

CHAPTER II

Transfers

OVERVIEW OF THE TRANSFER SYSTEM

Modern organisations view the issue of transfer of personnel as part of a larger human resource management strategy. Transfers, in this scheme, are part of an integrated career management and operational performance package intended to improve the efficiency and output of an employee, rooting these in the development of individual experience and professional skills. Thus, an effective management of the transfer process creates various new skills, opportunities to increase versatility and to reduce the impact of routine and monotony among employees by exposure to new challenges and responsibilities. Coherent transfer policies also help spread talent throughout the organisation. The entire process is designed to improve equality of opportunity and to inject greater flexibility in career management and succession planning.

Most organisations design and adopt a specific transfer policy to suit their interests. Depending on institutional requirements, they either fix the tenure of an employee by attaching a maximum time limit or adopt a flexible policy in which movement of staff is based on organisational demands and priorities. But rigidity and a purely mechanical application of any such scheme, however elaborate and well conceived, would have undesirable consequences. Any model of tenure, if not applied sensibly, would create its own problems.

Theoretically, the advantages of a flexible tenure system include facilitation of smooth movement of personnel from one post to another or from one department to another, and the allocation of the best personnel for the task without excessive loss of time or opportunity. Unfortunately, the greater the flexibility in the policy, the less likely is it that it would be perceived as applying consistently to all officers in similar circumstances. The scope of subjectivity, bias, arbitrariness and extraneous considerations is also proportionately widened, leading to the perception that tenure is often used more as a threat than as a means of effective and carefully thought out career planning and development. If not applied fairly, a flexible tenure system can generate problems with the morale and motivation of officers with potentially disastrous impact on the employee's own performance, as well as on the performance of the organisation.

A flexible tenure system can also lead to a situation where the ability to influence the decision-making body becomes the most influencing factor in the transfer of employees, leading to influence peddling, a range of unfair practices, and the neglect of significant potential among personnel who are not 'in the loop'. An additional concern with a more flexible policy is that it could result in many under-performing or 'problem officers' being moved to core posts on extraneous considerations. In the flexible tenure system, moreover, the economic cost is high, as the volume of movement of personnel is high. The flexible tenure system tends to be more popular among those who head departments, as it means that they have more control over which officers move on and which remain in post year on year.

A fixed tenure introduces a degree of predictability and regularity in the process of succession planning, and enables more effective career management of individual officers, as well as mediated control over where they are transferred. It enables the management and monitoring of the volume of turnover of employees in departments, and allows organisations to exercise a much closer check on the career profile of individual officers. Therefore, if an organisation designs and implements a transfer policy as part of a larger human resource management strategy, it can result in better utilisation of personnel and skill.

Organisations adopting a fixed tenure model follow different methods to fix the tenure of employees. Some of the criteria included are: time taken for officers to get 'up to speed' in the post; investment made in officers in terms of training for the post; nature of work involved in the post and perceived desirability of the post – popular posts are tenured for shorter periods as more officers want to work in those areas; and lastly, the amount of resistance to tenure change, either perceived or actual, from within departments. Variations in tenure length and tenure policy reflect different priorities and circumstances within organisations.

The fixed tenure system, applied mechanically, yields its own share of difficulties, and these are immensely exaggerated in large and bureaucratically controlled organisations. Fixed tenures can mean that inappropriate, temperamentally disinclined, inefficient or corrupt personnel would – barring extreme violations or failures – often be allowed to continue in sensitive positions for their entire tenure despite the significant damage or cost – at least some of which may be irreversible – that they inflict on organisational efficiency. Fixed tenures

also undermine the incentives for hard work and initiative, leading to a formalism at leadership levels where the mandated parameters of responsibilities are routinely fulfilled, but seldom exceeded. Tenure guarantees can also undermine discipline, divesting top management of an important tool through which they can exercise control over recalcitrant employees – here we see the flip side of the arbitrariness of the flexible tenure system where managerial discretion was unrestricted; instead, we now have the possibility of rigid constraints that undermine executive control over subordinates.

The optimal solution, clearly, is a system that marries the strengths of both the fixed and flexible tenure within a larger system of rational career planning for the organisation. This, however, would tend to be the ideal that can seldom be approximated in the real world, and that is certainly difficult to achieve – except in brief periods of extraordinary top leadership – in a complex system that is subjected to the multiple pulls and pushes that police organisations are susceptible to in India.

THE INDIAN EXPERIENCE

The Indian bureaucracy has not paid much attention to the contours of efficient human resource management outlined above, and this manifests itself in the frequent transfer of government employees, and the very wide and arbitrary variations in tenures in various posts, both within and between departments. This has resulted in inefficiency, indiscipline, malpractice and corruption.

