

CHAPTER IV

INTERNAL SECURITY

Introduction

4.1 The management of internal security is extremely complex as the internal security scenario is influenced by many factors including its historical legacy, geography, population size, quality of governance, sense of national unity and pride, economic development, poverty, socio-economic disparities and socio-cultural as well as ethno-religious traditions. Regional and global developments also affect our security interest. The Group of Ministers (GoM) deliberated at length on the challenges faced and on the efficacy of the measures required in order to arrive at an effective strategy for internal security management.

4.2 The responsibility of the Union of India and the State Governments for the management of internal security has to be viewed in the context of the Constitutional provisions, which empower the Centre and the States respectively to deal with the problems pertaining thereto. The responsibility of the Central Government for management of internal security problems has increased manifold. On the other hand, the amendments to the Constitution over time, have circumscribed the powers of the Union Government to intervene in matters pertaining to internal security. This has impacted adversely on the internal security scenario of the country. In this context, there is a need to examine the impact of certain amendments made to the Constitution and to identify and reverse those of them, which have eroded the Union Government's authority to deal effectively with any threat to the nation's security.

4.3 The paramount importance of maintaining the civil face of Government, even while the Armed Forces of the Union are deployed in aid of civil authority, cannot be over-emphasised; though it is equally necessary that clear cut procedures and unambiguous legal backing are provided to the Armed Forces, to enable them to operate more effectively when called upon to assist civil authorities.

4.4 The Constitution of India provides the basis for the rule of law in the country. The supremacy of the Constitution therefore has to be upheld by all the three wings of the Government i.e. the legislature, the executive and the judiciary. Laws, which are archaic [.....],* have to be identified and rewritten or deleted from the statute book, as the case may be.

4.5 Present day trends reflect new threats to internal security emerging out of religious fundamentalism, illicit narcotics trade, smuggling of weapons and explosives, infiltration from across our borders and terrorism sponsored by Pakistan. The role played by the Pak ISI in generating internal disturbances in the country needs to be carefully monitored and countered. There is also need for strengthening our legal

* Government Security Deletion

and enforcement machinery and for greater co-ordination among the various institutions to tackle the present and emerging threats.

4.6 The fact that criminal and terrorist elements operating within the country, as well as from across our borders, are heavily involved in money laundering and hawala transactions, as well as a variety of other economic offences, is now commonly acknowledged. This demands not only a strengthening of the laws governing economic offences but also a much closer co-ordination between the agencies dealing with economic offences and issues, and those involved with criminal and terrorist issues. Detailed recommendations have been made in this matter in Chapter III.

4.7 The State police is the most visible symbol of administrative authority and its failure to effectively maintain law and order has not only eroded the credibility of the Government but has also emboldened criminal elements to persist with their unlawful activities with impunity. Hence, there is a need to restore the fitness, capacity and morale of the State police forces, through a transparent recruitment and promotion process, a well thought-out training regimen and improved living and working conditions. The police forces have also to be adequately sensitised to the demands of their profession and the expectations of the people. Thus, an exercise to modernise the police apparatus and simultaneously improve its image has to be undertaken on a priority basis.

4.8 The Central Para-Military Forces (CPMFs), while playing a commendable role, have often been diverted for prolonged deployment on a variety of duties other than those for which they were raised. This has adversely affected their training and recuperation schedules. It is strongly felt that each Para-Military force should revert to its original role, for which it was raised, equipped and trained. These forces should also be suitably modernised and trained to cope with the tasks expected of them in the prevailing internal security scenario.

4.9 The slow pace of criminal justice is a matter of serious concern. The law enforcement machinery must be effectively backed by an efficient criminal justice system. Improvements in the investigation and prosecution functions have therefore to be suitably addressed by different wings of the Government. In this context, the provisions of various laws need to be examined and suitably modified wherever necessary. A comprehensive economic offence code would be necessary to deal with hitherto unknown varieties of organised crime including cyber crimes.

4.10 The Ministry of Home Affairs (MHA) has the nodal responsibility for maintenance of internal security in the country and has to ultimately deal with the consequences of any dereliction of responsibility at the local level and must therefore play a more proactive role vis-à-vis the State Governments. The MHA would also have to catalyse the process of modernising and upgrading the CPMFs and the State police forces. Appropriate restructuring of the MHA is called for in order to better equip it to deal more effectively with the problems of internal security.

4.11 In the context of the challenges and requirements of the times, as also the existing shortcomings briefly touched upon above, the GoM has outlined in the succeeding paragraphs a series of recommendations designed to tone up the mechanisms for the management of the country's internal security. In formulating these, the GoM was ably assisted by a multi-disciplinary Task Force of experts headed by former Home Secretary Shri NN Vohra.

