

POLICE REFORMS IN INDIA (CORNERSTONE OF INDIAN JUDICIARY)

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ABSTRACT

India is land of 29 states and 7 union territories. Under the Constitution of India, the 'Police' is enumerated as a State subject. This means that they are governed by the state legislature & rules of State governments. The organization and working of the police forces are governed by rules and regulations framed by the state governments.

Each state/ union territory has its own separate police force. In addition, there are central police organizations set up by the union government for specialized work. The total combined strength of the state/union territory police forces on 1.1.2003 in the country was around 14,68,776. In addition, the strength of the five central para-military organizations alone was around 6,01,328.

This huge reservoir of trained manpower, more than two million in strength can become a very important catalyst of positive change in society provided they are made to serve the rule of law and held accountable for their sins of commission and omission, if any. The issue of holding them accountable is very closely linked to the type of control and superintendence exercised over them.ⁱ

Here we discuss the subject of police accountability in India in four parts. The first part describes the main features of the police system established by the British in this country and shows how the idea of making the police accountable to anyone outside the establishment did not fit into the colonial model of policing introduced in this country. The second part argues that though the Post-Independence India witnessed changes on many fronts, the police system, in its basic structure, methods of work and lack of public accountability remained more or less

unchanged. It also discusses some developments that resulted in strengthening the executive control over the police and leading to an increasing abuse of police forces and misuse of police powers. The third part talks about the need to make the police accountable, especially in the context of citizens' complaints against police personnel and discusses the mechanisms that exist, both within and outside the department, to ensure accountability. The concluding portion sums up the discussion and suggests that the need for police reforms is too important to be neglected and too urgent to be delayed.

BACKGROUND

The Indian Police Act (IPA) of 1861 is the current basic governing instrument of the Indian police force. It lays down the structure and functions of the police departments in the country. The IPA was drafted by the British colonizers as a direct consequence of the first war of independence to ensure the police system's subservience to the executive and to remain authoritarian in its contact with the public.ⁱⁱ It also established the dual control at district level as described by G.P. Joshi "The same law introduced a system of dual control at the district level. It put police forces under the command of the district superintendents of police but subject to the "general control and direction" of district magistrates." Hence according to section 4 of the IPA the police falls under the control of not only their superior but also of the executive. This was created with the intent to maintain the British rule in the districts in India. Needless to say, the police was neither accountable to the people nor to independent institutions. The police system was designed to a strict hierarchical and military structure, based on the colonial distrust of the lower ranks. The decision making authority lays with a few high placed police officers, while the police constables merely followed orders. After independence, efforts were made to change the political system but the police system still remains almost intact.ⁱⁱⁱ The current administration of the police falls under the IPA; the Indian Penal Code (IPC) of 1862 (amended in 1993); the Indian Evidence Act (IEA) of 1872; and the Code of Criminal Procedure (CrPC) of 1861 (revised in 1898 and 1973). Together they form the current, but outdated, police system in India. There have been some efforts to reform the police system at the state level, but the efforts have all been based on the IPA of 1861 leaving the colonial legacy and philosophy intact in these acts.

THE CURRENT STRUCTURE AND FUNCTIONS OF THE POLICE

Structure According to article 246 of the Indian Constitution and section 3 of the IPA, the police

force is a state subject and not dealt with at central level. Each state government has the responsibility to draw guidelines, rules and regulations for their respectively police forces. These regulations are found in the state police manuals.^{iv} If a state is not upholding law and order, the central government can intervene and take control over the police force according to article 356 of the Indian Constitution (as happened in Kerala in 1959, Tamil Nadu in 1976 and Bihar latest in 1999). Even a specific police investigation can be referred to the Central Bureau of Investigation (CBI) on national level, if the state wants an independent investigation (as done in the investigation of the assassination of Rajiv Gandhi case, the Purulia Arms dropping case and in the Priyadarshini Matto case). A state is divided into administrative police units. Highest in the hierarchy is the Director General of Police (DGP), who is the head of the state police force and is responsible for administration in the police and for advising the government on police issues.^v With the DGP as highest responsible for the state police force, the state is divided into several Zones, Ranges and Districts. Further, the districts are separated into sub-divisions, circles and police stations. Each police station is responsible for a particular area, which they divide into beats and assign personnel to it. The structure of the police force can vary slightly from state to state, due to organizational and administrative convenience and depending on its area and population.

Nevertheless, the structure is overall, strictly hierarchical and the decision-making power is centralized with a few high ranking police officers.