One of the biggest challenges confronting the police organisation in India is the optimal utilisation of its vast human resources, and the maintenance of their qualitative and quantitative character at the desired level.¹ The effectiveness of the organisation depends on how well it succeeds in generating the requisite skills to match emerging circumstances and demands, and the efficiency with which these skills are placed at the disposal of the police hierarchy. The objective of the system is that the talent, so made available, is fully exploited to the benefit of both the organisation and individual.²

In India, transfer is a 'normal incident of service', and it is for the appropriate authority to decide the matter.³ In *Union of India vs. S.L. Abbas*, the Supreme Court observed,

It is well understood that transfer of a government servant, who is appointed to a particular cadre of transferable posts, from one place to another is an ordinary incident of service and therefore, does not result in any alteration of any of the conditions of service to his disadvantage. That the government servant is liable to be transferred to a similar post in the same cadre is a normal feature and incident of government service and no government servant can claim to remain in a particular place or a particular post

1 K M Mathur, *Managing Human Resource Development: An Indian Perspective*, New Delhi: Gyan Publishing House, 2001.

2 R K Raghvan, *Policing a Democracy: A Comparative study of India and US*, New Delhi: Manohar, 1999.

3 G B Singh, *Digest of Important Cases: Laws on Service Matter*, vol. III, 4th edition, Gurdaspur: GB Singh Books Pvt. Ltd., 1998, p.168; *Union of India Vs SL Abbas* (1993) 4 SCC 557.

unless, of course, his appointment itself is to be specified non-transferable post.⁴

An order of transfer cannot be faulted on the ground that it has caused inconvenience and hardship to the employee transferred. The reason is that when a transfer is necessitated in public interest, the individual interest has to 'yield' to the larger interest.⁵

However, in another case, the Court observed that the power of transfer must be exercised honestly, in a *bona fide* manner, reasonably and in public interest.

The government is the best judge to decide how to distribute and utilise the services of its employees. However, this power must be exercised honestly, *bona fide* and reasonably. It should be exercised in public interest. If the exercise of power is based on extraneous considerations or for achieving an alien purpose or an oblique motive, it would amount to *malafide* and colourable exercise of power.⁶

In the same case, the Court further stated that frequent transfers without sufficient reasons have to be held as *malafide*.

Again in another case, the Court observed:

One cannot but deprecate that frequent, unscheduled and unreasonable transfers can uproot a family, cause irreparable

⁴ *B. Vardha Rao vs State of Karnataka*, 1986, 4, SSC 131.

⁵ *P.K. Bhattacharya vs Union of India*, 1988, 2 ATR 110.

⁶ *E.P. Royappa vs State of Tamil Nadu*, (1974) 4 SSL 3: AIR 1974.

damage to a government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation.⁷

Even the Court has limited jurisdiction in the matter. In *State of Bihar vs. Shilpi Bose*, the Supreme Court observed,

In our opinion, the Court should not intervene in transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the grounds of malafide. A government servant posted in a transferable post has no vested right to remain posted at one place or the other. Transfer orders issued by competent authorities do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Court should not ordinarily interfere with the order. Instead the affected party should approach the higher authorities in the department. If the Court continues to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration, which would not be conducive to public interest.⁸

As far as transfers of Superintendents of Police are concerned, the power, under the existing law, is vested in the State government. The

⁷ *B. Vardha Rao vs State of Karnataka*, 1986, 4, SSC 131.

⁸ *State of Bihar vs Shilpi Bose*, AIR, 1991, SC 532.

Police Act, 1861, does not specify the detailed decision-making structure for transfer senior police officials, but states simply that,

The Superintendence of the police throughout a general police district shall vest in and shall be exercised by State government to which such district is subordinate, and except as authorized under the provisions of this Act, no person, officer or court shall be empowered by the State government to supersede or control any police functionary.⁹

It is, consequently, the State government that is unambiguously empowered to frame rules regulating the conditions of service of the members of the force.¹⁰ These rules are framed by State governments under Section 2 of the Police Act, 1861, and are required to be consistent with the provisions of the Act.¹¹

In normal circumstances, the State government transfers an official on the basis of proposals made by the police department. Different States have adopted different decision-making structures to effect transfers. For example, Uttar Pradesh does not have a separate transfer policy for officers of the rank of Superintendent of Police. Instead, the State government issues a general transfer policy every year, which is applicable to all departments under the government. Thus the transfer policy for the year 2001-2002, issued on April 21, 2001, states that, though general, transfers would not be carried out under normal circumstances, government employees could be transferred on

⁹ Ali Akbar, Commentaries on UP Police Regulations, Allahabad: Hind Publishing House, 2001, p.276

¹⁰ Ibid, p.285

¹¹ Ibid

administrative grounds.¹² The policy states, further, that at the administrative level, heads of department level, commissioner and district level, as far as practicable, transfers would only be carried out between April 21, 2001, and June 15, 2001. No transfer would be executed after June 15, unless prior permission was obtained from the Chief Minister through the Minister of the concerned department. For Group B officials, only the permission of the Minister of concerned department is required.¹³ If any department required some change in the transfer policy, this could be done till May 15, 2001, with the permission of the Chief Minister through the Minister of the concerned department. Crucially, however, the document states that *the Chief Minister can transfer any employee at any time in the public interest*.¹⁴ The document does not specify the minimum tenure of government officials. All it says that, with the exception of officers in Lucknow, administrative and police officers in the Group A and Group B category, who have served for more than 10 years in any district should be transferred. The UP Police Regulations also does not specify a minimum tenure for a Superintendent of Police.

