

19TH D P KOHLI MEMORIAL LECTURE
DELIVERED BY
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI JUSTICE N V RAMANA

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1. It is a great privilege to deliver the 19th D.P. Kohli Memorial Lecture. At the outset, I would like to pay my tributes to Late Shri Dharamnath Prasad Kohli, the founding Director of CBI. He was an exemplary officer. Shri Kohli was renowned for his courage, conviction and remarkable efficiency. His vision turned CBI into the premier investigative agency of India. The tales of his un-impeachable integrity travelled far and wide.
2. When the Director, CBI Shri Subodh Kumar Jaiswal came to invite me for this Lecture, I told him very frankly that I may have to express some critical opinions about the functioning of the police in India. Hope he has not invited trouble by inviting me. Shri Jaiswal comes across as an officer who is committed towards improving the functioning of the organization. I remember the times when, CBI in its anxiety, used to conduct several press-conferences even before conducting proper investigation. I am happy to note that under the present leadership the organization is maintaining a low profile, as it should be. My only wish, Mr. Director, is that you abide by the

rule book and stand by principles. I wish you, and all the officials of CBI, the best for the future.

3. Let me begin with an interesting Telugu story. The predicament of a foot-soldier in the police force is captured beautifully by the famous author and advocate of criminal law, Sri Rachakonda Vishwanatha Shastry (*popularly known as Ravi Shastry*) from Andhra Pradesh. This story dates back to over 6 decades. I shall loosely translate a part of it for your understanding. This is the lament of a Head Constable, and he says:

“What kind of a job is this? We die every day!

*As the sun rises, you see 4 dead bodies,
10 accidents and 20 thefts.*

*As if this is not enough, you have to look after
the security of ministers –
20 from Hyderabad and 60 from the Center.*

*We don't get to eat or sleep.
We get roasted in the hot sun.*

*In between, someone comes and says
'my wife eloped';*

another says 'my daughter is missing';

*yet another says
'my mother-in-law beat me up'.*

There is no end to such silly complaints.

Everyone wants the Police!

Other day, some big company director, called us to complain that there was a snake in his backyard.

Does he think we are snake charmers?

No one is willing to spare a dime.

Sub-inspector expects monthly collections of 1,000 Rupees.

Whose money? ... People's money.

Do I have any share in that? ... Nil.

Getting 100 rupees per month is a Herculean task.

*But when it comes to real work,
I get 4 charges and 6 show-cause notices daily.*

After making a water-tight case, you reach the court and you find the advocates waiting like vultures. Witnesses are bribed to turn hostile.

*Every case has thousand loopholes...
everybody gets acquitted, and we get strictures
in the process.*

No sleep, only tea, not even gruel for us.

*Finally, when I get to go home, I cannot even
recognize my wife.”*

As narrated, the job of the Police is the most difficult one. He or she is expected to be a psychologist, a teacher, a counsellor, a lawyer, and a superhero, in one shift.

4. This makes the job of police replete with contradictions. I can understand the difficulties in walking a tight-rope. That is why I say, policing is not a mere job, it's a calling.
5. In 1789, noted philosopher Jeremy Bentham said that the police aids in keeping peace, while the justice system punishes disorder. In 1797, Patrick Colquhoun, widely regarded as the pioneer of police reforms in London, considered "*a watchful police aided by a correct system of restraints*" to be essential for society, if the evil of crime is to be cured.
6. Colquhoun and his associates, with the help of Jeremy Bentham, established a police system to prevent and regulate crime in London. Its success was the driving force behind the establishment of the first modern public police organization. Essentially, the idea behind modern policing was based on prevention of crime.
7. In India, the Britishers introduced the Indian Council Act of 1861, wherein a superior police service was created.

8. There is no doubt that the imperial police created by the colonial masters, was modelled to subdue and control the Indian citizenry.
9. George Orwell, the famous author, had initially worked in the imperial police services in the subcontinent and described the work of policing as "*the dirty work of empire*".
10. The misuse of police by political masters is not a new feature. The British Empire deployed domination, surveillance and coercion, which remain the enduring feature of the Indian police. When the Indian National Congress started leading the freedom struggle, the Empire created a Central Intelligence Agency for collecting information about political and social movements and the freedom struggle. You all know how CBI evolved from SPE with the aid of the Delhi Special Police Establishment Act.
11. The police is primarily tasked with maintaining the rule of law, and is an integral part of the justice delivery mechanism. Being a vital link in the justice delivery process, propriety demands that the police enjoys full functional autonomy coupled with accountability.
12. Post-independence, the reforms undertaken within the police forces have not been up to the popular expectations. Both in

IPC and CrPC, the Chapter on ‘Security for Keeping the Peace and Maintenance of Public Order’, takes precedence over other provisions concerning investigation and trial. These provisions show the colonial need for punitive policing. These historical antecedents have not received sufficient attention while undertaking reforms.