FUNCTION OF THE POLICE

The functions of the police force in India are multi-faceted. Critics of the police force mean that the functions are too varied and some of them should be outsourced. In that case the police

force will have time to focus on core activities like crime investigation and crime prevention. Section 23 of the IPA lists the following functions of the police force:

- Obey and execute all orders and warrants lawfully issued to him by any competent authority;
- Collect and communicate intelligence affecting the public peace;
- Prevent the commission of offenders and public nuisances;
- Detect and bring offences to justice; and
- Apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists; These tasks were listed originally in 1861, the duties have expanded and slightly changed since then and a more recent list of duties would be:^{vi}
 - i. Maintaining law and order
 - ii. Riot control
 - iii. Crime investigation
 - iv. Protection of State assets
 - v. VIP protection
- Traffic control Every police station in a state is assigned an area where the police are upholding local law and order. Each area is in turn divided into different beats. Examples of typical police duties are patrolling neighborhoods for security; solving petty crimes; investigating grave criminal offences and assisting the public prosecution; presenting the accused and bringing witnesses to the court during trial; serving court summons; crowd management and riot control; protecting important material assets like state monuments and vital installations; ensuring physical safety of important public persons; and directing and managing traffic. While the IPA describes the duties of the police force, the Code of Conduct for the Police (adopted in 1960) describes the responsibilities of the police personnel.^{vii} The Code is vague in its description and leaves a lot unsaid. One example is point 4 of the Code of Conduct which sets the rules for use of force. Point 4 does not mentioned in what context and to what extent the force can be used, leaving too much scope for individual interpretation. Point 5 of the Code draws up the criteria for the achievement of the police force: “The prime duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency is the absence of both and not the

visible evidence of police action in dealing with them. However, in the light of recent high-profile cases (such as the Jessica Lall case, the Priyadarshini Matto case and the Best Bakery case) the police force has been inefficient and even deliberately counteracting the work of the investigation leading to the failure of the police for according to its own definition.

THE POLICE HIERARCHY

Recruitment

The current recruitment to the Indian police force is made at four different levels.^{viii} On one hand the recruitment process can be more efficient having one recruitment process at each level, dealing with fewer applicants than having only one recruitment process for all police recruits. But on the other hand it bars the recruits of the lower ranks to be promoted to the next level. In reality this four level system has led to a very discrepant system. The four levels are:

1. Indian Police Service (IPS) level;
2. Deputy Superintendent of Police level (Dy. SP
3. Sub-Inspector/ Assistant Sub-inspector level (SI/ASI);
4. Constable level

The minimum qualifications prescribed for each level is different. While applicants to the three top levels need a graduation degree, an applicant for the constable level only needs a High School degree as minimum qualification. The minimum age is 18 years and the upper age limit varies from 20- 27 years of age depending on the state. Recruitments to the different levels in the police force are done separately from each other. The IPS police officers are directly recruited to their level. Usually, once a police officer is recruited to one level, he or she stays in this level with few possibilities to rise in the ranks. The worst example is the police constables, lowest in ranks and closest to the people, who have no opportunity to reach any higher than Head Constable. The Indian Police Service (IPS) recruits through written tests, personality tests and interviews.

Police officers who get accepted into the IPS will start with the lowest rank of Assistant Superintendent with the theoretical possibility to get promoted to DGP. The applicants to the IPS need the minimum qualification of a college degree. Recruitment to Deputy Superintendent (Dy. SP) is done by a written examination and interview. The Dy. SP and Sub-Inspectors (SI) are either directly recruited or promoted.

The State Public Service Commission, in general, recruits SI centrally. The test involves physical efficiency tests, written examination, mentally ability test and interview. Constables are recruited on district level directly to the police force. The tests involve physical measurements, efficiency tests, written examination, interview, medical examination and police verification.^{ix}

PREVIOUS ATTEMPTS AT POLICE REFORMS

Introduction

After independence the need for police reforms was important and many states set up their own police commissions. The first state police commission was set up in 1959 in Kerala. Most of the States had the Police Act of 1861 as a model when drafting the state acts, hence the same idea and structure is found in the State police Acts.^x This sub-chapter will not analyze the former police reform attempts but merely describe briefly the reform commissions after independence. The chapter is based solely on “Report of the Review Committee on the Recommendations of National Police Commission & Other Commissions/Committees on Police Reform” (March 2005).

Gore Committee on Police Training 1971 – 1973

The Gore Committee on Police Training was set up to review the training of the state police from constabulary level to IPS level. The committee made 186 recommendations, 45 of those were related to police reforms. The recommendation that relates to the police training has mostly been implemented however the reforms relating to the structure of the police system has on the other hand been overlooked.