Constitutional Provisions

4.12 The Union Government's ability to deal with situations caused by grave threats to internal security has eroded over the years and needs to be strengthened. This capability should flow from the Constitution.

4.13 One way to do this is to strengthen the emergency provisions under Article 352 and 359. The other way is to exploit the vast untapped constitutional potential between the power to issue directives under articles 256 and 257 on the one hand and the power to proclaim Emergency under Article 352, on the other. The source of this potential lies in Article 355 which casts upon the Union the responsibility to protect every State against internal disturbances and to ensure that the Government of every State is carried on, in accordance with the provisions of the Constitution.

4.14 It would be both appropriate and timely, if the provisions contained in Article 355, are made use of proactively. To do so, supporting legislation will have to be enacted to, inter-alia, cover the following:-

- (a) Suo moto deployment of Central Forces, if the situation prevailing in the States so demands; the legislation will spell out situations in which such deployment may take place, as also its consequences.
- (b) Defining powers, jurisdiction, privileges and liabilities of the members of Central Forces, while deployed in States, in accordance with Entry 2-A of the Union List.
- (c) Specifying situations construed as failure/break-down of constitutional machinery in a State, in which the Central Government can intervene to advise or direct, as the case may be, a State Government and violation of these advisories/directions would invite action under Article 365/352.

4.15 Accordingly, the following action may be taken, with regard to the proposed legislation under Article 355:-

- (a) The matter be taken to the Inter State Council (ISC) and a small group of members of the council be constituted to examine the issue in all its dimensions.

(b) The matter be discussed with the leadership of all political parties to generate consensus.

4.16 Simultaneously, a comprehensive reference may be made to the Law Commission, on the question of strengthening articles 352 and 359, without compromising the spirit of democracy and federalism which guides the Constitution.

Deployment of Armed Forces of the Union

4.17 The Union Government and the State Governments have the constitutional responsibility for running the administration, in accordance with the Constitution. Although problems affecting public order are to be dealt with by the state police forces, the State may sometimes seek assistance from the Centre, and the Central Para-military Force/Army may be deployed in aid of civil power. The Standard Operating Procedures (SOPs) for doing this are laid down in the Instructions on Aid to the Civil Authorities by the Armed Forces, 1970/SOP of CPMFs.

4.18 The reins of Government must, of course, never be handed over to the Armed Forces. The civil face of governance must remain visible at all levels, even in situations of militancy and terrorism. The Armed Forces of the Union can be used only in aid of civil power and not in supercession of it.

4.19 Keeping in view repeated demands for the Army to be sent in to provide assistance to affected States, there is sometimes delay in making assistance available due to the process of seeking authorisation from higher formations/the Ministry of Defence (MoD). Since such responses conflict with the provisions contained in Section 130 Criminal Procedure Code (Cr.PC), what is required is proper enforcement of the existing law, to obviate the ground difficulties faced by the district administration. The MoD may reiterate instructions in this regard, and the MHA may also address the State Governments suitably.

4.20 A doubt has been raised about the competence of the Central Government to declare an area as 'disturbed area', under the Armed Forces (Special Powers) Act. The GoM noted that the constitutional validity of the Armed Forces (Special Powers) Act, 1958 including Section 3 which deals with the power to declare areas to be disturbed areas, has been upheld by the Supreme Court of India, in Criminal Writ Petition No.550 of 1982 in Naga People's Movement of Human Right Vs Union of India. However, since a doubt has been raised in this matter, the Law Ministry's specific advice may be sought by the MHA.

The Rule of Law

4.21 The Ministry of Law may be asked to undertake a comprehensive review of the existing laws, with a view to removing from the statute book all laws, which are archaic or repugnant to the Constitution. Similarly, the Ministry of Law may also undertake a review of such judicial pronouncements as are construed to be

undermining the supremacy of the Constitution or have introduced distortions in its working. The MHA may make a reference to the Law Ministry in this regard.

4.22 It has been argued that the validity of the doctrine of sovereign immunity needs to be re-examined, in the light of constitutional provisions contained in articles 361 and 34. In the first instance, the Law Commission's advice should be sought on this issue.

Internal Security

4.23 The National Security Council (NSC)/Cabinet Committee on Security (CCS) should evolve an effective counter strategy against the security threats posed by the Pak ISI. This strategy should be pro-active rather than reactive.

4.24 The Home Minister must regularly meet and sensitise the Chief Ministers, about the need for them to devote the highest priority to security management issues. One way of making quick strides could be, by securing the required consensus under the aegis of the Inter-State Council. Hence, the salient recommendations of this report, having a bearing on states should be discussed as a regular agenda in the Inter-State Council.