We find, consequently, that in States like Uttar Pradesh, the Chief Minister is the final authority as far as the transfer of Superintendents of Police is concerned. Theoretically, transfers are carried out on the recommendations of the Police department. The Additional Director General of Police (Personnel) and Inspector General of Police (Personnel) are the designated officers who deal with matters relating to

¹² Annual Transfer Policy for the year 2001-2002, issued in the name of Bholanath Tiwari, Chief Secretary, Uttar Pradesh government.

¹³ Ibid

¹⁴ Ibid

transfer of Superintendents of Police. They draw up lists and make recommendations of officers who are to be transferred, and identify suitable jurisdictions and posts. Nevertheless, the decision-making structure within the government is overwhelmingly influenced by the personality of the Chief Ministers.¹⁵ General observations gathered during the field survey indicate that State institutions have been considerably politicised and there have been numerous instances where the names of officials to be transferred is directly decided by the Chief Minister's office, with the police department simply fulfilling the necessary formalities.¹⁶

Such practices have now become entrenched and result in the discriminatory use of power, which suits officials who are close to the establishment, which, in most cases, is the ruling party. It is only in the exceptional case that the courts have seen fit to intervene on individual complaints, and have directed the State government to formulate and implement a transfer policy for senior government officials, including Superintendents of Police. Thus, the Supreme Court, in November 2001, asked the Uttar Pradesh government to formulate a transfer policy for senior IAS and IPS officers, as transfers could not be made, "at the instance of politicians whose work is not done by the concerned officials".¹⁷

Even in States like Andhra Pradesh, where there is relatively greater emphasis on good governance, there are no clear guidelines for

¹⁵ Interview with a senior Uttar Pradesh police official in Lucknow, on January 16, 2001.

¹⁶ This was also stated by several senior police officers interviewed during the field survey.

¹⁷ SC asks UP to draw up transfer policy,

the transfer of SPs. The revised Police Manual for the Andhra Pradesh Police (issued in 2002), reiterates that the government has powers of transfer of all IPS officers.¹⁸ In the ultimate analysis, the Chief Minister remains the final decision-making authority with respect to all such transfers.

In the normal course, the DGP of the State is supposed to propose transfers on the basis of an informal meeting with the IG (Intelligence).¹⁹ On occasion, the Home Minister of the State, and even the Principal Secretary (Home) – in Andhra Pradesh usually an IPS officer over the past several years – is also consulted. The list is then discussed with the CM. If the CM so desires, he might confer with the Home Minister, but this is not necessarily the case. If there is a difference of opinion between the police leadership and the CM regarding the transfer of a particular officer, then the final decision is taken by the CM. As one very senior IPS officer put it bluntly, “The DGP proposes, the CM disposes”. During periods when a strong DGP was in office, his views prevailed, more as the rule than an exception. The increasing exception, however, is political expediency. As a corollary, it can be inferred that when the State has a weak DGP, the view of the political leadership holds complete sway.

Significantly, however, the revised Andhra Pradesh State Police Manual, 2002, specifies the minimum tenure of police officers:

The policy of the Government is that no officer is transferred within 3 years of stay at a post without valid reasons and should

http://www.timesofindia.com/articleshow.asp?art_ID=1393878096

¹⁸ Postings and transfers of the officers of the Andhra Pradesh Police Service, <http://www.apstatepolice.org/MAIN/manch/c07.htm>

¹⁹ Based on information gathered during the field survey.

not be retained at a particular post for more than 5 years and that transfers should generally be made during summer vacation and first week of the month and that they are not used as a punishment, that the vacancies in rural and remote areas should not be left unfilled, and that personal preferences of employees should be accommodated subject to administrative requirements/convenience and the suitability of individual.²⁰

We find, consequently, that in most of the States it is the Chief Minister who has the final say in matters relating to transfers of SPs. As a result, with the growing politicisation of the administration in most States, tenures have become progressively shorter and entirely uncertain. Furthermore, this trend has been synonymous with the continuing degeneration of administration, politicisation of non-partisan posts and functions, and the subordination and abuse of public offices for purposes that are improper and contrary to the public interest. This corrosive trend has resulted in a tremendous loss of efficiency in the management of law & order and of crime.

PATTERN OF TRANSFERS IN INDIA

Even a cursory glance at the prevailing pattern of transfers In India demonstrates that the problem emanates from the way control over the police organisation has been exercised by the respective State Governments in general, and political parties in particular. The first two decades after independence were generally marked by adherence to conventions in the civil services, which had been established under

²⁰ <http://www.apstatepolice.org/MAIN/manch/c07.htm>

British rule. An adverse trend commenced in the mid-1960s when the political leadership injected the concept of ‘commitment in administration’, increasingly re-shuffling administrative officers to fulfil politically motivated goals. Most famously, for example, in 1969, the President of the All Indian Congress Committee, Jagjivan Ram, made a speech in which he argued that ‘the so-called neutral administrative machinery is a hindrance, not a help’ and that the philosophy of a neutral administration was ‘hardly relevant to Indian conditions.’²¹ Prakash Singh identifies the mid-1970s as a turning point, when the process of increasing involvement of politics in police matters commenced.²² Officers were selected and given key placements on considerations of their affinity with and loyalty to particular political parties.²³ Intrinsic merit and administrative qualifications were given, at best, secondary importance.

