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POLICE REFORMS

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POLICE REFORMS

The police are much more than a segment in the civil administrative system. This is particularly so in a country like India where they perform a wide range of functions. There have been demands to make them accountable only to the law and to ensure that they are politically neutral.

The manner in which they respond to violations of law and order, place restraints on personal freedom, prevent the occurrence of crime and detect crime, all generate debates and controversies. On the one hand they are accused of going into excesses, while on the other hand, they are accused of doing too little. ¹

The police as an organised institution came into existence in India with the Police Act of 1861. This Act was passed by the British in the wake of the Indian Sepoy Mutiny of 1857, when the Indian soldiers in the colonial army revolted against their British rulers. The formation of 'civil' police forces was intended to lessen what by the 1850s had come to be seen as a dangerous reliance on the army for internal policing.

In continuation of this, the basic criminal legislations are also similarly ancient – the Indian Penal Code (IPC) was enacted in 1861, the Indian Evidence Act (I.E. Act) in 1872 and the Original Criminal Procedure Code (Cr.PC) in 1898. Infact, there were no significant moves to reform the police in India while the country was under the British Crown except by the formation of the 1902 Police Commission known as the 'Fraser Commission'.²

The Police System established by the Police Act of 1861 continued to exist and at the time of Independence, India inherited a police organisation.

- that was totally subservient to the executives;
- that was accountable mainly to their own hierarchy and the executive;
- whose managerial philosophy was based on distrust of the lower ranks'
- that was highly militaristic and authoritarian in design; and

¹ Police Reforms in India; An analytical study by K. Alexander, 2006, p1

² *Op.cit.* Police Reforms in India, p 7

- whose charter of functions was narrow and limited, with great emphasis on law and order maintenance rather than citizens' protection.³

Police Reforms have been on the agenda of the Governments almost since independence but even after more than 50 years, it is accused of politicization and criminalization.⁴

The increase in size of population, police and number of cognizable crimes also necessitated Police Reforms. Population of India increased from 36.11 crores (1947)⁵ to 123.27 crores (2013)⁶. Similarly, strength of police forces increased from 3.5 lakhs (1947)⁷ to 22.83 lakhs (2013)⁸ and number of cognizable crimes increased from 6.49 lakhs (1947)⁹ to 66.40 lakhs (2013)¹⁰.

In the post independence times, the public expectations from police have multiplied and newer forms of crime be it terrorism, insurgency, separatist movements, moist insurrection, etc. have surfaced. The Policing System needs to be reformed to be in tune with present day scenario and upgraded to effectively deal with the crime and criminals, uphold human rights and safeguard the legitimate interests of one and all.¹¹

“Police” being a State subject in the Seventh Schedule to the Constitution of India, it is primarily the State Governments who have to implement the various Police Reforms measures. The Centre has been making consistent efforts to persuade the States from time to time to bring the requisite reforms in the Police administration to meet the expectations of the people.

In this regard, the recommendations of the various Committees/Commissions were sent to the State Governments/Union Territory (UT) Administrations for taking

³ *Ibid.* p 10-11

⁴ India. Ministry of Home Affairs. Status note on police reforms, p1

⁵ *Op.cit.* Police Reforms in India, p 9

⁶ India. MHA, Bureau of Police Research and Development Report, Data on Police Organization in India, p 1

⁷ *Op.cit.* Police Reforms in India, p 9

⁸ *Op.cit.* Data on Police Organization in India, p 1

⁹ *Op.cit.* Police Reforms in India, p 9

¹⁰ India. Ministry of Home Affairs, Report Crime in India 2014, p1

¹¹ *Op.cit.* Status note on police reforms, p1

necessary action. Successive Union Home Ministers have been addressing the Chief Ministers/Administrators of States/UTs in this regard.¹²

At State Level

Police Commissions to suggest measures for police reforms were appointed by various States like Kerala Police Commission on 15 January 1959, West Bengal Police Commission on 10 March 1960, Maharashtra Police Commission on 1 May 1962, Uttar Pradesh Police Commission on 11 May 1970, Tamil Nadu Police Commission on 20 December 1969, Assam Police Commission on 21 May 1969. These instances of police commissions constituted by various States are not exhaustive but only illustrative.¹³

At Central Level

Various Committees/Commissions in the past have made a number of important recommendations regarding Police Reforms. Notable amongst these are those made by the National Police Commission (1978-82); the Padmanabhaiah Committee on Restructuring of Police (2000); and the Malimath Committee on Reforms in Criminal Justice System (2002-03). Yet another Committee, headed by Shri Ribero, was constituted in 1998, on the directions of the Supreme Court of India, to review action taken by the Central Government/State Governments/UT Administrations in this regard, and to suggest ways and means for implementing the pending recommendations of the above Commission.¹⁴

The then Prime Minister, while interacting with Director General of Police (DGPs)/Inspector General of Police (IGPs) in 2004, appreciated the need for police reforms and declared that a Committee would be constituted to review the status of implementation of recommendations made by the various Commissions/Committees. Accordingly a Committee was constituted by the MHA in December 2004 to look into this aspect.