4.25 The Chief Minister, and the entire state administration, must devote special attention to the implementation of various developmental schemes and welfare programmes, while the security forces are carrying out anti-insurgency/anti-terrorist operations. The pursuit of both these objectives must proceed apace, alongside each other, to achieve the desired results. There is a need to set up a special consultation mechanism for this purpose, between the Centre and the States concerned, for monitoring of the internal security situation and development schemes. This should be done at the bureaucratic level once in six months and at the political, once a year. Evaluation of the progress of the development schemes, may be carried out by the MHA, through any suitable agency.

4.26 Internal security disorders cannot be effectively managed unless central intelligence agencies provide timely operational intelligence to enable security forces to launch operations. Upgradation of the central intelligence agencies, notably the Intelligence Bureau (IB), as well as the intelligence apparatus in the States is essential in this regard. The specific remedial measures required for this purpose are detailed in Chapter III.

4.27 The MHA had proposed setting up of a federal agency, to deal with grave offences, which have inter-state and nation-wide ramifications. This was opposed by the States, on the plea that it infringed their constitutional right to maintain law and order. Considering the worrisome internal security scenario in the country, the States may be approached again, at an appropriate time, to agree to this proposal, since it may become increasingly difficult for the State Governments to handle such crimes entirely on their own.

4.28 A drive should be launched to unearth all unlicensed arms, followed by strong action against the offenders. State Governments should be requested to do the needful in this regard. In order to see that some concrete results are achieved, the drive should be monitored jointly by the Central and State Governments, for which modalities may be worked out by the MHA.

Money Laundering, Drug Trafficking, Narco-Terrorism and Flow of Foreign Funds

4.29 The prevention of money laundering is essential for safeguarding internal security. Given the close nexus between drug trafficking, organised crime and terrorism, it is also necessary to improve the effectiveness of the Narcotics Control Bureau. The aspects of money laundering, drug trafficking and narco-terrorism have been addressed in detail in Chapter III.

4.30 The funds generated through illegal means may sometimes find their way into the country through legal channels, for ostensibly supporting activities covered under the Foreign Contributions Regulation Act (FCRA). It has not always been possible to ascertain the end use of these funds. Although it may be desirable to check the donee accounts under the FCRA as thoroughly as possible, cent percent check of these accounts may be a very unmanageable and expensive exercise. Instead, the MHA has already mooted a proposal to replace the FCRA with a new Act, under which registration and monitoring of the recipients of foreign contributions would be done at the district level. It is also proposed to involve the banks as an independent channel of data collection and monitoring. The MHA would continue to lay down policy, control directly the receipt of foreign contribution in border and coastal areas, as well as by religious organisations and exercise control over the manner in which delegated authority is exercised by the district collectors. Under the new law, the Government control over the recipients of foreign contribution would be much closer, since the district collector would be dealing with only a limited number of individuals/organisations. This would automatically achieve an almost hundred percent check.

4.31 In order to ensure effective administration of the FCRA and the Indo-Pak Visa Agreement, 1974, the Foreigner's Division of the MHA, as well as the Bureau of Immigration, may be headed by the same Additional Secretary. Officers from various relevant streams like Income Tax, Banking, Revenue Intelligence, Enforcement, IB etc. should be taken in the Bureau of Immigration.

4.32 The Planning Commission and the Ministry of Finance may take action to provide additional allocations for strengthening the Directorate of Revenue Intelligence (DRI), Enforcement Directorate (ED), Narcotics Control Bureau (NCB), Central Bureau Narcotics (CBN) and Foreigners Division (MHA) under the Plan Head.

Functioning of the State Police Organisations

4.33 The MHA should take necessary steps to consult the State Governments, with regard to removal of factors, which have been responsible for weakening the functioning of the State police forces and for establishing clear cut policies in regard to promotions, transfers and tenures of police officers.

4.34 The MHA should initiate consultations with the State Governments, for replacing the existing Police Act. This task should be completed expeditiously so that a new Police Act can be put in place by 2003.

4.35 State Governments should be requested to maintain efficient police organisations, to effectively maintain law and order. For this purpose, they must mobilise necessary resources. They should also recognise their crucial role and responsibility, in providing strong and sustained support to the Central Government, in its efforts to maintain internal security all over the country.

4.36 The State police forces have to be strengthened and modernised. However, the MHA must closely monitor the modernisation grants it provides to the States. The State police forces should be involved in the operations planned and executed by the Central Armed Forces. This may be provided for in the SOP prepared by the MHA.

