

Investigation of Extremist offenses

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In the last thirty years, thousands of civilians and policemen were killed, many more thousands maimed and property worth hundreds of crores of rupees destroyed in violence perpetrated by the Marxist Leninist parties. At the forefront of this carnage has been the Peoples War group. However, the stark reality is that not even one of the offenders has been convicted of any serious charges. This article is intended to analyze the apparent reasons for this state of affairs in investigation of extremist offences and suggest possible remedies.

The Marxist-Leninist-Maoist (M-L-M) ideology was propounded by the radical elements of undivided Communist Party of India starting from 1964. It resulted in several break ups of the original Communist Party into two main factions of CPI and CPM and several splinter groups on the M-L-M lines. Besides ego clashes of leaders and competition for leadership, the most important factor responsible for the rise of these splinter groups was the active –ideological and material- support extended to them initially by the Communist Party of China and later, by some other East Block countries. The internal conditions in China and the leadership struggles within Chinese Communist Party were clearly reflected in the ideologies preached by the various splinter groups of radical communists in India. “Peoples’ War” was the title of a pamphlet written by the infamous Lin Biao - defense minister of China and the most notorious member of the “Gang of Four” who, while attempting to flee the country to USSR, after running out of fuel in his ideology, died in a crash when his plane ran out of fuel.

Once formed under the directions and guidance of the Chinese Communists, the Indian M-L-M parties acquired a momentum of their own and pursued their own course. Holding on to slogans like “China Chairman (Mao) our Chairman”, they became more Maoist than Mao himself!! The Deng reforms altered the ML parties’ course as little as the fall of communism in USSR altered the political agenda of the mainline Communist Parties of India (CPI and CPM). The ML parties found a ready phrase to denounce Deng’s reforms – “Revisionism” – used extensively by Mao to denounce the Soviets after the Stalinist era.

The socio economic conditions obtaining in India undoubtedly were a fertile ground to preach this ideology and to get support from the deprived classes and unsuspecting middle class intelligentsia. The debate should have been whether to choose an active Social Democracy or Dictatorship of the Proletariat to address the socio-economic problems of the recently independent nation. But the debate was never actively taken up and public discourse went around and around on how much of the ML ideology was bad and how much of it was good for the society. The middle class intelligentsia, which initially sympathized with the movement as vicarious rebellion against the faltering democracy, later realized the horrors of the ideology and stopped subscribing to it.

The political parties never had a consensus on the nature of the challenge to Democracy and failed to guide the public opinion. Successive Governments considered it as purely a law & order problem to be addressed by the police. It is only lately that the middle classes and the intelligentsia are keeping distance from this extreme political ideology and the Political Parties have also started taking a firm stand against these outfits. In other words, there is a favorable political and intellectual environment for the police department to address the issue of watertight investigation and successful prosecution of violence committed by the various Left Wing Extremist (LWE) Groups in the State.

The LWE groups conduct their affairs in utmost secrecy, commit gory crimes at the place and time of their choosing, leave minimal traces and do not yield the truth in interrogation. The members are ideologically charged up, having acquired very wrong notions about the society, the State and the police in their years of secluded life. The police forces working in the LWE affected areas are often overworked, battle-weary, lack skills and patience for meticulous investigation and very often frustrated by judicial apathy of treating these ghastly acts of secret groups as ordinary crimes. The witnesses are psychologically shriveled by the ghastly acts themselves, fear fills their minds and they almost never stand up to tell the truth in the witness box. These groups being in the business of unlawful and anti-State activities, summon up large numbers of advocates through their front organizations to defend them readily, often going to great lengths to discreetly threaten the police officers investigating the cases as well as the public prosecutors – in and out of court. The public prosecutors, used as they are to routine types of cases, are not equipped to deal with cases of

such complexity and make feeble attempts to present the prosecution case in perspective. As a result, almost all the cases are acquitted. The only way the arrested extremists are kept in the prison is as remand or under-trial prisoners. This itself sometimes extends to a few years due to the fact that most of these extremists are involved in dozens of heinous crimes and taking bail or facing trial in all these cases takes time. Even there, they create a Party Cell in the prison and fearlessly carry out various tasks within the prison – keeping their flock together, conducting political classes, ensuring that all of them stay together, ensuring that they get best of attention, nutrition and care from the prison authorities, send and receive letters through couriers in the garb of visitors and take up agitations for prison ‘reforms’ from within when the Party instructs them to do so. The prison staff is infiltrated and officers and staff are threatened to get their way through.

