

Status Note on Police Reforms in India

Police reforms has been on the agenda of Governments almost since independence but even after more than 50 years, the police is seen as selectively efficient, unsympathetic to the under privileged. It is further accused of politicization and criminalization. In this regard, one needs to note that the basic framework for policing in India was made way back in 1861, with little changes thereafter, whereas the society has undergone dramatic changes, especially in the post independence times. The public expectations from police have multiplied and newer forms of crime 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.

Committees / Commission on Police Reforms

2. 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.

Constitutional Limitations of Central Government

3. "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.

4. In this regard, the recommendations of the various Committees/Commissions were sent to the State Governments/UT Administrations for taking necessary action. Successive Union Home Ministers have been addressing the Chief Ministers/Administrators of States/UTs in this regard.

Important recommendations of the various Committees/ Commissions and the specific action taken by the Central Government

(A) Reports of The National Police Commission

5. The National Police Commission (NPC) was constituted in 1977 to study the problems of police and make a comprehensive review of the police system at national level. The NPC dealt with wide range of aspects of police functioning. The National Police Commission submitted eight reports during the period February 1979 to May 1981. The first report was laid on the Table of Lok Sabha on 1.2.1980. The remaining seven reports were released in March 1983 with the specific directive from the Central Government to all State Governments/UT Administrations that these reports may be

examined quickly and appropriate action taken. The Central Government took initiatives in persuading the State Governments/UTs to implement the recommendations of the National Police Commission.

6. The major recommendations of the NPC to amend the Code of Criminal procedure 1973 were considered in the Chief Minister's Conference on the Administration of Criminal Justice System held on 13th November 1992. The Code of Criminal Procedure (Amendment) Bill 1994 introduced in the Rajya Sabha had, inter alia, contained these recommendations. This Bill was passed in the Rajya Sabha on 4.5.2005 and in Lok Sabha on 9.5.2005 respectively. Other important recommendations of NPC for **revision of syllabus for IPS probationers trainees / augmentation of DCPW have already been implemented and a new Bill for regulation of private security agencies has since been passed by the Parliament and become an Act.**

(B) Reports of the Ribeiro Committee

7. On the directions of the Supreme Court of India in the case of Prakash Singh vs Union of India and others pertaining to implementation of the recommendations of the National Police Commission, the Government had on 25th May, 1998, constituted a Committee under the Chairmanship of Shri J.F. Ribeiro, IPS (Retd.). The Ribeiro Committee submitted two reports which were filed in the Supreme Court during 1998 and 1999, respectively.

8. The Ribeiro Committee endorsed the recommendations of the NPC with certain modifications. The case came up for hearing on 10.2.2005 and the Hon'ble Court directed Union of India and respective State Governments including NHRC to file their responses with regard to the direction issued in the Vineet Narain case and implementation of recommendations of Ribeiro Committee.

(C) Report of the Padmanabhaiah Committee on Police Reforms

9. Government had set up a Committee in January, 2000 under the Chairmanship of Shri K. Padmanabhaiah, former Union Home Secretary, to suggest the structural changes in the police to meet the challenges in the new millennium. The Committee submitted its report to the Government on 30.8.2000. In all, there are about 240 recommendations made by the Committee. The recommendations have been examined in this Ministry. Out of 240 recommendations of the Committee, **23 recommendations regarding** review of allocation of cadre policy, direct IPS officers to be given charge of district, to post IAS/IPS as judicial magistrate, police commissioners system in cities, division of NICFS, compulsory retirement to those not empanelled as DIG, review of cadre allotment policy of IPS for NE, recruitment of Constables and sub-Inspectors from the boys who have passed 10th & 12th Examination and giving them 2/3 years training in Police training Schools/Police Training Colleges respectively, maximum age of entry of IPS to be reduced to 24 years and federal offences etc **were not accepted**, after examination.

10. As many as **154 recommendations pertaining to** recruitment, training, reservation of posts, involvement of public in crime prevention, recruitment of police personnel, delegation of powers to lower ranks in police, revival of beat system, use of traditional village functional village functionaries, police patrolling on national and state

highways, designs of the police stations, posting and transfer of SP and above etc. were found to be such that they can be implemented without any structural changes.

(D) Malimath Committee on Reforms in the Criminal Justice System

11. Government had set up (November, 2000) a Committee under the Chairmanship of Dr. (Justice) V.S. Malimath, a former Chief Justice of the Karnataka and Kerala High Courts to consider and recommend measures for revamping the Criminal Justice System. The Malimath Committee submitted its report in April, 2003 which contained 158 recommendations. These pertain to strengthening of training infrastructure, forensic science laboratory and Finger Print Bureau, enactment of new Police Act, setting up of Central Law Enforcement agency to take care of federal crimes, separation of investigation wing from the law and order wing in the police stations, improvement in investigation by creating more posts, establishment of the State Security Commission, etc.

