



POLITICAL INFLUENCES AND POLICE SYSTEM

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ABSTRACT

India is the largest, most populous democracy in the world. The Constitution of India; the grundnorm of the Republic of India declares India to be a welfare State which aims at providing Justice to all, promoting fraternity and assuring unity of the nation. Thus, welfare of the people is of prime importance but no growth is possible unless and until the environment is conducive. People can grow and realise their potentials only if the society is safe and free from fear. Consequently to maintain social order, peace and tranquillity, police as an agency of government comes into play. Therefore, Police is the most important agency of the Government which comes in direct contact of the citizens. In order to have effective policing system, the two binaries have to be balanced; executive influence and illegitimate control on the Police and the accountability of police to the representatives of the people.

In this research work, the author will mainly focus on political influence on Indian police system.

INTRODUCTION

Earlier humans used to exist in the “state of nature” wherein there was no political order and the acts of humans were based on their personal power and conscience only. Humans used to live in a state of constant fear

and consequently, in order to achieve social and political order in the state, Social Contract theory was developed and with the development of the theory, individuals surrendered certain rights and freedoms in favour of the State in lieu of protection of their other rights and maintenance of social order. As a result of Social Contract theory, States became duty bound to protect the life, liberty and property of its citizens and all States started using ‘police forces’ in one way or the other, in order to control crime and contribute to public order.

Although, in today’s era, the larger aim of police round the globe is the same, the way in which police operates in a democratic and a non-democratic societies differs greatly, i.e., “the conditions under which police operate and the means they use vary greatly between democratic and non-democratic societies.”¹

India is the largest, most populous democracy in the world. The Constitution of India; the grundnorm of the Republic of India declares India to be a welfare State which aims at providing Justice to all, promoting fraternity and assuring unity of the nation. Thus, welfare of the people is of prime importance but no growth is possible unless and until the environment is conducive. People can grow and realise their potentials only if the society is safe and free from fear. Consequently to maintain social order, peace and tranquillity, police as an agency of government comes into play. In other words, we can say that, “The police and political executive are both bound together in the common endeavour of preventing and investigating crime, maintaining law and order and ensuring that the people have a well-functioning essential

¹ Gary Marx, Police and democracy, The Encyclopedia of democracy (1995)
<http://web.mit.edu/gtmarx/www/poldem.html>



service that protects life, property and liberty.”² Therefore, Police is the most important agency of the Government which comes in direct contact of the citizens.

It has been rightly said that, “Police are a central element of a democratic society. Indeed one element in defining such a society is a police force that,

- is subject to the rule of law, rather than the wishes of a powerful leader or party;
- can intervene in the life of citizens only under limited and carefully controlled circumstances; and
- is publicly accountable.”³

As the functions of the State are both preventive and punitive, police being implementers, have wide powers. Thus, we can say that, police are both a chief support and a key threat to a democratic society; if operating under the rule of law they may protect democracy and if operating in an arbitrary, oppressive manner they may become a threat.

In order to have effective policing system, the two binaries have to be balanced; executive influence and illegitimate control on the Police and the accountability of police to the representatives of the people.

² The Police- Politician Paradigm, The executive – police relationship
https://www.humanrightsinitiative.org/programs/aj/p/olice/india/initiatives/police_executive_paradigm_stemning.pdf

³ Supra note 1

⁴ Bayley David, 23(4) Asian Survey , 484-496 (April 1983) <https://www.jstor.org/stable/2644234>

⁵ Giriraj Chauhan, 75(2) The Indian Journal of Political Science, 353-358 (April - June, 2014) <https://www.jstor.org/stable/24701142>

LITERATURE REVIEW

“The Police and Political Order in India”⁴ (1983) focused on three aspects of police namely; the political influence, crime and law, and police strikes and held that political interference has resulted in decline of rule of law. “Policing has transformed from the professional imposition of a coherent moral consensus to an intensely political activity.”

“Corruption and Politicisation: Two Maladies of Indian Police”⁵ (2014) focused on the corruption and political interference in police administration and stated that there is a need to revamp the system in order to uphold the constitutional values and principles.

“Who is Policing the Police? - The Role of Parliament in Police Governance in Asia and Europe”⁶ (2017), in this the authors did a comparative study of policing systems of various countries of Asia and Europe and stated that for best and most effective system, some sought of political control is mandatory but at the same time autonomy of police in its essential functions should be there.