13. There have been several studies including those by National Police Commission, Julio Ribeiro Committee, Padmanabhiah Committee, and Malimath Committee on police reforms. These Committees mainly examined the issues concerning autonomy from political interference in police organizations.

However, negligible attention was given towards living and working conditions of subordinate staff and officers. They also neglected police accountability with respect to human rights violations. These gaps need to be filled.

14. Today, we are in the 75th year of our independence and we have assembled here to discuss, “*Democracy: Role and Responsibility of investigative agencies*”.
15. Given our experience with democracy so far, it is proven beyond doubt that democracy is best suited for a pluralistic society like ours. Our rich diversity cannot be sustained through dictatorial governance. It is only through democracy that our rich culture,

heritage, diversity, and pluralism can be sustained and strengthened.

16. We have a vested interest in strengthening democracy, because we essentially believe in democratic way of living. We Indians love our freedom. When any attempt has been made to snatch our freedom, our alert citizenry did not hesitate to seize the power back from autocrats. So, it is essential that, all the institutions including the Police and the investigative bodies uphold and strengthen the democratic values. They should not allow any authoritarian tendencies to creep in.

They need to function within democratic framework as prescribed under the Constitution. Any deviation will hurt the institutions and will weaken our democracy.

17. The Police and the investigative agencies may have De-Facto legitimacy, but yet, as institutions, they still have to gain social legitimacy.

18. Police should work impartially and focus on crime prevention. They should also work in co-operation with the public to ensure law and order prevails in the society.

19. When it comes to the CBI, it possessed immense trust of the public in its initial phase. In fact, the Judiciary used to be flooded with requests for transfer of investigations to CBI, as it

was a symbol of impartiality and independence. Whenever the citizenry doubted the skill and impartiality of its own state police, they sought investigation by CBI, as they wanted justice to be done.

20. But, with the passage of time, like every other institution of repute, the CBI has also come under deep public scrutiny. Its actions and inactions have often raised questions regarding its credibility.
21. As an institution, you have so many achievements to your credit. In the process, many of your personnel have put their health and lives at risk. Some have also made the supreme sacrifice.
22. In spite of all this, it is ironical that, people hesitate to approach the police in times of despair. The image of the institution of police is regrettably tarnished by allegations of corruption, police excesses, lack of impartiality and close nexus with the political class.
23. Often, the police officers approach us with the complaint that they are being harassed after the change in the regime. When

you try to endear yourselves to the powers, you will have to face the consequences.

24. The need of the hour is to reclaim social legitimacy and public trust. The first step to gain the same is to break the nexus with the political executive.
25. Often the best of talents enter this system in expectation of recognition and accolades. But, if the threat of infection looms large, honest and upright officers find it difficult to stand by their oath.
26. The truth is, that no matter how deficient and non-cooperative the other institutions may be, if you all stand by your ethic and stand united with integrity, nothing can come in the way of your duty. In fact, this stands true for all institutions.
27. This is where the role of leadership comes into play. The institution is as good, or as bad, as its leadership. A few upright officers can bring a revolution within the system. We can either go with the flow or we can be a role model. The choice is ours.
28. Here I would like to point out a few issues that are affecting the system:
 1. Lack of infrastructure.
 2. Lack of sufficient manpower.
 3. in-human conditions, especially at the lowest rung.

4. Lack of modern equipment.
5. Questionable methods of procuring evidence.
6. Officers failing to abide by the rule book.
7. The lack of accountability of erring officers.

Then there are certain issues that leads to delay in trials.

1. Lack of public prosecutors and standing counsels.
 2. Seeking adjournments, arraying hundreds of witnesses and filing voluminous documents in pending trials.
 3. Undue imprisonment of undertrials.
 4. Change in priorities with the change in the political executive.
 5. Cherry picking of the evidence
 6. Repeated transfers of officers leading to a change in the direction of the investigation.
29. These issues often lead to the acquittal of the guilty and incarceration of the innocent. This severely affects the public trust on the system. The courts cannot simply monitor every step.
30. Reform of the police system is long overdue in our country. The Ministry of Home Affairs has itself recognized the glaring need of the same in the “*Status Note on Police Reforms in India*”, I quote:

“Police reforms has been on the agenda of Governments almost since independence but even after more than 50 years, the police is seen as selectively efficient, unsympathetic to the under privileged. It is further accused of politicization and criminalization. In this regard, one needs to note that the basic framework for policing in India was made way back in 1861, with little changes thereafter, whereas the society has undergone dramatic changes, especially in the post independence times.