Arvind Verma feels that a major reason for such politicisation of the police is a lack of professionalism and accountability within the organisation, and for which part of blame lies on the police leadership and its managerial practices.²⁴ In his opinion, political interest in the police department increased substantially after the late-1960s, and virtually destroyed the autonomy of the police leadership in administering the department. In 1971, the second Uttar Pradesh Police

²¹ David Potter, *India's Political Administrators: From ICS to IAS*, New Delhi: Oxford University Press, 1996, p. 155.

²² Prakash Singh, *Kohima to Kashmir: On the Terrorist Trail*, New Delhi: Rupa, 2001.

²³ Prakash Singh, “Police Reforms--Their Raison D'etre”, *Indian Police Journal*, vol. XLVI no. 1, January-March 1999, pp. 3-10.

²⁴ Arvind Verma, “Politicisation of the police in India: Where Lies the Blame” *The Indian Police Journal* vol., XLVII No., 4, October-December, 2000.

Commission complained that political interference had resulted in a ‘warped enforcement of law’ and a ‘general decline in the police in its integrity.’²⁵

It is evident, however, that the adverse trends that were increasingly noticed in the late-1960s had, in fact, commenced shortly after Independence, and every independent inquiry into policing that was carried out in the 1950s and early-1960s – in West Bengal (1960-61), Uttar Pradesh (1959), Kerala (1959), Punjab (1961-62) and Delhi (1961-62) – had commented on the decline in police efficiency, integrity and independence. Thus, the Kerala Police Commission complained that,

The greatest obstacle to efficient police administration flows from the domination of party politics under the state administration... The result of partisan interference is often reflected in lawless enforcement of laws, inferior service, and in general decline of police prestige followed by irresponsible criticism and consequent widening of the cleavage between the police and the public affecting the confidence of the public in the integrity and objectives of the police force.²⁶

Such political interference resulted in frequent transfers of government officials. V.A. Pai Panandikar observes,

²⁵ Steven I. Wilkinson, “Cleansing Political Institution”, <http://www.india-seminar.com/2001/506/506%20steven%20i.%20wilkinson.htm>

²⁶ Kerala Police Commission cited in Report of the Punjab Police Commission 1961-62, p. 20.

...by and large, transfers are too frequent and not enough attention is given to the aptitude and propensities of individuals for a group of allied functions. Such lack of specialisation in a group of allied functions has led to the serious problem of waste of training and experience and also the so called 'generalists' moving in and out of jobs needing considerable background knowledge and familiarity. Such practices have necessarily reduced the commitment of individual civil servants to programmes and achievements. Often, two successive officers have taken diametrically opposite attitude to specific programmes thereby causing waste of effort. The consequence of the present transfer policies is, therefore, serious enough to warrant attention. Since development administration is concerned with programme goals and objectives, policies and practices of transfer to the extent that they damage development objectives must be changed.²⁷

The National Police Commission (1979) also confirmed that the problem of political interference had reached alarming proportions in most Indian States. The Commission identified several cases in which corrupt or politically connected junior officers had their more honest seniors transferred, and a case in which one State's Inspector General of

²⁷ V A Pai Panandikar, *Personnel System of Development Administration*, Bombay: Popular, 1966, pp. 136-7.

Police was demoted to an insignificant post when he refused to make large numbers of politically motivated transfers.²⁸

The Second West Bengal Police Commission also observed that political influence on the police was perceptible right from the 1950s, as reflected in the reports of various commissions and study groups appointed by the governments from time to time. The Commission observed that political influence is primarily exerted through distribution of favours and at times by threats of deprivation. The threat of transfer to a less important job or of withholding of post-retirement appointments has rendered higher officers to be pliable. Politicised organisations and associations are also used to wear down the officers and break their morale.²⁹

Instances of political interference are seen clearly in the appointments of police chiefs and subordinates. Not only are the appointments and service of police chiefs dependent on his 'usefulness' to the Chief Minister, but the postings and transfers of the lowest ranking officers are also carried out at the behest of politicians.³⁰ It is, consequently, not unusual to find the department divided along caste lines that mirror the composition of political parties. Furthermore, instances of political interference are relatively higher in States where political instability results in frequent change of government, or where polarization is more visible. Such a scenario became increasingly visible

²⁸ *Second Report of the National Police Commission*, Government of India, August 1979, pp. 20-35.

²⁹ Recommendation of Second West Bengal Police Commission (1997-2000), quoted in Amiya K Samanta, member Second West Bengal Police Commission, *SVP National Police Academy Journal*, vol 52, no. 2, July-December 2000, pp. 40-59.

in the 1980s and 1990s when the trend towards coalition regimes began to intensify. A change of guard in the State Government began to inevitably result in *en masse* transfers of officials, as each new regime brought with it its own priorities and ‘loyalists’. Unstable governments in the States also rendered the political executive more and more vulnerable to pressures from various quarters – particularly from extended ‘families’ of allied or supporting political parties.

