

## APPENDIX II

### Working Paper

The Superintendent of Police, as the in-charge of the district police, is at the cutting edge of the police organization. Police manuals of every State clearly spell out the responsibilities of the Superintendent of Police, and we find here a considerable amount of operational independence in matters relating to internal management of the police and of law and order in the district, exercising direct command over policing. Evidently, SPs must possess a high degree of professional and managerial skills, good leadership qualities, and detailed knowledge and understanding of their jurisdictions in order to perform the multiple and complex tasks entrusted to them in the district. To this extent, consequently, the efficiency and effectiveness of the SP impacts directly on the overall efficiency of policing within a jurisdiction.

The National Police Commission has clearly recognized the importance of the role of SPs in the police hierarchy, and recommended that they should have a large measure of operational freedom to deal with crimes, criminals and maintenance of public order.

In a democratic polity, the police perform multiple and complex tasks. The changing internal security scenario has added a new dimension to the tasks of the police and brought the Force closer to the center-stage of governance. Within the increasingly tentative internal security situation in large parts of the country, consequently, it is an urgent imperative to secure a police organization that is structurally competent,

operationally cohesive and functionally oriented to fulfill the wide-ranging goals of the organization. The police must be so structured that it is able to provide efficient quantitative as well as qualitative services to the people, and the Superintendents of Police, in great measure, are responsible for achieving this goal.

The assessment of efficiency in the police force is a very complex issue because it involves many accountable and unaccountable services, and in both categories, it is often difficult to quantify relative successes, failures and omissions. In economics, efficiency, at its barest, means consumer satisfaction maximized at least cost to society. Applied to the context of policing, this would require a comparison of costs and resources used, and benefits produced, so that resources allocated maximise the policing gains to society. This means that the police organization needs to ensure that value for money is achieved and, for this, competitive pressure has to be created internally.

Two levels of efficiency can be identified – operational efficiency and allocative efficiency – each of which is based on, or conditional upon, effectiveness. Unfortunately, it remains very difficult to measure allocative efficiency of police organizations, since the ‘goods’ they produce are a negative entity – the absence of crime and disorder – and one that is based on a multiplicity of variables, many of which are beyond all influence of the police. Operational efficiency, however, is relatively more amenable to objective assessment, and involves an examination of alternative means of securing the same ends, of the discriminate use of subjective and objective criteria in decision-making, and of the procedural consistency and coherence of responses to various

challenges. How Superintendents of Police make their choices is, thus, an important issue within the context of the present study.

Since policing is a service involving Human Resources as well complex interventions in human and social relations, subjective elements would certainly play a dominant role in choice-making. To the extent that this is the case, perceptions of the general public, as well as of all other stakeholders, *a priori*, would provide a fairly reliable index of the efficiency and effectiveness of the decision-making criteria adopted by key Police officers. This premise underlies the methodology of research in this study.

Among the many factors that can be presumed to have a negative impact on the efficiency and effectiveness of SPs, frequent, arbitrary and motivated transfers would certainly be a significant element, and one that has, over the past three decades, tended to grow with the continuous degeneration in principled administration, the politicization 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.

The Indian Police Act and Police Rules envisage a secure tenure for officers at various levels that enables and empowers them to have an impact on the Law & Order and crime situation within their jurisdictions. The tradition established in the pre-Independence era, and substantially adhered to the initial post-Independence phase, was that an officer, especially at the Superintendent of Police (SP) level, would be more or less certain of his tenure at the time of his posting to the district. Unfortunately, tenures have become progressively shorter and entirely

uncertain, as SPs remain in charge of districts, or at subordinate levels, in charge of subdivisions, circles or police stations, at the pleasure of their political masters.

This corrosive trend has resulted in a tremendous loss of efficiency in the management of the law & order situation, and crime. The 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 expanding continuously and at a rapid pace. Thus, despite the fact that the Information Technologies and Communications revolutions, and a number of other scientific and technological breakthroughs, have put increasingly powerful tools of crime management in the hands of the police, the trends in Law & Order and in incidence of crime continue to be adverse, and the image and authority of the police, despite extraordinary achievements under the most trying circumstances, has suffered immensely.

The fact is, any officer taking over a post would take at least some time to comprehend and secure command in a new charge. The problem is magnified by the absence of effective and sophisticated systems of information management, crime analysis and systematic Law & Order mapping, projection and prediction. The police officer, today, remains largely dependent on antiquated systems that demand a high level of personal understanding, familiarity with local conditions and personal competence. The process of analysis of the crime and Law & Order situation, moreover, is undermined even further by the widespread practice of burking of crime. By the time the average officer has gained a

degree of control over the problems in his district, however, 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.

At the level of generalizations, all this is well known to the police administration as well as to policy makers in the country. But this general understanding has never been placed on an objective foundation and tested through empirical studies and analysis that would actually estimate and evaluate the correlation between security and length of tenure, on the one hand, and efficiency and effectiveness in crime and Law & Order management, on the other. This needs urgently to be done, so that more rational policies can be defined and supported by the weight of incontrovertible evidence.

### III. OVERVIEW OF LITERATURE

Existing literature on the proposed study, dominated by government documents and reports, does not provide a comprehensive understanding backed by an empirical study. There has been no comprehensive or conclusive documentation on the impact of frequency of transfers on the efficiency and effectiveness of Superintendents of Police. The existing sources while providing an overview of the transfer policy of SPs are confined to the contours of guidelines and recommendations. Attitudinal and behaviour changes due to the system of constant transfers and its consequent impact on the maintenance of law

and order in any given jurisdiction cannot be mapped adequately in the absence of empirical data and analysis based on the responses of the officers themselves. Official documentation on the subject has failed to factor in such responses. The entire issue is largely under-researched, with little *post-facto* and follow-up analysis even of the numerous recommendations and reports that official channels have generated. The limited current literature also suffers from a near exclusive emphasis on the problem from the perspective of the officers, largely ignoring the societal context and impact.