In addition to these, The Vohra Committee in 1993 in its report stated the link between in underworld, bureaucracy and the politicians.⁷ Further, Justice Malimath committee in 2003 also noted that, “The police system in the Country is functioning

⁶ Aguja Mario, Born Hans, 35(2) Sicherheit und Frieden (S+F) / Security and Peace, Themenschwerpunkt/ Thematic Focus: PARLAMENTE, FRIEDEN UND SICHERHEIT PARLIAMENTS, PEACE AND SECURITY , 72-78 (2017) <https://www.jstor.org/stable/26428669>

⁷ Prakash Menon , Time to depoliticize Indian police (2021) <https://theprint.in/opinion/time-to-depoliticise-indian-police-it-can-be-modis-sudarshan-chakra/642317/>



under the archaic Indian Police Act which was enacted in 1861 for the perpetuation of the British Empire. The police now have an obligation and duty to function according to the requirements of the Constitution, law and democratic aspirations of the people. Further, the police are required to be a professional and service-oriented organisation, free from undue extraneous influences and yet be accountable to the people. Besides, it is necessary to have the police force which is professionally controlled and is politically neutral, non-authoritarian, people friendly and professionally efficient.”⁸

STATEMENT OF PROBLEM

On 27-08-2019, the headlines of The Print stated, “New study finds 72% of India’s police officers have felt political pressure during probes.”⁹

India follows the Police Act, 1861 and the various State Police Act which are more or less on the same lines of the Act of 1861. As the Police Act, 1861 was enacted after the mutiny of 1857, the aim with which it was drafted by the britishers was not the welfare of people but to have ‘force’ to suppress the masses. Although some amendments have been made after independence, the broad structure remains the same.

The Problem with the Police Act, 1861 and the State Acts is that they do not clearly define the terms ‘superintendence’ and ‘control’ and this legislative ambiguity is a significant factor in facilitating political manipulation.¹⁰ Political manipulations or influences could also be known as “politicization” which literally means "to

give a political character or bias to".¹¹ Politicization has resulted in police to become mere pawns at the hands of those in power. Police who was supposed to function impartially and fairly for the welfare of people instead work in a partisan way in order to get political patronage. Politicization of police has thus become a widespread phenomenon and the same has been acknowledged by the hon’ble Supreme Court of India and by the Parliamentary committees.

RESEARCH QUESTIONS

1. What are the reasons that have resulted in political supervision to become political control?
2. What are the best policing practices adopted internationally?

OBJECTIVES

- To understand the causes of politicization of police in Indian system.
- To look at the police-executive interaction in other countries.

HYPOTHESES

- Lack of professionalism, mismanagement and improper supervision in the police department has resulted in illegitimate political influence.
- There is a dire need to have police reforms in India, particularly with respect to its independence and accountability.

⁸ Id.

⁹ Apoorva Mandhani (2019) <https://theprint.in/india/new-study-finds-72-of-indias-probes/283050/>

police-officers-have-felt-political-pressure-during-probes/283050/

¹⁰ Supra note 2

¹¹ Supra note 5



1. POLITICIZATION OF POLICE

“Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with high degree of responsibility required by their profession.”¹²

Registering FIR, doing swift, impartial and effective investigation, filing the police report, etc. are some the duties of police but the infamous *Unnao Rape case* of 2017 is one of the recent examples of political control on police wherein despite legislative safeguards and the precedent set by the apex court in the case of *Lalitha Kumari v. Government of Uttar Pradesh*,¹³ the police refused to file the FIR. Another such recent example would be Sachin Vaze’s reinstatement in Mumbai police in 2017 despite orders of the hon’ble High Court relating to his suspension.

As seen above, there is not dearth in data relating to politicization of police. “In August 1979, the National Police Commission stated that transfer and suspension are two weapons frequently used by the politician to bend the police officers down to his will.”¹⁴ Further in *Hawala Case*, the hon’ble Supreme Court has observed that, “frequent and arbitrary transfers, besides demoralizing the police force and politicizing the personnel constitute

a practice that is alien to the envisaged constitutional machinery.”¹⁵

In the “World Justice Project Rule of Law index 2019” India bagged 68th position out of the total 126 nations. “Of the eight parameters on which the nations were judged, India performed the worst in ‘order and security, standing 111th.”¹⁶ Thus we can say, “It is not that we do not have rule of law, we also have law of rulers.”¹⁷

As it is rightly said that “power corrupts and absolute power corrupts absolutely”, Corrupt, incompetent, inefficient and indifferent personnel together with lack of supervision, archaic management practices, etc. are the main causes of political influence on police.¹⁸

Politicization of police has been there from a long time and the imposition of Emergency in 1975 led to increased penetration of politics in police. “Emergency merely injected it explicitly and dramatically. The Emergency represents high politicization, as opposed to low politicization.”¹⁹

1.1 FORMS OF POLITICAL INFLUENCE

Political influence on police vary greatly; it could be in the form of seeking political help in matters of investigation, arrest, etc.

¹² Art. 1, UN Code of Conduct for Law Enforcement Officials

¹³ Writ Petition (Criminal) No. 68 of 2008

¹⁴ National Police Commission (1979), Second Report, page 24

¹⁵ Writ Petition (Criminal) Nos. 340-343 of 1993

¹⁶ Gaurav Bhatnagar, Make Police more accountable, Free from outside influence (2019)

<https://thewire.in/government/police-accountability-influence-biases-autonomy>

¹⁷ Id.