On the issue of frequent transfer of government officials, the Union Government’s Department for Personnel Affairs has noted that, in several districts of Bihar and Uttar Pradesh, District Magistrates (DMs) and SPs are often transferred within just three to four months of assuming office.³¹ The intensity of transfers is clearly discernible in the case of Uttar Pradesh. For example, the then Chief Minister Mayawati transferred over 1,350 civil and police officials during her six-month tenure in 1997. As many as 467 IAS, 380 IPS, and 300 Provincial Civil Service (PCS) officers were transferred between March 21 and September 7, 1997.³² This number was significantly higher than the already high 521 officials transferred by the Kalyan Singh regime during 1991-92, and 814 officials transferred during 1993-95 by the coalition government headed by Mulayam Singh Yadav. Worse, successive Governors who ruled the State during periods of President’s Rule were no exception. Against 163 IAS and IPS officers transferred by Motilal

³⁰ Eric Stracey, *Odd Man In: My Years in Indian Police*, New Delhi: Vikas, 1981.

³¹ <http://www.rediff.com/news/mar/28rajiv.htm>.

³² *Times of India*, New Delhi, September 18, 1997.

Vora, Romesh Bhandari shifted as many as 344 IAS and 380 IPS officers.³³

In coalition politics, the clash of interest among legislators of the ruling party and its allies makes the transfer of bureaucrats a complex issue. In many districts, rival groups make out conflicting cases for a particular officer.³⁴ These often lead to frequent transfers and cancellations of transfers, and in some districts up to five officers were posted in and out within a few days.

In April 1997, the Uttar Pradesh government formulated a transfer policy, which said that only 15 percent of officers of the respective cadres would be transferred. However, within six months, at least 50 per cent of officers in the IAS, IPS, PCS and PPS cadres had been transferred.³⁵ DMs of at least 48 out of the 76 districts were changed. Similarly, SPs of 55 districts were reshuffled. This was in stark contrast to the UP government's undertaking to the High Court in April 1997 that a comprehensive transfer policy would be implemented.³⁶

In Uttar Pradesh, the average tenure of an SP is just six months.³⁷ Even the all-India figure stands at under one year.³⁸ There are dozens of instances of transfers and postings being ordered on purely political

³³ Ibid.

³⁴ "MLAs preference affects transfers", www.indiaserver.com/thehindu/2000/07/26/stories/1426225b.htm.

³⁵ "Mayawati doublespeak on transfers", www.expressindia.com/ie/daily/19970528/14850683.html.

³⁶ www.expressindia.com/ie/daily/19970528/14850683.html.

³⁷ Source: Fieldwork in Uttar Pradesh and UP government document (see Appendix 1) indicating average tenure of SPs from 1947-2000.

considerations. During the tenure of Ram Prakash Gupta as Chief Minister (November 12, 1999 to October 28, 2000), the violation of administrative parameters for transfers and promotions led a senior IPS officer, M.C. Diwedi, to protest against his supersession three times.³⁹ The then Director General Sri Ram Arun admitted that he felt like ‘the captain of a team that is being remote-controlled by BJP leaders’. Frustrated with political transfers and postings, the DGP remarked, “Jiska khoonta majboot hai use kahe ka dar (the officer who has strong political connections does not fear anyone).”⁴⁰

Political neutrality in the services and objectivity in administrative decision-making are evidently becoming things of the past, and the police has not remained isolated from this deleterious trend. Transfers of government servants to a lucrative station are made on a range of extraneous considerations that include political pressure, caste factor, and outright bribery. Wherever the administration has been politicised, the police end up at the wrong end of the gun.⁴¹

In coalitions, the personality of the Chief Minister also determines the frequency of transfers. For example, in Uttar Pradesh, Chief Minister Ram Prakash Gupta explicitly announced that transfers and postings of government officials in the districts would be made on the recommendations of local legislators.⁴² During his tenure, the executive of the Uttar Pradesh unit of the Bharatiya Janata Party (BJP) directed the

³⁸ Interview with a senior police officer in Lucknow during fieldwork in January 2002.

³⁹ “Pack up Time”, www.india-today.com/itoday/20000529/states.html.

⁴⁰ Ibid.

⁴¹ K Mohandas, <http://www.rediff.com/news/1998/feb/16issues.htm>

⁴² Mishra, n.28

Chief Minister to allow ‘interference by the district BJP apparatus’ in transfers and postings of government officials.⁴³ The magnitude of Gupta’s policy of appeasement and, indeed, administrative confusion, can be discerned from the fact that two DMs were sent to the same district in January 2000.⁴⁴ While addressing the annual meet of the State Administrative Service Association, he did not mince words in telling the bureaucrats, “You must listen to our party functionaries; remember, you can not ignore their interests.”⁴⁵

During the 1980s and the 1990s, the criminalisation of politics had also increased dramatically. The Vohra Committee Report suggests that there was a rapid growth of criminal gangs, armed *senas*, drug Mafias, smuggling groups, drug peddlers and economic lobbies in the country which, over the years, developed an extensive network of contacts with the bureaucracy and government functionaries at the local level.⁴⁶ The Report further noted that these syndicates had acquired substantial financial and social respectability and had successfully corrupted the government machinery at all levels.

