the proscription is not only moral, but also legal.

- 175.4. The rivalry and adversarial stance adopted by a State Government composed of ministers from one political grouping as against the members of the union government which may be consisting of legislators from a different political party is neither healthy nor warranted.
- 175.5. As members of a single union, the State Governments must therefore trust the union government and expect a reciprocal trust as well.
- 175.6. The bone of contention between states and the union is frequently the allocation of monies and the siting of industrial, power or other projects which can boost the economy of the host state. It is as much incumbent upon the Central Government to dole out its largesse equitably as it is for the State Government not to view each other or each other's domiciles with hostility.
- 175.7. It is therefore my recommendation that a fresh look at inter-state and centre-state relations be undertaken with a view to advance the common good of the people.

176. Religious and cultural sites

- 176.1. In a land as old as India, and with its rich ancient culture and heritage, it is inevitable that each stone and each structure has a story to tell.
- 176.2. Our land has been called the cradle of most religions and for that reason; there is a proliferation of temples and places connected with each religion all around us.
- 176.3. The historical cycles and the rise and fall of each religious movement has also undeniably seen friction between the various communities, religions and regional rulers.
- 176.4. The disputes between various groupings about the provenance of monuments, temples and other structures have survived into this day and age, and like in the case of the Ram Janambhoomi – Babri Masjid issue, are capable of fomenting unnecessary and unwanted trouble and disharmony.
- 176.5. These are however not issues which can be resolved without the participation of experts. The question whether a structure was a temple or a mosque can only be answered by a scientific study by archaeologists, historians and anthropologists.
- 176.6. No politician, jurist or journalist, learned though they may be, can provide a comprehensive answer to such questions and any attempt to hijack the issue can only result in the chaotic consequences which resulted in the events of December 6th 1992.

- 176.7. It is therefore my recommendation that a statutory national commission be composed of acknowledged experts to delve into these questions of the provenance of historical monuments, artefacts etc. and their determination should be deemed to be definitive and final.
- 176.8. There should be no hesitation in associating the finest historians, anthropologists and archaeologists from within and outside the country, and in equipping these experts with the latest and most sophisticated tools in an attempt not only to finally answer the question of the historical legacy of these places, but also to ensure that their findings contribute to harmony and peace between communities, castes and regions.

177. The Press

- 177.1. In his book *On Heroes and Hero Worship*, Thomas Carlyle quoted British politician Edmund Burke who said “*there [were] Three Estates in Parliament; but, in the Reporters' Gallery yonder, there sat a Fourth Estate more important far than they all.*”
- 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 setup to oversee the media in the country. It is highly desirable that journalists ought to be granted licenses

just like the practitioners of other learned professions and ought to be subject to disciplinary action, including suspension of the rights to work as journalists on grounds of proven professional misconduct.