The National Police Commission (NPC)

Some Selected Recommendations of the National Police Commission

The National Police Commission (NPC) was appointed by the Government of India in 1977 with wide terms of reference covering the police organization, its role, functions, accountability, relations with the public, political interference in its work, misuse of powers, evaluation of its performance etc. This was the first Commission appointed at the national level after Independence. The Commission produced eight reports between 1979 and 1981, suggesting wide ranging reforms in the existing police set-up. The following recommendations have been selected from different reports of the NPC

First Report:

Complaints against the police: According to the NPC, any arrangement for inquiry into complaints against police should be acceptable both to police and public as fair and just. The Commission therefore suggested arrangements, which would include inquiries conducted by departmental authorities and those conducted by an independent authority outside the police. The Commission felt that a large number of complaints against police should be looked into and disposed off by the supervisory ranks in the police hierarchy. The Commission however recommended that a judicial inquiry should be made mandatory in the following categories of complaints against the police:^{xi}

- alleged rape of a woman in police custody;
- death or grievous hurt caused while in police custody; and
- death of two or more persons resulting from police firing in the dispersal of unlawful assemblies. The judicial inquiry should be held by an Additional Session's Judge nominated for this purpose in every district by State Government in consultation with the High Court. He will be designated as the District Inquiry Authority (DIA) and be assisted by an assessor. The DIA shall send the report of the inquiry to the State Government. It will be mandatory on the part of the government to publish the report and decisions taken thereon within two months of receipt of the report. The DIA shall also serve as an independent authority to oversee the

ultimate disposal of complaints dealt with departmentally. To oversee the satisfactory implementation of the entire scheme, a Police Complaint Board should be set up the state level.

Second Report:

Appointment of the Criminal Justice Commission: According to the NPC, the police cannot achieve complete success in their work unless all wings of the criminal justice system operate with simultaneous efficiency. It is therefore necessary to set up a body, which would comprehensively monitor the performance of all agencies and apply corrective measures from time to time. The existing Law Commission may be enlarged to function as a Criminal Justice Commission on a statutory basis. Such arrangements at the centre should be supported by similar arrangements at the state level.

Role of Police: The basic role of the police is to function as a law enforcement agency and render impartial service to law, without any heed to wishes, indications or desires expressed by the government which either come in conflict with or do not conform to the provisions contained in the constitution or laws. This should be spelt out in the Police Act. The police should have duly recognized service-oriented role in providing relief to people in distress situations. They should be trained and equipped to perform the service-oriented functions.

Political Interference in Police Work: In the existing set-up, the police function under the executive control of the state government.^{xiii} According to the Commission, the manner in which political control has been exercised over the police in this country has led to gross abuses, resulting in erosion of rule of law and loss of police credibility as a professional organization. The threat of transfer / suspension is the most potent weapon in the hands of the politician to bend the police down to his will. The Commission recommended that the superintendence of the state government over the police should be limited to ensure that police performance is in strict accordance with law. In the performance of its tasks, the police should be subject to overall guidance from the government which should lay down broad policies for adoption in different situations. There should however be no instructions in regard to actual operations in the field. In regard to investigation work, in any case, the police are beyond any intervention by the executive or politicians. To help the state government discharge their superintending responsibility in an open manner under the framework of law, a State Security Commission should be setup through law in each state.

The State Security Commission should:

- Lay down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police;
- Evaluate the performance of the State Police every year and present a report to the State Legislature;
- Function as a forum of appeal to dispose of representations from officers regarding their being subjected to illegal orders and regarding their promotions; and
- Generally keeping in review the functioning of the police in the state.

Statutory Tenure of Service: The chief of police should be assured of a fixed tenure of office. The tenure may be for four years or for a period extending up to retirement, whichever is earlier. The removal of the chief of police from his post before the expiry of the tenure should require approval of the State Security Commission. ^{xiii}

Selection of Chief of Police: The head of the police force should be selected from a panel of three IPS officers of that state cadre. The panel should be prepared by a committee headed by the Chairman of the Union Public Service Commission. **Transfer/Suspension Orders:** Police officers should be effectively protected against whimsical and mala fide transfer/suspension orders. There should be a provision in the Police Act, specifying the authorities competent to issue such orders regarding different ranks. Any such orders passed by any authority other than those specified in the Act will be rendered null and void.