¹² *Ibid.* p1

¹³ *Op.cit.* Police Reforms in India, p 10-25

¹⁴ *Op.cit.* Status note on police reforms, p1

The Committee short-listed 49 recommendations from out of the recommendations of the previous Commission/Committees on Police Reforms as being crucial to the process of transforming the police into a professionally competent and service oriented organization. These 49 recommendations mainly pertain to:

- (I) improving professional standards of performance in urban as well rural police stations,
- (II) emphasizing the internal security role of the police,
- (III) addressing the problems of recruitment, training, career progression and service conditions of police personnel,
- (IV) tackling complaints against the police with regard to non-registration of crime, arrests, etc. and
- (V) insulating police machinery from extraneous influences.

The report of the Review Committee was sent to all the State Governments/UTs Administrations to initiate action on the recommendations concerning them and to initiate action on regular basis on the same. The implementation of these recommendations in the States were reviewed twice with the Chief Secretaries and DGPs of all the States by the Union Home Secretary in September 2005 and February 2006. The Committee of Secretaries under the Cabinet Secretary also reviewed the progress of implementation of these recommendations on 20.9.2005, 28.9.2005 and 17.2.2006 and also suggested milestones to be achieved in a time bound manner.

The Ministry of Home Affairs also constituted a Sub-Committee of the National Integration Council to examine the feasibility of the 49 recommendations identified by the Review Committee. The Sub-Committee of National Integration Council has seven Chief Ministers, three eminent persons as members apart from the Union Law Minister. A Meeting of this Committee was held on 29 July 2006 under the Chairmanship of the Union Home Minister and it was stressed that there is an urgent need for adopting the right perspective towards Police Reforms and for strengthening the intelligence system, imparting special training to police personnel and making them responsible.¹⁵

As one of the recommendations of Review Committee was replacement of Police Act, 1861, the Ministry of Home Affairs set up an Expert Committee to draft a new Model Police Act in September, 2005. The Committee submitted a model Police Act on 30 October 2006.¹⁶

¹⁵ *ibid*, Status note on police reforms p3-4

¹⁶ *ibid*, p4

The Model Police Act emphasized the need to have a professional police 'service' in a democratic society, which is efficient, effective, responsive to the needs of the people and accountable to the Rule of Law. The Act provided for social responsibilities of the police and emphasized that the police would be governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities.¹⁷ For other salient features of Model Police Act see **Annexure-1**

A copy of draft Model Police Act as framed by the Committee has been sent to the States for consideration and appropriate action.¹⁸

The Hon'ble Supreme Court of India passed a judgement on 22 September 2006 in Writ Petition (Civil) No. 310 of 1996 - Prakash Singh & Others vs. Union of India on several issues concerning Police Reforms and functioning of Police in the States.¹⁹ For complete directions, see **Annexure-2**

The seven directives of the Hon'ble Supreme Court had been forwarded to all the State Governments and Union Territories Administrations by the Ministry of Home Affairs on 26 September 2006 for implementation. The Hon'ble Supreme Court is itself monitoring the implementation of its Judgement dated 22 September 2006. Out of the above seven directives, the first six were meant for the State Governments and UTs while the seventh directive related to the Central Government.²⁰

COMPLIANCE OF SUPREME COURT DIRECTIONS DATED 22.09.2006 BY MINISTRY OF HOME AFFAIRS

The Government considered the matter as regards the directions pertaining to the National Security Commission. The Union Government *vide* order dated 02.01.2007 set up a Committee with the Union Home Minister as its Chairman on National Security and Central Police Personnel Welfare.

The Supreme Court was not satisfied with the compliance of the direction by Central Government and extended the time to file the affidavits by 10.04.2007 *vide* its

¹⁷ PIB press release dated 22.07.2015 on Model Police Act.

¹⁸ *Op.cit.* Status note on police reforms, p4

¹⁹ India. Rajya Sabha Unstarred Question No. 1975 dated 18.12.2015.

