

Recommendations of Gojra judicial Inquiry report

(Recommendatory part, full text available on the Punjab Government website;
https://www.dropbox.com/s/znwd8yq4fnyho5j/Inquiry_Report_on_Gojra_Incident_2009_0.pdf?dl=0)

I: Action against the persons who have been held responsible for commissions and omissions: It is recommended that the persons who having been held responsible for commissions and omission paving way to happening of the incident dated 01-08-2009 be proceeded against under the law without any discrimination.

II: Establishment of intelligence & crime Prevention Branches: Article 8 of Police Order 2002 provides that the police establishment constituted under Art. 7 shall as far as practicable, be organized on functional basis into Branches, Divisions, Bureaus and Sections. Art. 8 (2) (b) (i) ibid provide for establishment of Intelligence and Crime prevention Branches which till now have not been established by the Government. Therefore, police in discharge of their duties have to fall back upon other sources. It is, therefore, recommended that, the said Branches be established immediately because doing so would make police more affective in preventing commission of crimes and maintaining law & order.

III: Framing of Rules: The Rules of carrying into effect the provisions of Police Order 2002 as required under Art. 112 (ibid) have not yet been framed which omission is obviously creating hurdles in getting fruits of the said legislation. Hence, it is recommended that the Rules be framed without any loss of time.

IV: Exclusion of role of Zila Nazim: Existing legal position makes Zila Nazim and police responsible for maintaining Law & Order but as discussed in preceding chapters of this Report, Zila Nazim be a fit person to deal with such a sensitive subject. It is, therefore, recommended that by introducing necessary amendments in the relevant provisions role of Zila Nazim be excluded and the Administration should work with the police to maintain Law & Order. Although it is a requirement of section 144 Cr.P.C yet no establishment of any Executive District Officer exists to attend to the urgent cases of anticipated emergency. While substituting the role of Zila Nazim this aspect also be kept in mind.

V: Constitution of District Religious Dispute Resolution Board: Our country is confronted with menace of religious as well as sectarian violence. There is no forum established by the Government for resolution of religious or sectarian disputes amicably at any level., therefore, the law enforcing agencies and the courts of the country have to deal with the matters which often remain either not proved or disproved. If, a Board having representation of all religious communities & religious sects of the respective areas of the District is established then the religious or sectarian disputes would be scrutinized and decided to a considerable extent at that level. It will be worth mentioning that handling of religious and sectarian disputes by law enforcing agencies and the courts do not satisfy the stake holders. When representative of all the stake holders would be part of the Board then, the decision taken by the Board would definitely

provide more satisfaction to them. The District Religious Dispute Resolution Board should have its permanent members i.e. DCO (Chairman), DPO (Member), District Attorney (Member) and any other officer of the District which the Government deems fit. It is recommended that necessary amendments in Police Order 2002 be made for establishment of District Religious Dispute Resolution Board and to prescribe scope of its functions.

VI: Amending of substantive law i.e. Chapter XV PPC, the relevant provisions of Cr.P.C i.e. Ss 196 & 196-B and Police Order 2002: It is the paramount consideration of all societies to have peace, harmony and cohesion among its members. The state have always endeavored through the Parliament, the Executive and the Judiciary to achieve the said objects for which, the laws are legislated, interpreted and enforced. Heterogeneity of needs, persuasions and problems of the individual members of every society require variety of legislations, therefore, we find different laws on the same subjects in the World, despite that it has been a longing desire of the communities of the world to have common Codes as far as possible but the ground realities of its different parts never let them to succeed and they could only invent some Charters dealing with a few commonalities...

...It is recommended that the above mentioned (omitted for length) questionnaire be sent to the Council of Islamic Ideology and Mujtahideen of all Muslim's school of thought to obtain their answers hereafter necessary amendments be made in the provisions i.e. 295-B, 295-C 298-A, 298-B and 298-C PPC protecting the rights of all religious communities, if deduced from the answers.

The other objection is that the penal provisions are oftenly misused for ulterior motives also carries some weight therein because, it is a hard reality that registration of the cases under Anti Blasphemy Laws has increased but firstly; the conviction rate in such cases is very low and secondly; till now, the sentences awarded to the culprits have not been completely executed.

Such misuse can easily be avoided by introducing another provision in Chapter XV PPC providing the same punishment for the complainant if he fails in his complaint. It is, therefore, recommended that the Parliament should consider this view and insert an appropriate provision.