Third Report:

Police and the Weaker Sections: Some important recommendations made by the NPC about police response towards weaker sections of society are summarized below: The NPC has recommended the establishment of special investigation cell in the police department at State level to monitor the progress of investigation of cases under the Protection of Civil Rights Act or other atrocities against Scheduled Castes and Tribes. A composite cell may be constituted at the district level under the Sub-Divisional Officer to inquire into complaints emanating from scheduled Castes/Tribes, particularly those relating to lapses in administrative measures meant for their relief. An important cause for dissatisfaction of weaker sections of society is that the police sometimes do not take cognizance of their complaints of ill treatment at the hands of upper castes on the ground that complaints are non-cognizable and therefore cannot be investigated by them without orders from a magistrate. The NPC has recommended that section

155 of the Code of Criminal Procedure should be suitably amended to facilitate appropriate and effective police response to non-cognizable complaints in two categories of cases: (i) to protect a member of the weaker sections from exploitation and injustice, or (ii) to prevent a possible breach of public peace that might result from absence of effective action on complaint of a non-cognisable offence. A comprehensive legislation should be enacted setting out the procedure for the allotment of land to landless poor. Police officers from the local police station should be associated with act of handing over possession of land to the landless and a brief record of this should be kept in the police station records. Postings of Officers: The postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police. The Chief of Police should be exclusively responsible for selecting and posting Superintendents of Police in charge of districts. Guidelines for Avoidance of Vexatious Arrests: Presently the powers of the arrest available to the police give ample scope for harassment and humiliation of persons, prompted by mala fide considerations. In actual practice, several persons who ought to be arrested are let free on account of political influence or other considerations, while harmless persons who need not be arrested at all are often arrested and even remanded to police custody on inadequate grounds. Some mala fide arrests get exposed on habeas corpus petitions filed in High Courts but such exposures are rare compared to the large number of unjustified arrests that take place all the time. NPC has recommended very strict guidelines for making arrests by the police, which should be strictly observed in day-to-day administration by the senior supervisory ranks. However, the State governments are yet to make firm arrangements down the line for observing these guidelines in day-to-day police work. The NPC also recommended that sections 2(c) and 2(1) of the Code of Criminal Procedure should be amended to remove the emphasis on arrest in the definition of cognisable and non-cognisable offences and section 170 of the Code of Criminal Procedure should be amended to remove the impression that it is mandatory to make an arrest in non-bailable cases. Guidelines regarding use of Handcuffs:^{xiv}

- The threat of putting handcuffs on persons under arrest is another source of corruption and harassment. The following guidelines must be observed:
- No person shall be handcuffed who, by reason of age, sex or infirmity can be kept in custody without handcuffs.
- No person arrested on a bailable offence shall be handcuffed, unless for some special reasons, it is believed that he is likely to escape.

- In cases under judicial custody, court's instructions should be obtained before handcuffing the accused
- Under trial prisoners and other accused persons should not be handcuffed and chained unless there is reasonable expectation that such persons will use violence or attempt to escape. The police escort must be sufficiently strong to prevent escape.
- Whenever any accused is handcuffed, the fact and reasons should be stated in the Sentry Relief Book.
- In no case should prisoners or accused persons, who are aged and bed-ridden in hospitals, or women or juvenile or civil prisoners, be handcuffed or fettered. Provision of Imprest Money to

Police Station: The Commission noted the non-availability of any imprest money in a police station to meet expenditure on several legitimate needs of the station. It recommended that police stations should be provided with an adequate imprest amount to meet the contingent expenditure in day-to-day work. Adequate funds should be provided at station level to eliminate causes of corruption, which often engulf even the honest officers.

Fourth Report

Registration of FIR: Victims of crimes are sometimes turned away from a police station on the mere ground that the reported crime has occurred in the jurisdiction of some other police station and it is for the victim to go there and make his complaint. This works to the disadvantage of ignorant people and weaker sections in society. The NPC has recommended an important amendment to Section 154 Cr.P.C. which would make it incumbent on a police station to register an FIR whether or not the crime has taken place in its jurisdiction and then transfer the FIR to the concerned police station, if necessary.

Examination of Witnesses

The examination of witnesses should be conducted as far as practicable near the scene of offence or at the residence of witnesses concerned at some convenient place nearby. Statement of Witnesses: According to existing law, a police officer is precluded from obtaining the signature of the person whose statement has been recorded by him. The Commission has recommended that the existing practice of recording in detail the statement by a witness during investigation should be done away with. In its place, the Commission has suggested an

arrangement in which the investigating officer can record the facts as ascertained by him on examination of a witness. This statement of facts can be in third person in the language of the investigating officer himself and a copy of the statement should be handed over to the witness under acknowledgement. This arrangement would also act as a safeguard against the malpractice of padding of statements which the investigating officers are often accused of doing. Restoration of Stolen Property to Victims of Crimes: Presently, properties recovered by the police during investigation or otherwise are first transferred to court custody. Their return to the rightful owner is ordered at a much later stage of the criminal proceedings. During the intervening period, there is considerable risk of damage to the property because of indifferent handling at different stages of police and court custody. Sophisticated electronic goods run a serious risk of irreparable damage. Successful detection of case does not provide any psychological satisfaction to the victims of crime when the lost property is kept away from them for a long period without proper attention and care. NPC has recommended a change in the existing provisions in law to facilitate early return of the recovered property to the victims concerned even at the stage of investigation, protected by appropriate bonds for their safe retention and later production in court.

