

CHAPTER V

Conclusions and Recommendations

The present study was the result of widespread concerns, both within the higher echelons of the police service and among informed sections of civil society, that the absence of an objective and impartial system to govern transfers and postings in the Force, specifically at the cutting edge rank of Superintendents of Police, was severely and continuously undermining the efficiency and effectiveness of law and order management in the districts. While there has been a general awareness of the problem for long, documentation and analysis on the issue was limited. It was apparent, however, that very serious lacunae existed in the prevailing norms governing transfers of SPs, and that the frequency and intensity of deviation from such existing norms was also high and growing in many States.

At the widest level, the present study is an attempt to investigate the extent of problem, the deviations from the norm, the perceptions of various categories of concerned respondents on the prevailing system and practices, and to explore the possibilities of reform of existing processes towards a resolution of the problem.

The deficiencies of the current system were largely perceived to be rooted in the increasing politicization of the police, and specifically of the processes of selection of officers for particular posts. Nevertheless, it is important to note at this stage that politics is inextricably linked with the issue of law and order management, and the exclusion of political

influences is not a practicable option, nor indeed is such an option acceptable within the larger context of the supremacy of the elected political representatives in a democratic polity. The difficulty, however, is rooted in the ambiguities that exist between a legitimate political role, and extra-constitutional political interference. Thus, Reiner notes, “Policing may be inescapably *political*, but it may not be *politicized*, i.e., the center of overt political controversy over its manner, tactics or mode of operation and organization.”¹ There are a number of suggestions that emerged during the study to rationalize this aspect of the problem by creating greater transparency, the establishment of objective criteria and processes, mandating detailed speaking orders for transfers, creating an impartial system of review, and other measures to impose a system of accountability.

Nevertheless, it needs to be understood that the scope for political and administrative discretion – and hence, the possibility of abuse – can never be entirely eliminated within a system any complex system of the management of human relations, which is what policing eventually is. While many recommendations can be, and are, made for the reform of the existing system, it is necessary to note that until an authentic culture of democracy, as opposed to the bare structures and paraphernalia of constitutional governance, is brought into being, the political appetite for domination and the abuse of power will always discover innovative methods to subvert the system. Nor can the police organization itself be insulated against such subversion. As Reiner notes, “the police sub-

¹ Casamayor in G.E. Berkely, *The Democratic Policeman*, Boston: Beacon Press, 1969, p. 197

culture is by no means radically distinct or deviant in its values from either legal or popular morality... The police are broadly representative of the population.”²

This reality must be acknowledged, but cannot be allowed to become an alibi for inaction. It is necessary, consequently, to explore, define and establish mechanisms and processes that will help prevent the police from becoming a ‘coercive instrument’ of the ruling party in various States.

While political interference is, without doubt, one of the most corrosive elements within the context of the present study, it is by no means the only deficiency in the existing systems that control the transfer and posting of SPs. Indeed, it is important to note clearly at this stage that there is little evidence of a rational human resource management approach to the placement of officers, or of concerns for skill development, professional excellence and coherent career planning within the norms and processes that are currently in place.

The present study, consequently, underlines the need for reform in current practices governing transfers of police officials of the rank of SPs. This is, in fact, essential both for the better management of the police organization and for better management of crime and law and order.

² R. Reiner, *The Politics of the Police*, New York: Harvester Wheatsheaf, 1985, p. 175.

Unfortunately, past attempts to reform various aspects of the police system have not succeeded in the country because the political executive – which controls the police organization – is itself responsible for the large number of the ills that have undermined and now threaten to destroy the system. It is not surprising, consequently, that we find deep-rooted and strong resistance to the very idea of reforms in policing. The fate of the National Police Commission's reports and recommendations is indicative of this deeply entrenched resistance to police reform. Worse, there are vested interests within the police establishment itself that are content to retain and perpetuate current practices.

Recognizing these constraints, an attempt has, nevertheless, been made in this study to identify certain areas which merit immediate attention. The recommendations in this chapter have broadly been classified under three categories: Management of Structures and Processes Governing Transfers; Management of Interaction between Police and Political executive; and Reforming the Police Organization.