4.37 The MHA should provide assistance to the States, to maintain well trained and equipped civil and armed police forces, to the extent permissible under the Modernisation of State Police Forces Scheme. The States themselves should maintain adequate strength of police forces to meet their present and future requirements. This could be attempted by earmarking funds for supporting schemes for modernisation and strengthening. The level of assistance has already been enhanced to Rs.1000 crores per annum.

4.38 Every State, must be encouraged to create specialised forces, to meet its requirements. This is already being done by way of creation of India Reserve (IR) battalions. States could also be provided sustained financial support, under the Scheme for Modernisation of State Police Forces to, inter-alia, improve the fitness, preparedness, strike capability, mobility etc., of their police forces. However, the strength of the police forces should not be frittered away in peripheral duties.

4.39 Proper police lines may be established urgently, at least in disturbed areas, to provide safety to policemen and their families. Establishment of police lines could be considered for inclusion within the purview of the Scheme for Modernisation of State Police Forces.

4.40 Each State should take action to set up a first class Forensic Science Laboratory (FSL) with state-of-the-art equipment and trained experts. The MHA could provide funds for this purpose under the scheme for Modernisation of State Police Forces.

4.41 Apart from earmarking of funds, the MHA should have a monitoring mechanism to ensure that the funds provided to the State Governments, for modernisation of their police forces, are properly utilised and targets achieved.

4.42 A system may be devised for fixing annual targets for each State, in consultation with them, for upgradation/modernisation of their police forces. The objective is to make the State Governments self sufficient in handling even the most serious law and order problems. Thereafter, the State Governments should be held fully accountable for enforcing law and order.

4.43 The State Governments should be required to pay special attention to the aspect of growing disillusionment among the people, on account of a high level of corruption among the police. Modalities to build systems to weed out corrupt police officials, would need to be worked out by the State Governments.

4.44 MHA should take up with the States the need for every State, or a group of neighbouring States, to establish state-of-the-art-training institutions to impart training/refresher training to personnel at all levels. The training curricula should, inter alia, cover modern trends of policing. The police should change their attitude and style in dealing with the public, so as to enlist their co-operation. This has to be an essential part of police training. State Governments should ensure, that existing training institutions have suitably qualified instructional staff, who enjoy adequate tenure, attractive incentives and facilities.

4.45 State Governments may be requested to introduce a shift system, in order to ensure that police constables do not have to work for more than 8 hours a day and on an average, 6 days a week.

4.46 A State level Police Establishment Board, headed by the State Chief Secretary/Home Secretary, should be set up in each state to decide transfers, postings, rewards, promotions, suspension etc., of gazetted police officers. Another Board, under the State Director General of Police (DGP), should decide these matters in respect of non-gazetted police officers. The State Governments would implement this recommendation. Therefore, it would be important to obtain their concurrence. The MHA may initiate necessary action in this regard.

4.47 The State Governments should forge a co-operative approach towards policing, including recruitment and training of police personnel. Efforts may be made to impel the State Governments in this regard. The MHA may take up this matter with the State Governments.

4.48 A model recruitment procedure should be prepared by the MHA and commended for adoption by the States, to ensure transparency of the recruitment procedure and in order that persons recruited, possess the requisite aptitude and potential.

4.49 Recruitment of the constabulary, should be entrusted to a State Police Recruitment Board, which should be headed by an eminent professional and not necessarily a police officer. Action in this regard will have to be taken by the State Governments.

4.50 The minimum qualification for a civil police constable should be 10th pass, with an upper age limit of 18 years. Recruitment should be on the basis of a physical test, followed by an objective-type written test, to be held by the State Police Recruitment Board. Besides the physical and written tests, the candidates should also be subjected to an aptitude test, before the final selection. After this, selected candidates should be put through a rigorous two-year training-cum-teaching routine, at the end of which they should be given +2 level of the Central Board of Secondary Education (CBSE). This, in effect, will raise the educational qualification of the police constables to Higher Secondary level, without compromising the principle of catching them young.

4.51 Direct recruitment should be only at the level of Constable and Sub-Inspector. A proposal to stop direct recruitment at Inspector and Deputy Superintendent of Police (DSP) level is under the consideration of the MHA. Co-operation of the States will be required in implementing this. Also, the number of Sub-Inspectors in a police station, should be suitably increased.

4.52 State Governments should restore the orderly and systematic functioning of police stations, while ensuring that they are able to devote timely and methodical attention, to their intelligence gathering role. The police need to be more pro-active in their functioning.

4.53 Close collaboration between the State Special Branches (SSBs) and the IB along with upgradation of the capabilities of the former, is necessary for enabling the country's intelligence apparatus to deal with emerging challenges. The precise steps recommended in this regard have been spelt out in detail in Chapter III.