Compounding Offences: The NPC has recommended that the police may be empowered in law to compound offences in simple cases even at the stage of police investigation, when both parties to a dispute may themselves like to settle the matter amicably. Due safeguards must of course be provided against a forced or contrived compromise. Presently this facility is available only at the stage of trial. This amendment in law would also reduce the workload in courts.

Intimation about Arrest: The NPC has recommended a new section 50-A in Chapter V of Cr.P.C. requiring the police to give intimation about the arrest of a person to anyone who may reasonably be named by him to avoid agonizing suspense to the members of his family about his whereabouts.^{xv}

Use of Third-Degree Methods: To reduce the use of third-degree methods, the NPC has recommended

- Surprised visits by senior officers to police stations to detect persons held in illegal custody and subjected to ill treatment

- The magistrate should be required by rules to question the arrested person if he has any complaint of ill treatment by the police and in case of complaint should get him medically examined.
- There should be a mandatory judicial inquiry in cases of death or grievous hurt caused while in police custody
- Police performance should not be evaluated on the basis of crime statistics or number of cases solved.
- Training institutions should develop scientific interrogation techniques and impart effective instructions to trainees in this regard. Inspections of courts: There is need to evolve a scheme of inspections at the level of High Court as well as Sessions Courts to ensure proper functioning of the subordinate courts. A whole-time functionary of the rank of a senior District Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level. The inspecting arrangement proposed above should also ensure the availability of adequate facilities for the witnesses and others who participate in court proceedings. Attendance of Witnesses: The allowances payable to witnesses for their attendance in court should be fixed on a realistic basis and their payment should be affected through a simple procedure, which should avoid delay and inconvenience

Fifth Report

Recruitment to the Police: Recruitment to the Police must be at two levels only- Constables and Indian Police Service.

The recruitment at other levels should be eliminated in a phased manner. Psychological Tests: Properly developed psychological tests should form an important part of the selection procedure. The Central Government should develop the psychological tests with the help of the Ministry of Defense. Evaluation during Training: The Commission recommended that there should be constant evaluation of the performance, attitudes and behavior of all recruits during training and those who are not shaping as good policemen should be weeded out. Control of the District Magistrate: Presently, under section 4 of the Police Act of 1861, the District Police is subject to the "general control and direction" of the District Magistrate.^{xvi} The NPC felt that this cannot be construed as warranting any interference in the internal management of the

police force. The police should perform with full accountability to the law of the land. Any rule or regulation which unnecessarily or without purpose subordinates the police to the DM should be removed. However, there are a number of areas, which would require active cooperation of different departments and in such matters coordination by the District Magistrate will be necessary. The role of the District Magistrate as a chief coordinating authority should be recognized and respected by the police. The NPC has prescribed the areas where the District Magistrate can play his role as the coordinating authority. Causes of Poor Police Public Relations: Police public relations are in a very unsatisfactory state. Police partiality, corruption, brutality and failure to register cognizable offences are the most important reasons. Police do in fact harass even those people who try to help them. Vertical Communication in Police: Every policeman must develop an attitude of utmost courtesy and consideration towards members of the public who come to him for help. However, the manner in which police personnel at lower levels behave towards public is largely conditioned by the manner in which they are themselves treated by their own higher officers within the force. There is a simultaneous need for reform in behavior and conduct of police officers towards one another. Victims of Crime: The criminal justice system shows no concern for the victim of crime at any stage. The legislation of a Criminal Injuries Compensation Act is recommended. Need for Transparency: All police activities, to the extent possible, should be open, except in four specific areas, which are

- (i) operations,
- (ii) intelligence on the basis of which operations are planned and conducted
- (iii) privacy of the individual citizen and
- (iv) judicial requirements.

Women Police: The NPC has recommended that women police should be strengthened and assigned investigation work in much greater measure than at present. Women police should become an integral part of the police organization and used to deal with crimes against women and children and in tackling the problem of juvenile delinquency.

They should in due course share all the duties now performed by their male counterparts. They should be recruited in much larger numbers than at present, particularly in the ranks of Assistant Sub-inspectors and Sub-inspectors of Police.