Although, sections 295-B, 295-C, 298-A, 298-B and 298-C were inserted in PPC but no safety valve for avoiding misuse of the same was provided in the relevant provisions of Procedural law i.e. section 196 & 196-B Cr. P.C. Misuse of the said provisions of substantive law can be avoided if, adequate amendments are made in sections 196 & 196-B Cr. P.C. which now read as under: 196. Prosecution for offences against the state: No Court shall take cognizance of any offence punishable under Chapter VI or IX-A of the Pakistan Penal Code (except section 127), or punishable under Section 108-A, or Section 153-A or Sec294-A, or Section 295-A or Section 505 of the same Code, unless upon complaint made by order of or under authority from, the

Federal Government or the Provincial Government concerned, or some officer empowered in this behalf ...

As far as the provisions protecting religious rights and sentiments of Muslims Sections 295-B, 298-A, 298-B and 298-C are concerned, the punishments provided under the same are by way of TAZZIR. Such a law can at any time be enacted by the state to achieve its noble object of keeping peace harmony among its subjects.

According to Article 25 of the Constitution of the Islamic Republic of Pakistan, equality before law is guaranteed to every citizen of Pakistan. Therefore, there is no harm to revisit the provisions of Chapter XV PPC after achieving consensus of Mujhtahideen of all Muslim"s schools of thought on the following points:

196-B Preliminary inquiry in certain cases: In the case of any offence in respect of which the provisions of Sections 196 or Section 196-A apply, [officer in-charge of the investigation in the district] may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of inspector, in which case such police-officer shall have the powers referred to in Section 155, sub-section (3).

Now, if the words 'section 295-A' are deleted and the words 'Chapter XV PPC' are inserted in section 196 Cr. P.C and a proviso is added to the following effect: "Provided that in case of the offences under Chapter XV PPC, the complaint will be filed by "District Religious Dispute Resolution Board" instead by order or under authority from the Central Government or the Provincial Government concerned or some officer empowered in this behalf by either of the two Governments", And in section 196-B Cr.P.C, a proviso is also added to the following effect "provided that in case of the offences under Chapter XV PPC, preliminary investigation shall be conducted by District Religious Dispute Resolution Board instead by a police officer not being below the rank of Inspector in which case such police officer shall have the power in section 155, sub-section (3)"

Then it would definitely serve as a safety valve to diminish probability of misuse of the provisions of Chapter XV PPC and would also save the innocent person from the clutches of law without there being prima facie case against them.

VII: Mandating Federal Intelligence Agencies to provide first hand information at Divisional level: It has been noticed during Inquiry that the Federal Intelligence Agencies on collection of information send it to their hierarchy and do not share the same at District or Divisional level. Maintenance of law & Order is headache of the Provincial Government concerned.

The information collected by Federal Intelligence Agencies has to pass through a long route to reach the Provincial Government as well as to the Law Enforcing Agencies at local level. The emergencies like time & tide wait for none. It is, therefore, recommended that any information

pertaining to prevention of crime or law & order situation collected by the Federal Intelligence Agencies be shared at least at Divisional level.

VIII: Capacity and efficiency building of Special Branch: The capacity of Special Branch be enhanced and efficiency building measures be taken. It should be accorded higher priority to make it more efficient and responsive towards the exigencies.

IX: Establishment of Special Force for Protection and Protocol of VIPs and other vulnerable persons: It has been noticed during the inquiry that much time, efforts and funds of District police are exhausted in providing protection and protocol to VIPs or to other vulnerable persons which results in the neglect of many areas of interest and welfare of common man. It is, therefore, recommended that a Special Force for this Purpose be established, so that the normal District Police can concentrate on its basic functions in an efficient, effective and objective manner. Indeed good governance need good police.

X. Gradation of the District on the basis of sensitivity and enhancement of the law enforcing personnel accordingly: Gradation of the districts be made on the basis of their sensitivity towards religious or sectarian issues and personal of the Law Enforcing Agencies accordingly be enhanced to tackle the situation of emergency therein without any delay and looking for further enforcement from the other sources. In addition, list of the State art equipment and outfit required to meet sudden, wide spread and violent public disturbances should be made for each district headquarter and stored at a safe and convenient place from where it could be drawn in an emergency without any waste of time.