4.54 The SSBs should keep close contact with the CPMFs deployed on the State borders and with central intelligence and enforcement agencies, to gain better insight and to be able to keep a closer watch over the activities of known smugglers and mafia groups. Meaningful flows of intelligence from the police stations and districts should be ensured. States should seek the help of the MHA and the IB to refurbish the SSBs. This should be an important component of the Scheme for Modernisation of State Police Forces. The MHA may take up with the States the need to properly staff and equip the SSBs.

4.55 The MHA and all States should maintain an updated data/information base with regard to the activities of the organised crime/mafia networks, smugglers and racketeers. Modalities are already being worked out in the MHA for creation of such a database, which may be located in the National Crime Records Bureau (NCRB); the Central Bureau of Investigation (CBI) is also taking action in this regard. State

Governments may be asked to create their respective databases, with arrangements for regular updating. Arrangements should also be made for sharing and exchange of information between the Centre and the States.

Central Para Military Forces

4.56 A phased programme of modernisation of the CPMFs and their enlargement/restructuring is already in hand. This must be executed in a time bound manner. Decisions with regard to the extent of enlargement of individual CPMFs should be based on a clearly spelt-out future role and responsibility of each force. The ultimate objective should be to entrust Internal Security (IS)/Counter Insurgency (CI) duties entirely to CPMFs and the Rashtriya Rifles, thus de-inducting the Army from these duties, wherever possible.

4.57 In order to optimise utilisation of Border Guarding Forces, it is desirable to employ them on the principle of ‘one border – one force’, as spelt out in Chapter V. It is also imperative, in this context that Border Guarding Forces, which have been deployed for counter-insurgency and other allied duties, should revert to their role of border management and the counter-insurgency role be progressively taken over by the CRPF.

4.58 Similarly, each CPMF should revert to its originally mandated role. With the raising of [...] * additional battalions, of CPMFs, Rashtriya Rifles (RR) and India Reserve (IR), the Central Forces, presently diverted from their primary roles, may be reverted in a phased manner over the next five years. Once these additional battalions are in place, the CPMFs, other than the CRPF, may have to be mobilised only for short durations, in cases of extreme exigencies, natural calamities, elections etc.

4.59 The experiment of adding one company (Coy) to each battalion of the CPMFs may be tried out. The efficacy of this arrangement would be reviewed by the MHA after one year of restructuring.

4.60 The SOP issued by the MHA, on the deployment of CPMFs in aid of State Governments, should be suitably modified to dispel the impression that when a situation has arisen where the use of Armed Forces of the union is called for, it is no more the primary responsibility of the State Government to maintain public order.

4.61 The State police should be fully involved in the IS operations. The tendency of police in certain States, to avoid getting involved with IS/CI operations, needs to be curbed. The MHA would need to work out a concrete plan of action to check this trend in consultation with the State Governments.

4.62 Whenever CPMFs are deployed in a State for an extended period, with or without the Army being also involved, an Apex Body under the Chairmanship of the Chief Minister (CM) should be set up to overview the functioning of the security forces. The CM should chair every meeting of the Apex Body and only in exceptional

* Government Security Deletion

circumstances should it be chaired by his senior most cabinet minister. This body should include Home Minister, Finance Minister, and ministers in charge of various development departments, Chief Secretary, Home Secretary, Director General of Police, the senior most Army and CPMF officers and others. States may be consulted on this issue.

4.63 In operations against insurgency, militancy and terrorism, arrangements for co-ordination of operational planning, deployment etc., should be evolved by the senior most officers representing the Central Armed Forces, in close consultation with the State Police Chief and officers of other concerned agencies. Nevertheless, even while Armed Forces are deployed to deal with civil agitations and public disorders, the control should remain with the civil authorities/magistracy. Standing instructions may be issued in this regard.

4.64 Whenever the functioning of two or more Armed Forces is involved, there should be no ambiguity whatsoever, in the chain of operational command. Thus, where the Army is involved, the senior most Army officer should have the clear responsibility and authority, for all operational planning and execution. Clear instructions may be issued in this regard.

4.65 The State Governments would have to take action to involve the district administration and make it fully responsible for the implementation of policy decisions taken by the State-level apex body.

4.66 The Central Reserve Police Force (CRPF) should continue to function as “striking reserve”, for providing assistance to the States, on terms and conditions notified by the MHA. Guidelines for the deployment of CPMFs have already been issued in the form of an SOP, which prescribes that CPMFs should be utilised only for operational duties and not for routine police duties or VIP security/static guard duties. The MHA may take necessary action to enforce the SOP on the deployment of CPMFs. The tendency on the part of State Governments, to circumvent the prescriptions of the SOP, will have to be curbed through constant vigil or even by withdrawal of forces, in the event of continuing violations.