MHA Committee to review the various recommendations and the follow up taken:

12. Hon'ble Prime Minister, while interacting with DGPs / IGP's 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 Commission/Committees. Accordingly a Committee was constituted by MHA in December 2004 to look into this aspect.

13. 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.

14. The report of the Review Committee was sent to all 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.

15. 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 Union Law Minister. A Meeting of this Committee was held on 29th July, 2006 under the chairmanship of 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.

Expert Committee to draft a New Model Police Act:

16. 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 30th October, 2006.

17. 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 emphasizes 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. The other salient features of Model Police Act include:-

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. The Model Police Act suggested creation of a State Police Board, Merit-based selection and appointment of the Director General of Police, ensuring security of tenures, setting up of Establishment Committees,

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,

Accountability paramount: the Act prioritised police accountability, both for their performance and their conduct.

Improved service conditions: The Act also aimed to provide better service conditions 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.

Forwarding of copies of the Draft Police Act to States/UTs :

18. A copy of draft Model Police Act as framed by the Committee has been sent to States for consideration and appropriate action vide Home Secretary d.o. letter dated 31st October, 2006.

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 02 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).

Supreme Court judgment on 22.9.2006 on Police Reforms and the follow up action:

19. The Supreme Court of India has passed a judgement on September 22, 2006 in Writ Petition (Civil) No.310 of 1996 – Prakash Singh and others vs UOI and others on several issues concerning Police reforms. The Court in the said judgement directed the Union Government and State Governments to set up mechanisms as directed by December 31, 2006 and file affidavits of compliance by January 3, 2007. The directions inter-alia were:

- (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) Select 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 him a minimum tenure of at least two years irrespective of his date of superannuation.
- (iii) Prescribe minimum tenure of two years to the police officers on operational duties.
- (iv) Separate investigating police from law & 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 a Police Establishment Board at the 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, and
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.
- (vii) The Supreme Court also directed the Central Government to 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 (CPOs), who should also be given a minimum tenure of two years, with additional mandate to review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilized for the purposes they were raised and make recommendations in that behalf.

Out of the above seven directives, the first six were meant for the State Governments and Union Territories while the seventh directive related solely to the Central Government.

20. The matter was heard successively on different dates. On May 16, 2008, Hon'ble Supreme Court, as regards the implementation of the various directions made earlier in its judgement dated September 22, 2006, directed to set up a Committee under the Chairmanship of Justice K.T. Thomas, former retired Judge of the Supreme Court and two other Members. The Terms of Reference for the Committee, inter-alia, included - to

examine the affidavits filed by the different States and the Union Territories in compliance to the Court's directions with reference to the ground realities; advise the Respondents wherever the implementation is falling short of the Court's orders, after considering the Respondents' stated difficulties in implementation; bring to the notice of the Court any genuine problems the Respondents may be having in view of the specific conditions prevailing in a State or Union Territory etc.

This Committee's term initially was directed for a period of two years. The Committee submitted its report to Hon'ble Supreme Court and the said report has been circulated to States/ Union Territories by the Registry of Supreme Court on 04.10.2010.

Implementation of Supreme Court's Judgment dated 22.9.06 by MHA

The Government considered the matter as regards the directions pertaining to **National Security Commission**. The Union Government vide order dated 02.01.2007 set up a Committee on National Security and Central Police Personnel Welfare. The composition of the Committee is as under:-

- (i) Union Home Minister Chairman
- (ii) National Security Advisor Member
- (iii) Cabinet Secretary Member
- (iv) Union Home Secretary Member
- (v) Director, IB Member

Terms of Reference of the Committee are (i) to prepare a panel of police officers for appointing as Head of Central Para Military Forces, (ii) to review issues pertaining to the service conditions of the Central police personnel and (iii) to make appropriate recommendations thereon and also to review and make recommendation on any other matter relevant or incidental to the above, referred to by the Government of India. The composition of the said Committee was changed by adding more members vide Office Memorandum dated 25.01.2007 and 13.07.2010.

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 order dated 11.1.2007. An application was filed by 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.

Compliance of Supreme Court directions by UTs

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 MHA, directions of Hon'ble Court to be implemented in consultation with and as per the directions of MHA, Soli Sorabjee Committee is under active consideration of MHA, 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 DGP and Administrator discharges responsibility

of IGP on ex-officio basis, posting of both the Administrator and SP is done by the MHA etc.

By its order dated 11.1.2007, the Hon'ble Court, upon consideration of affidavits filed by 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 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 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 23rd March, 2010. In respect of Delhi, the request of Govt. 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. 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 DCP and 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 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 UTs, keeping in view the divergent Police / Administrative hierarchies in the various territories. However, it has been prayed in the modification application dated 12.2.2007 filed in the Supreme Court that Police Establishment Board may not be entrusted with the Appellate functions as it would dilute the functional control and authority of the supervisory police officers.

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 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 4th 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.