According to an Election Commission study in 1997, 40 sitting members of the Lok Sabha and around 700 of the 4,072 Members in the

⁴³ BJP Directive to CM on transfers resented, <http://www.indiaserver.com/thehindu/2000/01/11/stories/0110009.htm>. Also see <http://www.hindustantimes.com/nonfram/120100/detNAT05.htm>

⁴⁴ Sharat Pradhan, 100 Days of Blundering, <http://www.rediff.com/news/2000/feb/28up.htm>

⁴⁵ Ibid

⁴⁶ Vohra committee was constituted in 1993 by Government of India through its order No.S/7937/SS (ISP)/93 dated 9th July ‘93), to take stock of all available information about the activities of crime Syndicates/Mafia organisations which had developed links with and were being protected by Government functionaries and political personalities.

various State Assemblies had criminal records.⁴⁷ Interestingly, the proportion of Members of Legislative Assembly (MLAs) who have criminal records (17 per cent) is higher than the proportion of candidates with criminal records (11 per cent), suggesting that criminals stand a higher chance of being elected than non-criminals. In some States, such as U.P., the proportion of MLAs with criminal records has exceeded 40 per cent.⁴⁸ Such a composition of the political executive and leadership in the State, combined with the continuous erosion of administrative norms, impacts directly on transfers and tenures of administrative officials, including police officers, and on the law and order administration of the States.

It is the lack of systems, conventions and policies that has created the space for arbitrariness and increasing interference in transfers and tenure policies in the police in the States. While problems may exist, there are certainly not as acute at the Centre, where a senior official is transferred only after a Committee of Secretaries, under the chairmanship of the Cabinet Secretary, screens the candidates. In most of the States, however, the absence of such an arrangement allows the political executive to transfer officials on the basis of entirely extraneous and arbitrary considerations.

The increasing corruption of India's polity in recent times has also influenced the transfer policy. There is a significant segment within the political class for whom transfers have become a lucrative source of

⁴⁷ 'Discussion Document', National Commission to Review the Working of the Constitution, September 2000, p. 17.

illegal revenues. Numerous positions within police departments and districts are considered specially lucrative, while others are regarded as relatively 'dry'. Furthermore, there are postings, which are known to be difficult, either in terms of the absence of basic facilities at the place of posting or on account of the arduous and perilous nature of the assignment. Clearly, police officers – and especially those whose integrity is compromised – would demonstrate a marked preference for lucrative and easy postings, and many of them are willing to pay substantial amounts for these. Consequently, the rising trade in transfers among the political leadership and those connected with it. Orders to certain places or posts, and the cancellation of orders in other cases, yield lucrative illicit gains. As Madhav Godbole, the former Union Home Secretary expressed it, the transfer *mela* is converted into a wholesale market, where posts often go to the highest bidder. Commenting on the prevalence of the 'transfer industry', another commentator has noted,

...recruitment, posting and transfers of police officials and other officers in other departments has become an industry for the political class, the benefits of which are said to be more or less shared by the highest echelons in the departments as well as the Public Service Commission in most of the States. This is too well known to need a proof at this juncture. Paying money for good posting has now become a good investment with high returns and low risks since those who have been paid are the same persons

⁴⁸ N K Singh, *The Politics of Crime and Corruption: A Former CBI Officer Speaks*, Harper Collins: New Delhi, 1999, pp. 56-57.

who are responsible for disciplining them or are disciplinary authorities in respect of those who could discipline them.⁴⁹

Documenting the ‘transfer industry’ in Uttar Pradesh, a media report noted,

...every government post or a lucrative transfer commands a price tag in Uttar Pradesh. Rates vary on the area or the department to which the transfer is required.... These rates are common knowledge in Uttar Pradesh though no bureaucrat or politician is willing to come on records for obvious reasons. After all, one needs time to recover and make profits from the money pumped in for good posting. That is why a section of officials court the new chief Minister to make sure that they are not disturbed again.... All transfers are done for monetary considerations. During Mayawati’s tenure over 500 crores have been made through transfers and postings.⁵⁰

It is obvious that those who buy transfers are certain to indulge in corrupt ways to get back the money they have paid. The victims are those employees who are honest, efficient and do not indulge in corrupt practices. They usually end up in insignificant posts in remote areas.

IMPACT ASSESSMENT

⁴⁹ P K Siddhartha, “Towards a Better Police Integrity System in the New Millennium”, *Indian Police Journal*, vol. XLVI, no. 2&3 pp. 68-9.

⁵⁰ *Outlook*, New Delhi, September 29, 1997.