4.67 A well-considered plan, will have to be drawn up by the MHA, to adequately enlarge, upgrade, equip and train the CRPF for discharging its future responsibilities. Keeping in view the present internal security scenario, the whole of the CRPF is being trained for counter insurgency duties. Separate Rapid Action Force (RAF) battalions, exist to deal with emergent law and order situations.

4.68 Nine training centers of the CPMFs have been identified for development as “Centers of Excellence” in specified fields. Training of trainers, for the CRPF, could also be done at the Army Counter Insurgency and Jungle Warfare School at Varangte (Mizoram).

4.69 The training, equipment and weapons of CRPF should be upgraded and its restructuring should be based on clear decisions regarding the future role and responsibilities to be discharged by the force. The Intelligence set-up, in the CRPF, should be strengthened further.

4.70 An Inter-Ministerial Group should examine the feasibility of absorption of aging men and officers of Indo-Tibetan Border Police (ITBP) in other central forces.

4.71 Security of vital points, areas and installations, as also of the VIPs, should ideally be with the Central Industrial Security Force (CISF), which is a professionally trained force for industrial/installation security. A Special Duties Group (SDG) should be created in the CISF for VIP security.

4.72 The CISF should be imparted appropriate training, at par with other CPMFs, before induction at airports.

4.73 The National Security Guard (NSG) should not be deployed for duties, which stretch far beyond its original mandate, as this results in an enormous wastage of resources.

4.74 Deployment of operationally autonomous components of the NSG for anti-hijacking duty, at sensitive airports, especially at Srinagar, Amritsar, Delhi, Jaipur, Jodhpur, Calcutta and Guwahati, may be considered. In the long run, dispersal of the NSG units at strategic points across the country, would enhance its operational efficiency.

4.75 Arrangements should be made for the NSG to assist the States in training their commando instructors, at the NSG Training Centre, Manesar.

Combatting Crime Through Quicker Justice

4.76 There is an urgent need to revamp the Criminal Justice System, including making use of provisions in Evidence Act and Criminal Procedure Code (Cr.PC) by the trial courts, for the expeditious conclusion of trials.

4.77 A three member committee, headed by a retired Chief Justice of a High Court has already been constituted by the MHA, to recommend measures for the revamp of the Criminal Justice System. This committee should take into account the recommendations made so far on the subject by the Law Commission, Task Force on Internal Security and Padmanabhaiah Committee on Police Reforms. Upon conclusion of the deliberations of the three-member committee, a time-bound plan for the implementation of its recommendations should be formulated by the MHA.

4.78 The Law Commission has already given its report after a review of the Indian Penal Code (IPC) and the Cr.PC. The reports are being processed in consultation with State Governments and concerned Ministries. This may be expedited. Legislative

department may be requested to arrange a similar review of the Evidence Act. The proposed review should be completed in a year's time.

4.79 Urgent action may be taken to empower the local bodies to adjudicate on cases of a simple nature. An action plan in this regard should be prepared by the Inter-State Council for time-bound implementation.

4.80 The procedure for stay of proceedings in a court should be modified. The recommendations of the Law Commission in this regard, along with other recommendations, would be processed by the MHA, in consultation with State Governments and concerned Ministries.

4.81 A proposal to amend Section 438 of the Cr.PC, dealing with anticipatory bail, along with other amendments to the Cr. PC, has been considered and approved by the Parliamentary Standing Committee on Home Affairs. The proposed amendment, puts certain restrictions over the grant of anticipatory bail and also makes the presence of the person seeking anticipatory bail in the court, mandatory at the time of hearing of the application. The MHA may pursue this matter in a time-bound manner, to ensure early amendments of relevant provision.

4.82 In serious cognizable and non-bailable offences, bail should normally not be granted. An amendment is being proposed to Section 437 of the Cr.PC, which puts certain restrictions over the grant of bail, particularly for those who have been previously convicted. Similarly, a person who has jumped bail, should remain in custody on re-arrest. This proposal also needs to be pursued for early implementation.

4.83 The Committee, constituted to recommend measures for the revamp of the Criminal Justice System, might also consider, if only the court competent to try a case, should be empowered to grant bail.

4.84 Parole should be granted only on the merits of each case and the police should be given advance information about the decision to release a person on parole. State Governments should be requested to issue necessary instructions in this regard to the prison authorities. These instructions may contain guidelines to restrict unfettered use of the authority to grant parole.