The primary objective of this article is to see how the situation can be improved. It is dealt with under four broad heads:

1. Organizational changes,
2. Investigative techniques,
3. Prosecution and Special Courts,
4. Policy changes.

1. Organizational Changes:

LWE offenses are committed at the place and time of their choosing. Many a times, the case is registered suo-moto because no one comes forward to even give a complaint. In many cases, the complainant turns hostile in the court. Offences are committed in urban areas like Hyderabad, Vijayawada and Eluru, where the IOs are not equipped with the knowledge of the outfits. In LWE affected rural areas, there is a sudden rush of cases typically before general elections or after a huge exchange of fire between the police and extremists. The time gap between the occurrence of the offense and arresting all the accused is often very large and typically, the case is handled by multiple IOs. The result is that the IOs, simply incapable of conducting meticulous investigation, give up and somehow file a charge sheet.

To overcome these difficulties, **Special Investigation Teams** have to be constituted to investigate the LWE related cases with all necessary resources. The Parvathipuram conspiracy case, the Secunderabad conspiracy case, the case of assassination of Late Sri Madhav Reddy and most importantly, the Rajiv Gandhi assassination case have proved the effectiveness of Special Investigative Teams. The SITs should be headed by at least Inspector level officers with thorough knowledge of the LWE groups and they should take up investigation immediately after the offense has occurred so that evidence from the crime scene is not lost. They should therefore have sufficient mobility, communications and other gadgets. Experience shows that it is very difficult to find capable officers to head such teams and to motivate them what with the excessive emphasis on “general Law & Order” posts. But this is the most challenging part of the whole exercise and the Police Department, which is losing dozens of officers and men every year, should find a way to address it.

Number of such SITs should be constituted for highly disturbed districts like Karimnagar and Warangal and at least one such team in districts like East Godavari, Hyderabad and Vijayawada.

The teams should continuously be in touch with each other, constantly update their knowledge about transfer of cadres from one district to another, changes in the organizational structure and changes in the strategy of the Party. A training wing should be created at the state level to train up officers and men posted to these Teams. The SITs should have assistance of a Legal Advisor to closely guide the investigation. Documents seized in various places should be freely circulated and the relevant documents should be cited as evidence in cases of different districts. Even after the preliminary charge sheet has been filed, any new material obtained to prove the case should be submitted to the court concerned by taking permission U/S 173(8) CrPC. A special Legal Cell dealing with LWE affairs at the state level (could work out of SIB – Special Intelligence Bureau) should ensure sharing of evidence.

To bring the non-combatant leaders of the Party to justice, an open case of conspiracy against the State should be opened in every district where LWE Activities are observed and one such case should be opened at the state level to cover the members of

“Provincial Committees”. The over ground support network should also be brought into the net of these conspiracy cases under appropriate provisions of POTA.

2. Investigative Techniques:

In many of the offences, especially of murder or arson, the extremists leave behind a chit “explaining” why they were committing the offence and the “Dalam” or Squad responsible for it. These chits are hand written and normally signed by the leader of the group planning or executing the offense. These chits often contain abuses against the local police also. For various reasons, the local police almost never make the chit part of the FIR. If such chits are made part of FIR, they have tremendous evidentiary value when the man who scribed the chit is caught. Simply by comparing his/her hand writing, a conviction can be obtained.

Similarly, the dalam leaders and other leaders often send press notes to the local press on some issue or the other. Such notes can be seized officially and submitted to the courts without loss of time so that they can be used during trial. Same applies to the large piles of documents seized in exchanges of fire and raids on extremist hide outs. By carefully seizing all such material in strict accordance with the legal procedures and indexing the documents, IOs of different cases can establish the active presence of accused in their respective cases in unlawful activities.

All the UG cadres belong to some village or the other. Once names of the accused in a case are established, evidence should be collected from his native village – from parents, neighbors and village officers – from when the cadre was absent from home and this can be used as evidence in the trial. Similarly, the crime scene is never checked for finger prints or hair or other physical evidence. It should be done. Before they commit the offense, the extremist assemble at a place and often wait for some time. They prepare food there and leave evidence. They visit a village before or after the offense. All such evidence should be collected. In exchanges of fire, some of the extremists get wounded and they are carried away by their comrades. Blood samples collected at such locations can be used for DNA tests at a

later date. The wrappings of explosives used or seized contain batch numbers. Their sale point should be traced and the supply chain fixed up.