The public expectations from police have multiplied and newer forms of crime have surfaced. The policing system needs to be reformed to be in tune with present day scenario and upgraded to effectively deal with the crime and criminals, uphold human rights and safeguard the legitimate interests of one and all.”

31. It is an officially acknowledged fact that, there is an urgent requirement for modernizing the police system, and there should be a political will to ensure democratic policing. Without such reform, the police stand to appear out of touch and outdated.
32. The justice delivery system of independent India draws its legitimacy from the Constitution. Every institution within our democracy must derive its legitimacy either directly from the

Constitution, or from a law that is made in the true spirit of the Constitution.

33. Unfortunately, our investigative agencies still do not have the benefit of being guided by a comprehensive law. Need of the hour is the creation of an independent and autonomous investigative agency.
34. For instance, in spite of the various issues affecting the Indian judiciary, the public still reposes its faith upon the institution. This faith is largely due to the inherent autonomy and commitment to the Constitution and laws by the judiciary.
35. There is an immediate requirement for the creation of an independent umbrella institution, so as to bring various agencies like the CBI, SFIO, ED, etc. under one roof. This body is required to be created under a statute, clearly defining its powers, functions and jurisdictions. Such a law will also lead to much needed legislative oversight.
36. It is imperative for the organization to be headed by an independent and impartial authority, to be appointed by a committee akin to the one which appoints the Director of the CBI. The head of the organisation can be assisted by deputies who are specialists in different domains.

37. This umbrella organisation will end multiplicity of proceedings. A single incident these days gets investigated by multiple agencies, often leading to dilution of evidence, contradiction in depositions, prolonged incarceration of innocents. It will also save the institution from being blamed as a tool of harassment. Once an incident is reported, the organisation should decide as to which specialised wing should take up investigation.
38. One additional safeguard that needs to be built into the scheme, is to have separate and autonomous wings for prosecution and investigation, in order to ensure total independence.
39. A provision in the proposed law for annual audit of the performance of the institution by the appointing committee will be a reasonable check and balance.
40. There is a need for regular up-gradation of knowledge, deployment of state-of-the-art technology and international exchange programmes to learn the best practices. Our forensic facilities are in need of overhaul, considering the changing nature and complexities of crime.
41. With the police and public order under the State list, and rightly so, the burden of investigation is primarily on the state police.

There is no reason why state investigative agencies, which handle most of the investigations, cannot enjoy the same level of credibility as that of the national agency.

The State agencies must be equipped to deal with increasing challenges in the field of investigation. The proposed Central law for the umbrella investigative body, can be suitably replicated by the states.

42. Harmonious relationship should exist between the State and Central agencies. Collaboration is the key. After all, the goal of all these organisations is to secure justice.
43. In times of emergency and crisis, the police is often the first responder. They must be provided with adequate infrastructural and safety aids. In case anything untoward happens, the Government must provide adequate support to the bereaved families and secure their future interests.
44. There is a glaring need to encourage honest and selfless workers within the system. I am glad that the CBI has the tradition of honouring its heroes.
45. Today, I had the privilege of presenting the President's police medal to 34 officers, the CBI Gold Medal to one officer and the DP Kohli award to 2 officers. The nature of the job forces you to

work under pressure, around the clock. Your health, both physical and mental, needs a lot of attention.

46. It is here that the role of police welfare associations assumes great significance. They should be able to advocate the causes of the officers and staff, meaningfully and successfully.
47. My wish for greater presence of women in the legal profession, stands true for every institution. An issue that needs addressing at this stage is the representation of women in the criminal justice system. Often, women feel deterred in reporting certain offences due to a lack of representation. Their presence in the policing system will further encourage hesitant victims to approach the criminal justice system and report crimes.
48. Relations between the community and police also need to be fixed. This is only possible if police training includes sensitization workshops and interactions to inspire public confidence. It is imperative for the Police and the public to work together to create a safe society.
49. Ultimately, you must remember that your allegiance must be to the constitution and the rule of law, and not to any person. When you stand upright, you shall be remembered for your courage, principles and valor.

50. The political executive will change with time. But you, as an institution are permanent. Be impermeable and be independent. Pledge solidarity to your service. Your fraternity is your strength.

Thank you.