Sixth Report

Examinations for Promotion of Officers: Before promotion to the ranks of Superintendent of Police, DIG and IG, all IPS officers should be required to undergo specifically designed pre-promotion courses followed by an examination and an objective selection process. Those who are not able to qualify for the post of DIG and IG even after being given two more chances should be retired from service. Creation of Central IPS Cadres: Two Central IPS Cadres should be constituted - one for the paramilitary organizations and the other for such organizations as IB, CBI, RAW etc.^{xviii} Police Commissionerate System for Major Cities: In large urban areas, crime and law and order situations develop rapidly, requiring a speedy and effective operational response from the police. This can be possible only when the police are organized to perform twin basic functions of decision making and implementation. The Commission has therefore recommended that in cities with a population of 5 lakhs and above and even in places where there may be special reasons like speedy urbanization, industrialization etc., the system of police Commissionerate would provide more effective policing and should be introduced. Communal Riots: The National Police Commission felt that during communal riots, adequate interest is not taken in investigation of heinous and serious crimes. For investigation of such cases, special investigating squads under the State CID should be set up comprising officers of proven integrity and impartiality. Vigorous investigation should be followed by prosecution to ensure deterrent punishment to the offenders. Hence withdrawal from trial of cases occurring during communal riots by the State Governments with a view to promoting communal harmony often proves illusory and has to be discouraged. Reservation in the Force: The Commission has expressed its view against reservation of vacancies in the police for minorities and other weaker sections on the basis of their share in population. The Commission felt that it would fragment the force along caste and communal lines and it goes against the fundamental police philosophy that it must rise above caste and creed and act impartially as the agent of law and order. The composition of the force should reflect the general mix of communities as it exists in the society and thereby command the confidence of different sections of the society. Separation of investigating staff from law and order staff: The NPC has made conflicting recommendations on this subject. While in the Sixth Report, it has suggested the separation of staff at the police

station level (Para 48.15), in the Seventh Report, the Commission has expressed an opinion against the bifurcation of staff on the ground that the police work cannot be put in water-tight compartments. (Para 50.22)

Seventh Report:

Norms for Police Stations:^{xviii}

A police station in a rural area should not have jurisdiction of more than 150 kms. In urban areas, population density should be one of the main considerations. A police station should not be required to police more than 60,000 population. If it registers more than 700 crimes annually, another police station may be created. Police stations in cities with more than 900 cognizable IPC offences should have a Dy. SP/ ASP as SHO. Police Stations investigating over 300 IPCs per year should be headed by an Inspector of Police. The third category will consist of smaller police stations headed by Sub Inspectors. An investigating officer should not be required to investigate more than 50 - 60 IPC cases in India. Restructuring of Civil Police Hierarchy: There should be an increase in the strength at middle levels of ASI/SI/Inspector. Increase in the strength of these ranks should be offset by reducing numbers at the lower levels of constabulary. This will provide large number of investigating officers and improve promotional opportunities for the lower ranks. Management of the Police Force: The internal management of the police force in the state should be entirely under the purview of the chief of police. The powers of the heads of the state police forces in respect of personnel and financial management and to provide infra-structural facilities for the growth of the police should be enhanced. Central Law for

Armed Police Forces: There should be a central enactment to ensure uniformity in composition, officering pattern, training, discipline and efficiency of the state armed police battalions. Establishment of a Central Police Committee: A Central Police Committee to look after the functions of consultancy and monitoring be created because an expert agency is required by the Central Government and the State Security Commissions to advise them on matters relating to:

- (i) police Organization and police reforms of a general nature;
 - (ii) central grants and loans to the State Police Forces for their modernization and development;
- and

(iii) budgetary allotments to State Police Forces. The Committee could also make a general evaluation of policing in the country and provide expertise to the State Security Commissions for their own evaluation of they so require. Establishment of an All India Police Institute: An all India Police Institute on the lines of similar professional institutions existing for Engineers, Chartered Accountants and other professionals be created. This Institute, when established, should be kept under the proposed Central Police Committee.

Eighth Report

Police Accountability: There should be continuous monitoring of the performance of the police forces in the country. The State Security Commission should have an independent cell to evaluate police performance.^{xix}

The annual administration report of the head of the police force and assessment report of the Central Police Committee will provide additional material to the State Security Commission to prepare a final report on the performance of the state police to be placed before the State Legislature. The police functionaries individually as well as in groups should be sensitized to the idea of accountability to the people.

Withdrawal of Protection

Sections 132 and 197 of the Cr. P.C. 1973 provide protection to various categories of public servants against any prosecution brought against them relating to performance of official duties. The protection available to the police officers under these sections should be withdrawn so that the private complainant is free to press his complaint against police official for a judicial pronouncement without there being a provision to obtain prior permission of the competent authority for such prosecution.^{xx}

Enactment of a Model Police Act

The Police Act of 1861 should be replaced by a new Police Act, which not only changes the system of superintendence and control over the police but also enlarges the role of the police to make it function as an agency which promotes the rule of law in the country and renders impartial service to the community.