²⁰ *ibid*

order dated 11.1.2007. An application was filed by the Union Government on 12.02.2007, stating the difficulties in the implementation of the said direction, for modifications/clarifications, which has not yet been taken up by the Court.²¹

The position varies widely in respect of UTs because of their unique characteristics in terms of legal, administration demographic situation specific to each Union Territory. Affidavits were filed by UTs in the Supreme Court on or around 3.1.2007, stating difficulties like some UTs do not have a legislature, the Administrator administers the UT under overall control of the MHA, directions of the Hon'ble Court to be implemented in consultation with and as per the directions of MHA, Soli Sorabjee Committee is under active consideration of the MHA, the MHA has decided to frame a new Police Act for the UTs as soon as possible, proposed legislation will address the issues covered by Hon'ble Court, there is no Director General of Police (DGP) and Administrator discharges responsibility of Inspector General of Police (IGP) on ex-officio basis, posting of both the Administrator and Superintendent of Police (SP) is done by the MHA etc.

By its order dated 11.1.2007, the Hon'ble Court, upon consideration of affidavits filed by the Union of India, States and UTs, ordered that in so far as directions contained in para 31(2) (selection and tenure of DGP), 31(3) (minimum tenure of IG of Police and other officers) and 31(5) (Police Establishment Board) of its judgment dated 22.9.2006 were concerned, these were self-executory and that steps be taken to comply with them forthwith and in any case, within four weeks . With regard to directions contained in para 31(1) (State Security Commission), 31(4) (separation of investigation) and 31 (6) (Police complaints authority) of judgment dated 22.9.2006, the Hon'ble Court granted time upto 31.3.2007.

The Ministry of Home Affairs filed another application dated 12.2.2007 in respect of UTs in the Hon'ble Court stating the difficulties in the implementation of its directions and sought modification of orders dated 22.9.2006 and 11.1.2007.

While the above application has not yet been disposed, following steps have been taken to implement the directions pending disposal of the application.

(a) Orders constituting a Security Commission for all UTs (except Delhi) have been issued on 07.02.2013. It has been decided that there shall be separate Security

²¹ *Op.cit.* Status note on police reforms, p6

Commission for each of the UTs (except Delhi) with the Union Home Secretary as Chairman. Before 07.02.2013, there was only one Security Commission for all UTs (except Delhi). Two meetings of the Security Commission for UTs (except Delhi) have been held on 18.1.2013 and 13.2.2013. The decision with regard to Delhi is that the Security Commission for Delhi should be headed by the L.G., Delhi. The State Security Commission for the Government of NCT of Delhi has been constituted and four meetings of the Commission have been held.

(b) Orders constituting Police Complaint Authorities (PCAs) in UTs have been issued on 23 March 2010. In respect of Delhi, the request of the Government of NCT of Delhi to treat its Public Grievances Commission as the PCA had been accepted as an interim arrangement till enactment of the Delhi Police Act.

(c) Regarding selection methodology and minimum tenure of Chief of Police and key functionaries such as Zonal IGs, Range DIGs, District SPs and SHOs of UTs, the Ministry has taken a policy decision that senior level of police functionaries would have minimum tenure of two years in the constituents, as far as possible, subject to superannuation. The UTs have been advised through successive advisories / instructions in this regard. The draft Delhi Police Bill, presently under consideration of the Government provides for minimum tenure of two years, subject to their attaining the age of superannuation for key functionaries, including the Commissioner of Police, Joint Commissioner of Police/Additional Commissioner of Police in charge of a Range, District Deputy Commissioner of Police (DCP) and Station House Officer (SHO).

(d) Regarding separation of law and order from investigation, the separation has to start in towns/urban areas having population of 10 lakh or more. Only Delhi qualified under this criterion and it has been implemented in Delhi and separate Investigating Officer (IO) is appointed. The draft Delhi Police Bill provides for creation of Crime Investigation Units in all Police Stations for investigation of economic and heinous crimes. However, in major Police Stations of UT of Puducherry, there is already a separation of law and order from investigation. An enabling provision has been made in the Punjab Police Act, 2007 as extended to Chandigarh, regarding creation of Crime Investigation Units in police stations.

(e) Regarding setting up of a Police Establishment Board, the direction has been complied in all the UTs, keeping in view the divergent Police / Administrative hierarchies in the various territories.