The trend of increased political interference and consequent decline in the average duration of a posting at the SP level, and the perpetual 'Damocles sword of transfer' throughout such a tenure, comes at a time when the complexity of tasks and the manpower in an SP's charge are rapidly expanding. Any officer taking charge of a post requires a certain minimum amount of time to comprehend and secure command in a new charge. This problem is magnified by the absence of an effective and sophisticated system of information management, crime analysis and systematic law and order mapping. Thus, the police officer is largely dependent on antiquated systems that demand a high level of personal understanding and familiarity with local conditions. However, by the time an average officer has gained a degree of control over the problems in his district, the 'Damocles sword' often falls on his neck, and he finds himself in a new and, once again, unfamiliar charge. Even where the tenure is long enough, the conditions of uncertainty create disincentives for a committed learning process and officers often tend to rely on facile explanations of local crime and its dynamics.

On the organisational front, the current practice introduces a corrosive element of instability in the police organisation. This happens not only due to frequent changes in policies and programmes of the police organisation at different levels, but also due to the fact that an unstable tenure does not allow an officer to interact with his subordinates. It erodes the command structure of the organisation and hampers police accountability. Frequent transfers of honest and efficient officials also send negative signals down the rank and file, as also into the public – particular to those who have criminal inclinations – and directly undermine law and order management.

According to a study conducted by Vaishali Saxena⁵¹ on the impact of frequent transfers on the morale of IAS officers in Uttar Pradesh, 94 per cent of IAS officers interviewed favoured a minimum of three-year tenure. To check unfair and *ad hoc* transfers, most of them suggested the process of transfers to be brought under a statute of law.

It is clear that there are currently no coherent, consistent and transparent policy guidelines to govern the transfer of senior government officials in general, and of Superintendents of Police in particular, in the States, though the Department of Personnel and Training has, from time to time, issued certain guidelines relating to such transfers at the Centre. Various ministries of the Union government, as also State governments, have, of course, formulated detailed policy guidelines in this matter from time to time. These, unfortunately, have been followed more as an exception than the rule. Moreover, the existing system lacks credible mechanisms to prevent misuse of these instruments.

Various government-appointed commissions, the judiciary and other independent bodies, have also repeatedly expressed concern over frequent transfers. According to the Administrative Reforms Commission,

Effective Development Administration depends not only upon authority and efficiency but more largely upon mutual interest and confidence and ability to provide motivation and management support to the relevant segment of population embarked upon a

⁵¹ Vaishali Saxena, *The Effect of Transfers and Promotion on Employees's Morale*, unpublished Ph. D. thesis submitted to Department of Public Administration,

programme of development. Civil servants engaged in development administration should not be rotated from location to location too frequently. Their tenure should be long enough to instil the confidence and establish the constructive relationship required to get a programme going and keep it going.⁵²

The National Police Commission (1977-80) emphasised that one of the prominent reasons for the vulnerability of the police to illegitimate extraneous pressure is the threat of transfers. According to the Commission, transfers and suspension were two weapons frequently used by the political class to secure undue advantage over the administrative paraphernalia. While it is difficult to take statutory punitive action against police personnel under disciplinary rules, transfers can easily be resorted to on the grounds of administrative expediency. To prevent abuse, the Commission recommended the establishment of a State Security Commission in every State to look after, among other things, transfer and postings of senior police officials. It also recommended that there should be a provision in the Police Act specifying the authorities competent to issue transfer/suspension orders for different ranks, and stating clearly that any such order issued by any other authority would render it null and void.⁵³

According to the Fifth Pay Commission (FPC), each department – as part of a detailed transfer policy – should formulate elaborate

University of Lucknow, Uttar Pradesh, 1999.

⁵² Administrative Reforms Commission, *Report of the Study team on Personnel Administration (Personnel Planning, Staffing of Public Sector Undertakings and Personnel Management)*, Delhi, Manager of Publications, Government of India, 1967, pp. 148-49.

⁵³ Second Report, National Police Commission, Government of India.

guidelines in order to ensure that arbitrariness is eliminated and transfers are effected in as transparent a manner as possible.⁵⁴ The FPC also recommended that the minimum tenure of each posting should be predetermined, and it should normally be three to five years, except in cases where longer tenure is justified on grounds such as the continued availability of certain specialized skills. As far as possible, transfer orders should be issued before the end of the academic year so that these are implemented at the end of a cycle. Any premature transfer should be based on sound administrative grounds, which should be spelt out in the transfer order itself. The instrument of transfer should not be allowed to be misused, either by politicians or by bureaucrats. It should not be used as a means of punishment by circumventing the procedure laid down for disciplinary proceedings. The Commission recommended the constitution of high power civil services boards in every State, stating that consultation with the board should be made compulsory before ordering any premature transfer. In addition, every government department should have a high power board to review the cases of all premature transfers of Group A officers and should serve as an appellate body for all such transfers, which may be regarded as *mala fide* by an employee.⁵⁵

In 1997, the Department of Personnel and Training, Ministry of Home Affairs, at the Centre, taking cognisance of the serious ramifications of the continuous violation of the tenure/transfer policies, had convened a meeting of State Chief Ministers in which the Prime

⁵⁴ *Recommendations of Fifth Pay Commission Relating to Administrative Reforms*, Chapter 25, Volume I, quoted in Vinod Mehta, ed., *Reforming Administration in India*, New Delhi: Har Anand, 2000, pp.435-444.