RESPONSE TO NPC'S COMMISSION

Response to NPC's Recommendations: The major recommendations of the NPC have remained unimplemented. There is a deep-seated and strong resistance to the idea of police reforms. Politicians and bureaucrats have developed a great vested interest in retaining control and superintendence over the police organization. Indicative of the deeply entrenched resistance to police reform is the fact that a letter written on the subject in April 1997 by Shri Indrajit Gupta, the then Union Home Minister to the Chief Ministers of all States exhorting them to rise above narrow partisan or political considerations and introduce police reforms on the lines recommended by the NPC failed to produce even a single response. Within the police establishment also, there are those who are content to retain the status quo. Closely associated with powerful interests, they acquiesce in and allow the system to continue. The existing system is unacceptable. It has resulted in subverting the rule of law and in obstructing the growth of a healthy and professional system of policing. It must change.

Ribeiro Committee on Police Reforms 1998

The Ribeiro Committee was set up in 1998 on the order of the Supreme Court following a Public Interest Litigation (PIL) on police reforms. The committee proposed five major recommendations related to state security, selection of DGP and complaints against the police, the recommendations have not been implemented.^{xxi}

Padmanabhaiah Committee on Police Reforms 2000

Former Union Home Secretary Shri K. Padmanabhaiah was appointed chairman of the Padmanabhaiah commission in 2000 by the Home Ministry of Affairs. The commission inspected the recruitment to the police force, training, duties and responsibilities, police officers behaviour, police investigations, prosecution, amongst others. The committee suggested 99 actionable recommendations, of which 54 need to be implemented by the central government and 69 needs to be implemented by the state governments.^{xxii}

Group of Ministers on National Security 2000 – 2001

The Group of Ministers on National Security was worked on four tasks namely

- a) the intelligence system
- b) internal security
- c) border management and
- d) the management of defense. 62 recommendations were made, 54 needs action taken by the central government and 42 by the state governments.^{xxiii}

Malimath Committee on Reforms of Criminal Justice System 2001 – 2003

The Malimath Committee addressed the principles of the Criminal Justice System, investigation, prosecution, judiciary, crime and punishment. The report has been heavily criticized by human rights organization for its suggestion of changing the burden of proof.³⁹ The committee made 158 observations and recommendations. There are 55 major recommendations of which 42 have to be implemented by the central government and 26 by the state governments.

THE REFORM PROPOSAL

A reform proposal the new Indian police force

Reforming a police force in general- any police force requires time and patience, close cooperation and involvement of the police force itself. The aim of this report is merely to point towards the structural problems in the modern Indian police force and suggest changes in a larger picture. Details will be left out on how to implement the new structure. However, as David H. Bayley points out in “Democratizing the Police Abroad: What to Do and How to Do it” there are four general principals that ought to be used to establish a democratic police force. These four principals are (quote):

1. Police must give top operational priority to servicing the needs of individual citizens and private groups
2. Police must be accountable to the law rather than to the government

3. Police must protect human rights, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy

4. Police should be transparent in their activities ^{xxiv}

Principal two and four will be discussed in this report and suggestions will be made how to implement them in the new structure. Since the police force in a country is supposed to uphold law and order, the force is constantly undergoing reforms and changes, some reforms are undertaken solely by national expertise others are undertaken with the help of international expertise and in some instances both.

Seventeen core lessons of reforming a police force

As David H. Bayley writes in his report, few of the lessons learnt have been documented leaving knowledge and lessons to be forgotten. He has therefore collected 17 core lessons in the work of reforming a police system mainly based on academic observations. When undertaking the major task of reforming the Indian police system, the author of this report strongly recommend the implementers to study these 17 points and as far as possible ensue them. ^{xxv}

1. “Any reform program must be based on a clearly articulated understanding of the connections between the objectives to be achieved and the actions proposed.”
2. “Sustained and committed leadership by top management, especially the most senior executive, is required to produce any important organizational change.”
3. “The key to changing any aspect of policing is management, that is, the way in which the members of a police organization are brought to do what policies call for.”
4. “Police behavior cannot be changed by formal reorganization within the police or by restructuring on a national basis.”
5. “Material resources may support desired changes, but they are rarely essential and never sufficient to bring them about.”
6. “Significant reform requires widespread acceptance across ranks and assignments in a police department.”

7. “When pilot projects are undertaken, they must have committed leadership and personnel who are not continually pulled away for other purposes.”

8. “Police officers will not change their behavior unless they perceive it to be in their personal interest to do so.”

9. “Reformers both inside and outside police organizations should be careful not to denigrate the motivation, knowledge, or skill of the people whose behaviour they are trying to change.”

10. “Programme evaluations that emphasize outputs rather than outcomes as a measure of success inhibit organizational creativity.”^{xxvi}

11. “Reform requires that new programmes be monitored so that midcourse changes can be made. At the same time, burdensome evaluation can discourage reform.”