Thus in UTs, there has been a significant and substantial compliance by the Government of India except only those issues in which appropriate clarification and modifications have been sought in application dated 12.2.2007 before the Supreme Court. The matter last came for hearing on 16.10.2012. All the States, Union Territories and the Union of India were directed to submit status reports as to how far they have acted in terms of the directions which had been given by this Court on 22nd September, 2006 by 4 December 2012. The Ministry of Home Affairs has filed a Status Report by way of Affidavit in the Hon'ble Supreme Court on 26.2.2013. The matter sub-judice and is under active consideration of the Hon'ble Supreme Court.²²

COMPLIANCE OF SUPREME COURT DIRECTION BY THE STATES

As per available information, 15 State Governments, viz., Assam, Bihar, Chhattisgarh, Haryana, Himachal Pradesh, Kerala, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tripura and Uttarakhand have formulated their State Police Acts and 2 State Governments, viz., Gujarat and Karnataka have amended their existing Police Acts (total 15 State Governments have either formulated State Police Acts or amended their existing Police Acts).²³

For compliance of Supreme Court directions in respect of States/UTs, see **Annexure-3**

The matter last came for hearing on 16.10.2012. All the States, Union Territories and the Union of India were directed to submit status reports as to how far they have acted in terms of the directions which had been given by this Court on 22 September 2006 by 4 December 2012. The Ministry of Home Affairs has filed a Status Report by

²² *Ibid*, Status note on police reforms, p6-8

²³ *Ibid*, p4-5

way of Affidavit in the Hon'ble Supreme Court on 26.2.2013. The matter sub-judice and is under active consideration of the Hon'ble Supreme Court.²⁴

CONCLUSION

During the 49th Annual Directors General of Police (DsGP)/Inspectors General of Police (IsGp) Conference held at Guwahati on 28 November 2014 the Prime Minister, Shri Narendra Modi introduced the concept of SMART Policing. The Attributes of Smart Policing are Sensitive and Strict, Modern with Mobile, Alert and Accountable and Reliable and Responsive and Trend and Techno Savvy. During the months of April and May 2015, the Bureau of Police Research and Development (BPR&D) had organized four regional workshops on Smart Policing. A compilation of Best Practices and SMART 'Policing Initiatives' was released by Bureau of Police Research and Development (BPR&D) in the DGs/IGsP conference held on 19-20 December 2015 in Bhuj, Gujarat.²⁵ The Government has been laying special emphasis on modernization of the Police forces.

²⁴ *Op.cit.* Status note on police reforms, p 8

²⁵ Mha1.nic.in/mha_ebook/eBook25012016.pdf

SALIENT FEATURES OF MODEL POLICE ACT*

- **Functional autonomy:** While recognising that the police is an agency of the State and therefore accountable to the elected political executive, the Committee has specifically outlined the role of Superintendence of the State Government over the police. (Section 39). The Model Police Act suggested creation of a State Police Board (Sections 42-50) to frame broad policy guidelines for promoting efficient, responsive and accountable policing etc. Merit-based selection and appointment of the Director General of Police, ensuring security of tenures (Section 6), setting up of Establishment Committees (Section 53) to accept and examine complaints from police officers about being subjected to illegal orders, to recommend names of suitable officers to State Government for posting to all positions in the ranks of Assistant/ Deputy Superintendents and above in the police organisation in the State excluding the DGP etc.
- **Encouraging professionalism:** To ensure an efficient, responsive and professional police service, the Model Act sought earmarking dedicated staff for crime investigation; and distinct cadre for Civil police vis-à-vis Armed Police (Chapter III & IV).
- **Accountability paramount:** the Act prioritised police accountability, both for their performance and their conduct (Chapter V & Chapter XIII).
- **Improved service conditions:** The Act also aimed to provide better service conditions (Chapter XIV) to the police personnel including rationalising their working hours, one day off in each week, or compensatory benefits in lieu. It suggested creation of a Police Welfare Bureau to take care, inter alia, of health care, housing, and legal facilities for police personnel as well as financial security for the next of kin of those dying in service. It further mandates the government to provide insurance cover to all officers, and special allowances to officers posted in special wings commensurate with the risk involved.

* Source:-<http://pib.nic.in/newsite/PrintRelease.aspx?relid=123494>

DIRECTIONS OF THE SUPREME COURT ON POLICE REFORMS DATED
22 SEPTEMBER, 2006

- (I) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.
- (ii) Selection of the Director General of Police of the State from amongst three senior-most officers of the Department empanelled for promotion to that rank by the Union Public Service Commission and once selected, provide a minimum tenure of at least two years irrespective of date of superannuation.
- (iii) Prescribe minimum tenure of two years to the police officers on operational duties.
- (iv) Separate investigating police from 'law and order' police, starting with towns/urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas also.
- (v) Set up Police Establishment Board at State level for inter alia deciding all transfers postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police.
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.
- (vii) Set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of chiefs of the Central Police Organisations (CPO) who should also be given a minimum tenure of two years.