MANAGEMENT OF STRUCTURES AND PROCESSES

The study highlighted the fact that, even though a transfer policy is in place in many of the States, administrative principles and an urge for better governance do not influence the decision of the political executive to transfer a SP. Instead several non-administrative and non-policing considerations determine such decisions. Policies are announced, but are not implemented properly, and governments are not consistent in applying existing rules and norms. In practice, we find that different sets of rules exist for different officials at different times. Consequently, while rationalization and development of a coherent, human resource development-oriented, transfer policy is an urgent imperative, the immediate problem does not lie in the transfer policy itself, but in the more general issue of *how the process is managed*. Most of the problems relating to frequent transfers emanate from the way control over the police organisation has been exercised by the respective State governments in general and political parties in particular. In most of the States, the office of Chief Minister has become all-powerful and the police department and even the Ministry of Home Affairs have become quite insignificant. The trend is more visible in States characterized by political instability and coalition governments. Immediate attention is needed, within this context, in the following areas of police administration:

- There is an urgent need to review the role of Chief Minister's Office in matters relating to transfers of SPs. The respective responsibilities of the Chief Minister's office, Home Ministry and Police department should be properly laid down. There should be a proper structure at

the higher level to oversee the functioning of the police department. The objective here, as noted earlier, is not to eliminate the role of politics in police administration and policy, but to check the *politicization* of the police organization and professional police functions.

- The police department should be allowed, indeed, must be required, to design and implement transfer policies according to their own requirement and circumstances. These should be part of a coordinated approach to career development and staff management.
- Transfers should be based on a sound administrative basis, which should include, *inter alia*, a staff appraisal system, career development plans for personnel, and the specific professional and skill requirements of a particular district or department. A suitable mechanism should be in place to identify personnel, according to their skill and ability, for specific assignments.
- A sound system of Human Resource Management should be in place for the police department. It must take into account the impact of the amount of movement caused by the policy; the financial cost of the policy; the distribution of skill and experience around the force; and the impact on police operations and morale, particularly in terms of the disillusionment, loss of motivation and feelings of unfairness that are aroused among employees.

- To oversee the functioning of the police organization, the recommendations of the National Police Commission for the establishment of State Security Commission (SSC) should be implemented in each States. According to the National Police Commission, the SSC should have the Minister in Charge of Police as its chairman and six other members. Two of these should be from the State Legislature (one from the ruling and the other from the opposition party) and four should be appointed by the Chief Minister, subject to the approval of the State Legislature, from amongst retired judges of the High Court, retired senior government officers and eminent social scientists or academicians. However, given the changes taking place in the political environment in the country since the Commission submitted its report, it is important that added provisions should be made to ensure that the composition and selection procedure of the members of the SSC should be transparent. The mandate and scope of the SSC should also be widened to include current and emerging challenges facing the police organization.
- The NPC has divided the police tasks into three categories – investigating, preventive and service oriented. According to the NPC, the investigative task of the police is beyond any kind of extraneous intervention by the executive or non-executive agencies. However, in the performance of preventive and service oriented functions, the police should be subject to *overall guidance* from the government, which should lay down broad policies for adoption in different situations from time to time. Even here, policy directions are to be openly given and made known to the State Legislature. “There

should, however, be no instructions in regard to actual operations in the field”.³ Thus, in the scheme recommended by the NPC, the SSC has no jurisdiction whatsoever, as far as investigative tasks of the police are concerned. The SSC cannot even prescribe broad policy directions for police investigation work. In fact, it has been the general experience of the police forces that most situations in which illegitimate pressures are exerted on the police officers involve investigative tasks.⁴

INTERACTION BETWEEN POLICE AND THE POLITICAL EXECUTIVE

One of the principal reasons for frequent transfers of SPs is excessive political interference in the working of the police department. This reinforces the perception that the government’s reluctance to accept suggestions for reform is largely due to the fear of losing control over the police structure. Such apprehensions in the political class also underline the fact that any attempt to introduce reforms in the Indian police will require broad political consensus. With this proviso, some of the following aspects relating to the interaction between the police and the political executive require urgent attention:

- It is imperative that suitable structures and mechanism be evolved to regulate interactions between the police and the political executive.
- Internal management of the Force should be left entirely to the police department itself. The government should be responsible only for

³ National Police Commission, Second Report, p.30, para 15.42

⁴ Supreme Court’s Judgement in Criminal Appeal No 218 of 1966 reported in AIR 1968, Supreme Court 117.

broad policy direction to the Force. The need of functional independence of the police in respect of its investigative tasks has been recognised by Supreme Court in the Hawala case⁵, as also by the National Police Commission.