12. “Change is more likely to occur when new resources are made available rather than when existing ones are redistributed.”

13. “If the incidence of crime and disorder is thought to be unacceptable or increasing, police reform will be inhibited.”

14. “Increasing contacts between police personnel and respectable, non-criminal members of the public in an important way of encouraging the development of an accountable service-oriented police organization.”

15. “Issuing clear statements of organizational policy accompanied by appropriate positive and negative sanctions is a powerful way to change the behavior of police officers, even in situations of high stress and urgency.”

16. “Reform is more likely to occur if police officials are connected to professional networks of progressive police leaders (regional, national and international).”

17. “Labor organizations within the police must be included in the development and planning of any reform programme.”

CONCLUSION

This report has aimed to give a brief overview over the current police force system and a description over the problems and solutions. The neglected areas described are all contributing to the inefficiency of the system today and have to be emphasized, in order to have a functioning police force. The training facilities and forensic science equipment are not up to standard and the police force system is understaffed. To combat these problems it is important to hire and train more personnel, increase financial support and to change the current structure. The report suggests a police force system divided into three units 1) an independent crime investigation unit 2) a serious law and order unit and 3) a local police force on district level. This structure will decrease the scope for political interference and with a collegium selecting competent personnel to key position will increase the accountability together with an independent oversight body. Some of the recommendations and suggestions can be implemented fairly easy by increasing financial support, while other suggestions need a radical change of the system. However, none of them are unfeasible. It is important to create and effective, citizen-centered, transparent and accountable system that fulfils the needs of the modern Indian society. This is something that has been waiting too long and urgently needs to be changed.

It is now clear that there is an urgent need of Police reforms in India. It is not acceptable that the training facilities and forensic science laboratories are not up to standard. It is important to combat these flaws with proper education and training as well as to minimize the scope of corruption by changing the structure in the police force. It is very unfortunate that the police work today is heavily influenced by unwarranted political interference. Reforming any police force requires time and patience, close cooperation and involvement of the police force itself. However, as David H. Bayley points out in “Democratizing the Police Abroad: What to Do and How to Do it” there are four general principles that ought to be used to establish a democratic police force. These four principals are (quote):

1. Police must give top operational priority to servicing the needs of individual citizens and private groups

2. Police must be accountable to the law rather than to the government
3. Police must protect human rights, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy
4. Police should be transparent in their activities. This has been a problem that institutional design alone cannot deal with effectively. The Police system reflects the criminal justice system in any country and so it is essential that this agency of the State can deliver to the best of its potential, so that it can fulfill the purpose of its formation. In conclusion, we contend that it is a right time for the policy makers to take any strong step for Police reforms in India.

REFERENCES

- ⁱ POLICE REFORMS by IPS SANKAR SEN
- ⁱⁱ The Indian Police Act,1861
- ⁱⁱⁱ Police Reforms: India – Police Structure and Organisation
- ^{iv} Police Reforms: India – Police Structure and Organisation
- ^v Jain, M.P. (2003) “Indian Constitutional Law”, p. 358-360
- ^{vi} “Police and Politicians” Policing in India in the new millennium p. 49, 50
- ^{vii} The Indian Police Act,1861
- ^{viii} POLICE REFORMS by IPS SANKAR SEN
- ^{ix} Supra note 9, p. 32
- ^x Joshi, G.P. (2005) “Police Accountability in India: Policing Contaminated by Politics” (electronic version), Human Rights Solidarity Vol. 15 No 05 Sep 2005 retrieved August 18, 2006,
- ^{xi} www.humanrightinitiative.org
- ^{xii} www.humanrightinitiative.org
- ^{xiii} www.humanrightinitiative.org
- ^{xiv} The Code of Criminal Procedure,1973
- ^{xv} The Code of Criminal Procedure,1973
- ^{xvi} The Police Act of 1861
- ^{xvii} www.humanrightinitiative.org
- ^{xviii} www.humanrightinitiative.org
- ^{xix} www.humanrightinitiative.org
- ^{xx} Code of Criminal Procedure,1973
- ^{xxi} Supra note 26, p. 8
- ^{xxii} www.humanrightinitiative.org
- ^{xxiii} Supra note 26, p. 9, 10
- ^{xxiv} David H. Bayley (June 2001) “Democratizing the Police Abroad: What to Do and How to Do it” (electronic version), US Department of Justice, p. 13, 14 retrieved August 30, 2006 from /Publications / the letter D/ Democratizing the Police Abroad: What to Do and How to Do it/ PDF
- ^{xxv} Supra note 144, p. 19-26
- ^{xxvi} Police Reform:SANKAR SEN