The experiences of various other countries with regard to the policy of transfers and the feasibility of drawing from these experiences have also remained largely undocumented. Although the replication of foreign experiences and conclusions is neither possible nor appropriate, an overview of practices and principles adopted in other countries can be useful in identifying certain broad signposts.

A preliminary survey of existing reports and guidelines within India indicates that there are currently no coherent and transparent policy guidelines governing the transfer of officials at the rank of SPs. The power to transfer SPs is vested in State governments. At the Center, the Department of Personnel and Training has, from time to time, issued certain guidelines relating to such transfers. In addition, various ministries of the Union government, as also the State governments, have formulated detailed policy guidelines in this matter. These, unfortunately, have been followed more in the exception than the rule, and there is a definite feeling that the instrument of transfer is widely misused in this

country. The existing system certainly lacks a credible mechanism to prevent misuse of this instrument.

In 1997, the Department of Personnel and Training, taking cognizance 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 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.

Various government-appointed commissions, the judiciary and other independent bodies, have also, from time to time, expressed concern over the frequent transfers of government officials, including police officers. The National Police Commission (1977-80) felt that one of the prominent reasons for the vulnerability of the police to illegitimate extraneous pressure is the threat of transfers. In the view of the Commission, transfers and suspension were two weapons frequently used by politicians to bend the police to their will. While it is difficult to take statutory punitive action against police personnel under disciplinary rules, transfers can easily be effected on the grounds of administrative expediency. 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.

The Fifth Pay Commission (FPC) also looked into the matter. According to the FPC, detailed guidelines should be formulated by each department as part of a detailed transfer policy, so as to ensure that arbitrariness is eliminated and transfers are effected in as transparent manner as possible. 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 the academic session. 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.

In 1996, the Supreme Court of India admitted public interest litigation against official interference in the police administration in the State of Uttar Pradesh. In its affidavit to the Supreme Court in this case, the National Human Rights Commission (NHRC) urged the implementation of some of the important recommendations of the



National Police Commission for improving the quality of policing in India. The NHRC called for separation of the investigating wing of the police that was concerned with crime detection duties. It recommended the constitution of the Police Security and Integrity Commission to lay down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions of the police. The body was also to ensure that no premature transfers of officers from the rank of Superintendent of Police and above were made without prior clearance from the Commission. The NHRC also called for adherence to the principles laid down in the Supreme Court judgment in criminal appeal no 218 of 1966, in the case of *Abhinandan Jha and others vs Dinesh Mishra* [reported in AIR 1968 Supreme Court 117 (V5 SC32)], which suggested that the investigative tasks of the police should be placed beyond any kind of intervention, both executive and non-executive.

In November 1997, the IPS officers Association submitted a memorandum to the then Home Minister Indrajit Gupta, outlining specific cases where transfers or promotions were used as a method of harassment or doling out favours to officials. In the same year, the Allahabad High Court directed the Uttar Pradesh Government to formulate a transfer policy for officials at all levels.

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. The Committee noted that transfer is an instrument that politicians use to prevent the autonomous functioning of police. The Committee noted that the way out is to set up a special board comprising senior police officials to decide transfer and

posting. The Ribeiro 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 criminalization and politicization 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 policeman willing to do the bidding of the politicians in return for favour in posting or for sharing the booty.” The Committee also recommended creation of a Police Establishment Board in every State to look after transfer and postings of all officials from SP and above.

Evidently, there is sufficient awareness of the existence of the problem, but little evidence of any empirical study. There is also an urgent need to understand the impact of frequent transfers on efficiency and effectiveness of SPs in particular, on the police organization at large, and on the societal context of policing.

#### IV. THE CONCEPTUAL FRAMEWORK

This project seeks to bring an inter-disciplinary focus on the problem of security and length of tenure in the Police force at the rank of Superintendents of Police, and to analyze its impact on efficiency and

effectiveness in crime and law and order management. Specifically, it proposes to:

1. Empirically identify the linkages, correlation and dynamics of the interaction between security and length of tenure of officers at the rank of SP, and performance in crime and law and order management.
2. Document case studies of the norms, practices and experience in various States and under various administrations.
3. Document the changes in norms and practices relating to the State's transfer policy with regard to officers in the rank of Superintendent of Police.
4. Review and analyse existing data and literature on the subject, including the experiences of other countries and systems of police administration, to define existing international norms for officers at comparable levels.
5. Define and evaluate appropriate norms and practices that ought to determine the State's transfer policy with regard to officers in the rank of Superintendent of Police.

V. HYPOTHESES

1. Increasing politicization of transfers leads to erosion of efficiency in policing and law enforcement.

2. The transfer policy of Superintendents of Police has remained, at best, an *ad hoc* arrangement subject to the whims of political leaders.
3. A fixed tenure for Superintendents of Police is the best guarantee against the erosion of efficiency and better control over the law and order situation in an area.
4. Allowing present trends to continue would strengthen the forces of disorder, especially organized criminal groups who have a strong nexus with political actors.
5. There is a need to establish clear norms to govern the security and tenure of officers at the rank of Superintendent of Police.