4.85 Burying of crime contributes to corruption in police. Therefore, free registration of cases should be encouraged and any dereliction in this regard should attract stringent punishment. The States/UTs should be urged to implement this recommendation, both in letter and spirit.

4.86 The Law Commission has already made a recommendation to separate staff engaged in investigation, from those to be deployed on law and order duties, in the police stations. The recommendation has also been referred to the State Governments/UT Administrations. The MHA may pursue this vigorously, with the States/UTs, for implementation in a specific time frame.

4.87 The issue, of reverting control over the Prosecution to the police, was considered. Noting that, presently, different systems were being followed in various States and that there was no uniformity in the Police-Prosecution relationship, it was felt that, while preserving the independence of the prosecution, an amendment may be made to Section 25 of the Cr.PC., to enable the State Government to exercise its control over the Assistant Public Prosecutor, through a police officer. The MHA should also examine the details of the existing system, in some of the States (UP, MP, Tamil Nadu, etc.) and study and evaluate the emerging patterns and based on this study, effect appropriate changes in the existing system.

4.88 A Prevention of Terrorism Bill should be enacted as early as possible, for dealing effectively with terrorism. Consultations in this regard with the State Governments, Law Commission etc., which are already in progress, may be expedited.

4.89 A scheme should be evolved for protecting witnesses. This is already under consideration and should be finalised quickly.

4.90 The MHA may appropriately, bring to the notice of the States, the provisions of the Act enacted by Maharashtra, to deal with organised crime. The States may also be sensitised about the need to have an effective legal framework to deal with the menace of organised crime.

4.91 Organised Crime Units should be set up in all States. Every State should also have a dedicated band of intrepid investigators, prosecutors and special courts, to deal with the challenges of organised and terrorist crimes. The MHA may request State Governments to do the needful.

4.92 Steps should be taken in consultation with and on the advice of the Ministry of External Affairs (MEA); to secure international co-operation in countering the challenges posed by organised crime. An action plan for this purpose, may be prepared expeditiously by the MHA, after consultations with the MEA have been completed.

4.93 For tackling economic offences, effective co-ordination must be ensured among the concerned regulatory agencies. The Central Economic Intelligence Bureau (CEIB) may play a nodal role in this regard. The functions of the CEIB have been spelt out in detail in the Chapter on Intelligence Apparatus. Suitable legislation should be enacted expeditiously, for confiscating the assets of criminal and mafia elements and networks, in consultation with the Ministries of Finance and Law.

4.94 The 3-member committee, constituted to recommend measures for the revamp of the Criminal Justice System, might also consider the enactment of a separate Economic Offences Code.

Role of the Ministry of Home Affairs in the Management of Internal Security

4.95 While, in the present constitutional framework, it is difficult for the MHA to monitor and bring about improvement in the governance of the States, an accountability mechanism does need to be built, in respect of the schemes being financed by the Central Government. The MHA may enter into MOUs with the concerned State Governments, with specific stipulations to ensure accountability.

4.96 A mechanism may be worked out, in consultation with the States, whereby the Central Government could guide and help the State Governments, in providing good governance. A detailed action plan in this regard should be prepared by the Inter-State Council, which should thereafter be taken up in a meeting of the council, for adoption and implementation. This would be particularly relevant in disturbed states.

4.97 A comprehensive development plan for Kargil and the work of restoration of damaged infrastructure in the area may be finalised and implemented in a time-bound manner by the MHA in collaboration with the Government of J&K. The MHA may submit a progress report on the subject after a period of six months to the NSC/CCS.

4.98 The Department of Internal Security in the MHA, should be strengthened and should function directly under the Home Secretary. Additional staff should be given to this Department, in accordance with its requirements.

4.99 The MHA may review the working of its Foreigners Division, to ensure its institutionalised interface with all concerned investigating, enforcement and intelligence agencies. As suggested at Para 4.31, both the Foreigners Division and the Bureau of Immigration should be headed by the same Additional Secretary.

4.100 A Policy Planning Division should be set up in the MHA, with a view to developing a 'vision' in matters related to internal security.

4.101 The Control Room of the MHA should be suitably upgraded, to transform it into a state-of-the-art nodal point, for round-the-clock flow of information.

4.102 There is need to further improve the Public Relations set-up in the MHA. A plan of action may be evolved by the MHA for this purpose.

4.103 The Home Secretary has made some proposals to make more effective, the functioning of the Nodal Group, which was established to take follow-up action on the politician-bureaucrat-criminal nexus. The MHA may get an Independent Review Committee (IRC) constituted and obtain its decision on these proposals.

4.104 The Home Secretary should be assisted by two staff officers, for timely attention to and pursuit of important matters. The Ministry of Finance may be approached for the creation of these posts.