- The Investigative tasks of the police should be beyond any political interference. It was this consideration, which led the Supreme Court to decide, in the Hawala case, that a statutory Central Vigilance Commission should exercise superintendence over the CBI. The Court further suggested that a similar mechanism should be set up in States for the selection/appointment, tenure, transfer and posting of, not merely the Chief of the State police, but also all police officers of the rank of SP and above.

POLICE REFORMS

As discussed earlier, changes in the political and social environment in the country have brought the police to the center-stage of governance. The current political and security environment in the country require the police to be professional, service oriented, free from extraneous influences, accountable and, above all, committed to the rule of law. A fresh examination of the role and performance of the police, both as law enforcing agency and as an institution to protect the rights of the citizens enshrined in the Constitution, is, consequently, necessary.

Professional independence is the hallmark of all effective police systems in the world. Therefore, the crux of police reform is to secure

⁵ Supreme Court's Judgement in writ petition (criminal) no 340-343 of 1993, commonly known as Hawala case.

professional independence of the police as an impartial agent of the law of the land and, at the same time, enable government to oversee police performance to ensure its conformity with law. It is, at this stage, necessary to reiterate that we still have a police system based on the colonial Police Act, 1861. Enormous changes have taken place in the country since Independence, and these have not been adequately accommodated in the organizational philosophy, structures and legislation governing the police in India. At the time of Independence, it was expected that a new role and a new philosophy would be defined for the police, and that its accountability to the law of the land and the people would be underscored in no unmistakable terms. Regrettably, Independence brought little significant change in the police system and made no “substantial difference in one of the most significant aspect of the colonial police – its public accountability remained unchanged”.⁶ Moreover, the relationship that existed between the police and the foreign power before independence was allowed to continue, with the only change that “the foreign power was replaced by the political party in power”.⁷

- Therefore, a new law is required to define the role of the police in the present context. The new law should establish institutional and other arrangements to insulate the police from undesirable and illegitimate extraneous control, pressures and influences.

⁶ David Arnold, *Police Power and Colonial Rule in Madras 1859, 1947*, Delhi: Oxford University Press, 1986

⁷ Prakash Singh, “Police Reforms—Their Raison d’être”, *Indian Police Journal*, Vol., XLVI, January-March, 1999, p. 3

- There is need to streamline the training programme for the police organization. The training programme should include mechanisms to deal with any kind of political pressure. Unfortunately, mid-career training programmes lack imagination and a proper assessment of the problems faced by the police at the grassroots level. Training institutes are more often than not used as a dumping ground.⁸ According to S.V.M. Tripathi, “The trainers would live in a world of nostalgia and the trainees would look down upon the institute. Some times, the department resists the changes prescribed by training institutions. The trainees perceive the programme as idealistic, utopian and impractical. Training institutes limit themselves to theoretical issues and skill development. Real life issues are no official part of the design”⁹. As a result, the system develops resistance to change.
- There is a need to revive the *esprit de corps* and a greater sense of pride among officers in the service, so that they resist illegal pressures, and develop a system of mutual support and reinforcement in the face of the victimization of members of the cadre by political actors, or in situations where the organization or officers are being pressured into actions that lie outside its legitimate mandate. Once again, training institutions have a crucial role in creating such attitudes, as have members of the senior police leadership.

⁸ SVM Tripathi, “Problems and Perspectives in Police Training”, Indian Police Journal, Vol. XLVI No. 1 January-March 1999, p.19

⁹ Ibid

- The recommendations of the National Police Commission regarding the appointment of the State police chief should be implemented. The main recommendations made by the NPC on this subject are:
 1. The Chief of State Police should be assured a fixed statutory tenure of office. The tenure may be of four years or for a period extending upto the period of retirement, whichever is earlier. The removal of the chief of police from his post before the expiry of the tenure should require the approval of the State Security Commission
 2. The State police chief should be selected from a panel of three IPS officers of the State cadre. The panel should be prepared by a committee headed by the Chairman of the UPSC, with the Union Home Secretary, the senior-most among the heads of Central Police organisations, the Chief Secretary and the existing DGP of the State as members.
 3. There should be a provision in the Police Act, specifying the authorities competent to issue transfer/suspension orders regarding different ranks and stating clearly that any such order issued by any other authority would render the issue null and void
 4. The rules should state that every transfer/suspension order should contain the brief statement of reasons for the issue of the order and any order not supported by the explanatory statement should be treated as invalid.

5. An appropriate and independent authority for the review of all such orders, and for the quick investigation and settlement of complaints of victimization and breach of norms and rules, should also be set up.