The LWE groups believe in the Maoist-Charu Mazumdar axiom of “Kill one and terrorize one thousand”. The offences leave behind such a gory picture that terrorizes the witnesses and yet it is very difficult to describe it in words to impress upon the presiding officer of the court. Professionally taken photographs and videography of the scene and all subsequent evidence collection will help to graphically present the case in its perspective. That is why the SITs should take up the investigation immediately after the offence is reported. Videography of the scene, complainant and the mediators will ensure that even if they turn hostile, damage to the case is minimal.

It is widely known that to support the underground movement, a vast network of over ground support systems operates. Some of them operate in the form of front organizations like the APCLC and others such as contractors under fear and specially appointed Part Timers are in constant touch with the party, organizing provisioning and logistics. The SITs have to keep continuous tap on these networks to monitor the activities and catch the wanted criminals. This network can be broken only if evidence is collected carefully and they are successfully prosecuted for their active support to unlawful activities.

Well designed and extensive databases should be built and networked for this purpose. Elaborate forms have to be designed to record in detail, the offences, individual profiles of UG/OG Cadres, the Dalam profiles and Interrogation Reports. All such information should continuously be updated and shared. Relevant parts of this information should be sent to the courts from time to time.

3. Prosecution and Special Courts:

No matter how well the case is investigated, if the prosecutor is not knowledgeable about the nature of these secret Parties and their methods, he would not be able to present the case properly. Same applies to the judicial officers also. Hence the LWE cases should be tried by only Special Courts and the prosecution and judicial officers should be carefully chosen

for this task. This is all the more so because special legislation like AP Public Security Act and POTA are often applied in these cases.

It has been the experience that even when very potent special legislation like TADA earlier and POTA now are available, the police officers are careless in applying them. It is not out of place to mention that the provision contained in TADA making confession of an accused made before a police officer of designated rank (SP) admissible, was used only in less than half a dozen cases whereas thousands of cases were registered under TADA and at least hundreds of the accused were arrested. Similarly, number of cases were quashed because the statutory provisions were not followed after registering the FIR and before filing charge sheets. The same should not be repeated while using POTA. Hence the need for SITs and support of a Legal Advisor.

4. Policy Changes:

The constitution and equipping of SITs, provision for Legal Advisors, constitution of Special Courts and Special Prosecutors call for policy decisions. And also, the policy on surrenders has to be modified. At present, there is an unwritten understanding that those who surrender do not have to face trial and that even if they face trial, acquittal is assured. The inherent flaw is that the surrendered cadres surrender only physically. They are under no obligation to tell the truth regarding the offenses they committed, the organizational structure and the real identity of the cadres. Quite a few of them continue to extend their sympathy and support to the Party after they are rehabilitated by the State. The acquittals some times are obtained with IOs and other Police officers “advising” the keen witnesses to turn hostile in the court. This will surely spoil the atmosphere for proper investigation by SITs.

While it is necessary to encourage surrenders and to provide rehabilitation, it should be made clear that mere physical surrender only guarantees them the chance to avoid death in an exchange of fire and nothing more. They will have to face trial and undergo sentence if convicted. Their families may be rehabilitated by the State but the perpetrators of heinous crimes must have to pay for their crimes. On the other hand, if the surrendered cadre comes clean on his offenses and the organization, he may be taken as an ‘approver’ and properly rehabilitated and if necessary, protected in the mainstream of society. In some cases, the

Government may choose to withdraw prosecution against the surrendered cadre or the Governor may grant pardon. This will ensure that there is fear of law in the minds of the members of society who chose to tread the path of crime to redress their grievances.

To conclude, ultimately it is the fear of law alone which can deter the potential cadres from joining the ranks of the MLM Groups. Every man and woman aspiring to join the outfits to redress their individual grievances or what they perceive to be the societal grievances should understand that those of them that do not perish in the movement, will be brought to justice some time or the other. The absence of such fear of Law is making the joining of the movement, committing crimes, some of them amassing wealth and ultimately staging a grand surrender a child's play. As a responsible democracy and a responsible Police Department, we have to allocate sufficient resources, effort and time to make successful prosecution a reality.