4.105 The Department of Personnel and Training (DoP&T) may work out a scheme, in consultation with the MHA, MoD and other security agencies, for establishment of a pool of officers/core cadre, drawn from all services, for manning posts at all levels in the MHA, MoD, NSCS etc. The assignments in these ministries/agencies are perceived as exacting and unattractive. The members of such a pool should, therefore, be appropriately compensated by provision of non-monetary incentives.

4.106 The MHA may consider referring to the next Central Pay Commission, at the appropriate time, a proposal for building in greater flexibility in the management of the highest rungs of the Indian Police Service (IPS) cadre, by covering all senior IPS posts with a uniform salary scale etc.

4.107 There are provisions, under the relevant rules, based on which the performance of Government officials is to be reviewed after a particular age and those found unfit or with doubtful integrity must be weeded out. State Governments may be requested to follow and implement these rules meticulously. In respect of All India Services (AIS) officers, these provisions would have to be implemented by the Central and the State Governments in concert. In respect of Central Services Officers, a similar responsibility would devolve on the cadre controlling Ministries/Departments. In special situations, the provisions of Article 311(2) could be invoked. The action should begin with the top levels of the bureaucracy, both at the Central and State Government levels. This would serve as an example for the rank and file and facilitate the exercise to weed out undesirable elements from public offices.

Inculcating Patriotism and a Commitment to the National Cause

4.108 Action should be taken, to create awareness of the duties and responsibilities of citizens, through the introduction of imaginatively conceived modules, in the educational curricula in the schools, colleges and professional training institutions. The Department of Education in the Ministry of Human Resource Development (HRD) and the State Governments, may be involved in this extremely important endeavour. In this context, a proposal that it should be made obligatory for youth to either undergo national service, National Cadet Corps (NCC) or a stint in the Territorial Army (TA) was considered and it was decided that given its financial implications, the entire issue should first be processed, in the Committee on Non-Plan Expenditure and thereafter, since the State Governments are also involved, discussed in a meeting of the Inter-State Council. The Ministry of HRD may work out the precise modalities for these proposals for national service and the Ministry of Defence for the NCC and the TA, in consultation with the Committee on Non Plan Expenditure.

4.109 The rich potential, of the electronic media, should be exploited by the Government, to make people, even those who are illiterate, aware of their duties and obligations. Ministry of Information and Broadcasting and the State Governments, will need to be involved in this effort.

4.110 Political parties, have a significant role to play, in ensuring that the faith of the people in the system is maintained. It is, therefore, essential to prevent the alienation of people from the mainstream, by making the system more responsive and transparent. The Ethics Committee of Parliament could lay down norms and guidelines, for sensitisation of members and constituents of political parties to the need for maintaining exemplary conduct. A similar code should be devised for the Government servants.

4.111 The time has come, when those occupying high public offices, should set an example, for the people to emulate and follow. And those of them, who are found guilty of violating their legal or constitutional obligations, should be dealt with sternly.

Civil Defence

4.112 During times of war, natural calamities and other similar emergencies, Civil Defence Organisation has traditionally played a vital role in guarding the hinterland, supporting the Armed Forces, mobilising the citizen and in helping civil administration discharge its responsibilities. Over the years, however, new and complex challenges have emerged; the preparedness of the Civil Defence personnel has also suffered, as its periodic exercises have become routinised, and tended to get neglected. It is essential, therefore, for the Ministry of Home Affairs to carry out an in-depth review of the organisation's effectiveness, identify its weaknesses and the new challenges it will be required to meet, in the contemporary scenario and evolve a concrete action plan to revamp it. This important task needs to be undertaken in close collaboration with the State Governments. It is advisable to complete this exercise on an urgent basis.

4.113 Steps should be taken to secure the involvement of communities in exercising requisite vigilance and in supporting and assisting the functioning of civil police. Defence parties may be formed in the villages. Similar defence parties could be formed in the urban areas in each mohalla and ward. The States and UTs would need to take action in this regard. The Government of India should bring out a detailed operational handbook and provide for training and funding of pilot projects.

Disaster Relief Management

4.114 It is imperative that appropriate procedures, structures etc. are expeditiously put in place to cope with natural calamities like cyclones, floods, earthquakes etc. Since disaster relief management requires dealing with one or more local authorities, and often requires the intervention of the CPOs, the law and order machinery etc., it may be appropriate to transfer this subject from the Ministry of Agriculture to the Ministry of Home Affairs (with the exception of Drought Relief and Famine which should continue to be handled by the Ministry of Agriculture). The relevant provisions of the Allocation of Business Rules may be amended for this purpose.