Annexure-III@**COMPLIANCE OF SUPREME COURT DIRECTIONS IN RESPECT OF THE STATES/UTS.**

Sl.No.	States/Uts	State Security Commission	Police Establishment Board	Police Complaints Authority
1	Andhra Pradesh	No	Yes	No
2	Arunachal Pradesh	No (core group on security exist in place of SSC)	Yes	No
3	Assam	Yes	Yes	Yes
4	Bihar	Yes	Yes #	Yes *
5	Chhattisgarh	Yes	Yes	Yes
6	Goa	Yes	Yes	Yes**
7	Gujarat	Yes	Yes	Yes ***
8	Haryana			
9	Himachal Pradesh	Yes	Yes	Yes
10	Jammu & Kashmir	Yes	Yes	Yes
11	Jharkhand	Yes	Yes	Working as State Human Rights Commission
12	Karnataka	Yes	Yes	Yes
13	Kerala	Yes	Yes	Yes
14	Madhya Pradesh	Yes	Yes	Yes
15	Maharashtra	Yes	Yes	Yes
16	Manipur	Yes	Yes	Yes
17	Meghalaya	Yes	Yes	Yes
18	Mizoram	Yes	Yes	Yes ****
19	Nagaland	Yes	Yes	Notified and yet to be implemented
20	Odisha	No	Yes	Yes
21	Punjab	Yes	Yes	No (to be established)
22	Rajasthan	Yes	Yes	Partly Yes*****
23	Sikkim	Yes	Yes	Yes
24	Tamil Nadu	Yes	Yes	Yes
25	Telengana	No	No	No
26	Tripura	Yes	Yes	Yes
27	Uttar Pradesh	Yes	Yes	Yes
28	Uttarakhand	No	Yes	Yes
29	West Bengal	Yes	Yes	Yes
30	A & N Islands	Yes	Yes	Yes
31	Chandigarh	Yes	Yes	yes
32	D & N Haveli	No	Yes	Yes
33	Daman & Diu	Yes	yes	Yes
34	Delhi	Yes	Yes	Yes
35	Lakshadweep	Yes	Yes	Yes
36	Puducherry	Yes	yes	Yes

Cont- 2

Bihar: Section 10 of Bihar Police Act provides for the creation of Transfer Committee (Police Establishment Board) for officers of the rank of Constables to Inspector. A committee at police Head Quarter level has already been constituted to decide all promotions and other service related matter of officers below the rank of Deputy Superintendent of Police. The transfer, posting promotions and other services matter of officers of the rank of Deputy Superintendent of Police is decided by an establishment committee at department level.

* **Bihar :** Section 59 of the Bihar Police Act, 2007 provide the constitution of a “District Accountability Authority” for each District. The goal of the protection of Human Right has also been incorporated in Police Act. Section-26 of the Act provides that the complaint regarding violation of human Rights by Police shall be dealt with as per the procedure prescribed by the protection of Human Rights Acts, 1993 and by the State Human Rights Commission constituted under the Act.

****Goa:** A State Level Police Complaint Authority was constituted under the Chairmanship of Retd. Justice DR. Eurico Santana da Silva.

*** **Gujarat (yes, with deviation):** Provision for State Police Complaint Authority has been made in section 32 F of the Bombay Police (Gujarat Amendment) Act, 2007 and board has been constituted vide Government resolution.

**** **Mizoram (yes but partially):** Full compliance of this direction is not possible for want of retired judges in Mizoram. In the State’s Affidavit filed in the Hon’ble Supreme Court in Dec/2006, a request was made for permission to constitute one State-level Police complaints Authority with a retired IAS/IPS Officer of appropriate level as its head since retired High Court judges are not available in the State. In Pursuance of this request, Pu lalhmingthanga Colney, retired Chief Secretary of Nagaland was appointed as chairman of the State Level Authority vide notification No. C18018/12/90-HMP(SC) Vol.III dated 3.12.2009 but could not take up the responsibility as chairman of the Police Complaint Authority.

*******Rajasthan:** As per provision of section 62(1) & 66 of Rajasthan Police Act. The District committee has been constituted for only Udaipur District vide order No. f12(6)H-1/2011-part dated 24.8.2015.

@ Source:Rajya Sabha Unstarred Question No. 1975 dated 16.12.2015.