⁵⁵ Ibid.

Minister had advised the Chief Ministers to entrust decisions regarding transfer and postings to Civil Services Boards, which would be chaired by the State Chief Secretaries.⁵⁶ In December 1998, the Haryana Police Association expressed resentment over the transfer policy of police personnel, observing that prevailing practices were an injustice to the families and children of the police personnel and had disturbed their family lives.⁵⁷

In November 1997, the indiscriminate extensions to ‘favoured’ officers, mass transfers, lack of transparency in promotions at the centre and creation of several senior posts without any job content had led the UP IPS officers to protest. The UP IPS Officers’ Association drafted a memorandum to be submitted to Home Minister outlining specific cases where transfers or promotions were used as a method of harassment or for doling out favours to officers.⁵⁸ An example of arbitrariness cited by the Association was the out-of-turn promotion given to the former DIG Meerut, Bua Singh, who was promoted as IGP ‘bypassing his seniors’, though he was facing a Central Bureau of Investigation (CBI) inquiry in the Muzzafarnagar firing case. The Justice D.P. Wadhwa Commission of Inquiry into the killing of Graham Stewart Staines, an Australian missionary in Orissa, also recommended that frequent, illogical and

⁵⁶ Department of Personnel and Training.

⁵⁷ “Resentment over new transfer policy”,
www.tribuneindia.com/98dec23/haryana.htm#10.

⁵⁸ “Favouritism riles policemen”,
www.expressindia.com/ie/daily/19971112/31650533.html.

irrational transfers of officers, especially of DM and SP was 'to be avoided'.⁵⁹

In Gujarat, a test check by the Comptroller and Auditor General (CAG) of India found that, between 1995 and 1999, as many as 106 police personnel, including 33 IPS officers, were transferred up to seven times before they had completed three years at one location.⁶⁰ The Government's transfer policy framed in June 1977 states that no individual should be transferred before three years. The posting can be extended up to five years only in genuine cases of exception to this rule, with the Government's permission. The Home Department, however, defended these transfers by claiming they were done in the 'public interest', while the Director General of Police (DGP) told the CAG that transfers were undertaken to maintain law and order and that audits should not interfere with such administrative matters⁶¹.

In 1997, the Allahabad High Court, while directing the Uttar Pradesh Chief Secretary to submit to it a scheme to ensure that transfers/postings of functionaries of the State are excluded from political interference, observed that senior officials of the concerned departments should exclusively exercise such powers. The Court observed, "Whenever a new government is formed, there is a tidal wave of transfers of government servants on the basis of caste or community or monetary considerations leading to total demoralisation of the bureaucracy and its

⁵⁹ www.indiapolicy.org/lists/india_policy/1999/Aug/msg00026.html.

⁶⁰ "CAG raps state police for transfers, allowances",
www.expressindia.com/ie/daily/20001028/ina28005.html.

⁶¹ Ibid

division on caste and communal basis, besides spread of corruption and causing a breakdown of all norms of administration.”⁶²

In October 1998, a Committee headed by J.F. Ribeiro, former DGP, Punjab, submitted a report to the Ministry of Home Affairs (MHA), on the functioning of the police.⁶³ The Committee noted that transfer is an instrument that politicians use to prevent the autonomous functioning of the police. The Committee further noted that the way out is to set up a special board, comprising senior police officials, to decide transfer and posting. The Committee also recommended establishment of State Security Committees and the setting up of a proper procedure to select chiefs of police as well as to provide a minimum secure tenure to them. It also urged that steps be taken to insulate the investigation wing of the police instead of clubbing these functions with duties of law and order.

In January 2000, the Ministry of Home Affairs appointed a committee under the Chairmanship of K. Padmanabhaiah to investigate the criminalisation and politicisation of the police force. The report of the Committee stated:

The nexus between the power wielding politicians and the corrupt police officials can only take place when there is an obliging

⁶² “The Era of Transfer Raj”,
www.expressindia.com/ie/daily/19981112/31650114.html.

⁶³ Ribeiro Committee Report,
www.humanrightsinitiative.org/policereform/policeir.htm#CHINNA3.

policeman willing to do the bidding of the politicians in return for favour in posting or for sharing the booty.⁶⁴

The Committee also recommended the creation of a Police Establishment Board in every State to look after transfers and postings of all officials from the rank of SP and above.

Evidently, there is sufficient awareness of the existence of the problem. However, such a general understanding has never been placed on an objective foundation and assessed on an empirical basis that could estimate and evaluate the correlation between security and length of tenure, at one end, and efficiency and effectiveness in crime and law and order management, on the other. There is, thus, an urgent need to understand the impact of frequent transfers on the efficiency and effectiveness of SPs in particular, on the police organization at large, and on the societal context of policing.

⁶⁴ Padmanabhaiah Committee Report,
www.humanrightsinitiative.org/policereform/policeir.htm#CHINNA3.