¹⁸ Arvind Sharma, The Indian Police: A critical Evaluation, (Regency Publications 2005)

https://books.google.co.in/books?id=XUVubaCQiD8C&pg=PA282&lpg=PA282&dq=Politicisation+of+the+Police+in+India:+Where+Lies+the+Blame?&source=bl&ots=UnabOSjCs2&sig=ACfU3U1U2g8EwqpACQeCNXqaegrELRUhTw&hl=en&sa=X&ved=2ahUKEwjMwMeN_JX2AhUj63MBHddRBd4Q6AF6B

¹⁹ Supra note 4



or using political connections in matters of gun license and other permissions or interference in general police administration.

1.1.1 SPECIAL FORMS OF POLITICAL INTERVENTION

When politicians intervene in police functions in order to grant special favour to some particular persons, it results in special form of political intervention. Matters relating to investigating a particular case, gun licences, motor vehicle permits, land dispute settlements, liquor shop licensing, traffic regulations, etc fall under this category wherein police officials are asked to use their discretionary powers in favour of a person.²⁰ Thus we can say that indubitably the reason for political control is partisan role of police but the act is initiated by people only.

1.1.2 GENERAL FORM OF POLITICAL INTERFERENCE

Under this, the politicians do not influence the police officials for the advantage to a particular person or group of persons; rather they are interested in safeguarding their position in the constituency and increasing their power. “This comes in three ways, first by representing general citizen grievances, second by ensuring protection to the supporters irrespective of the criminal behaviour, and third by having a major say in police administration itself.”²¹ Transferring the officials if they do not comply with the orders of the superior authorities is very common in India. Many State Manuals explicitly describe who has the power in this respect, whether it is the

executive or the senior police officials, albeit, in actual practice, the power is originates from the executive branch. Even the ex-Justice of the apex court in India, retired J. Chelameswar, have acknowledged this fact and further stated that, “Why only police personnel, even chief justices and judges get transferred frequently.”²²

The table below describes the various forms of political influence on police.

Typology of political interferences

| Forms | | Typical examples |
|---------|----|--|
| Public | 1. | Representing citizens to register criminal cases and complaints |
| | 2. | Intervening to prevent undue arrest/harassment to victims and witnesses |
| | 3. | Asking officers to inquire into citizen complaints and grievances |
| Special | 1. | Helping some person to obtain gun license, motor vehicle papers etc. |
| | 2. | Assisting someone to obtain favorable police reports in land disputes |
| General | 1. | Leading delegation to demand police protection/patrolling, arrest of anti-social elements or action. |
| | 2. | Demonstration against specific police policies like encroachment drives. |
| | 3. | Representing police personnel for their transfer/postings; departmental inquiries/proceedings. |

Source: “The Indian Journal of Political Science (2014)”²³

²⁰ Supra note 18

²¹ Id.

²² Supra note 16

²³ Supra note 5



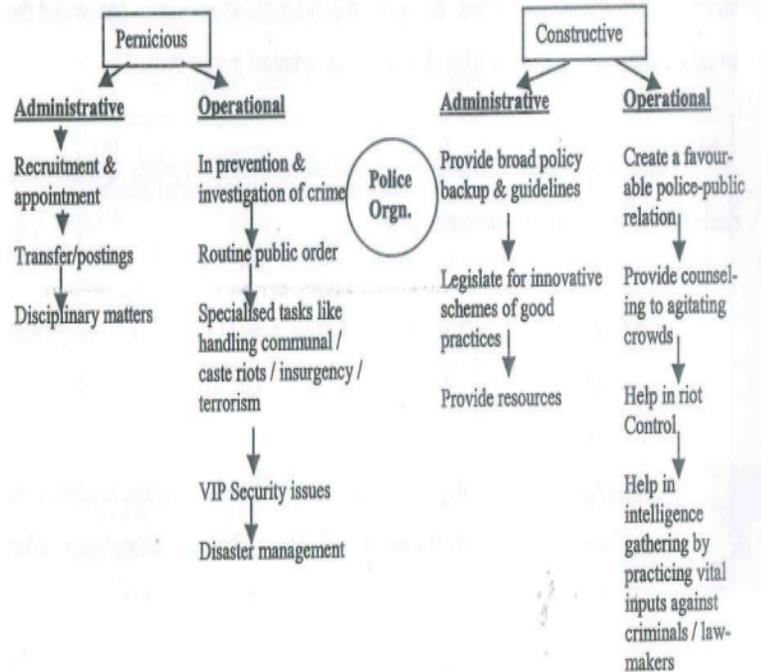
1.2 POLITICAL INFLUENCE: GOOD OR BAD?

Undoubtedly, the instances of politicians using power and illegitimately interfering in the work of police are widely reported, but on the flip side having some political control over police is essential in a democratic setup. As the executive are the representatives of the people, making police accountable to the executive is in spirit of strengthening democracy. Giving free hand to police in all the matters might result in violation of rights of the individuals by the police. Thus, the counter side is that the political influence on police is not always bad. India being the largest democracy, the role of politicians cannot be ignored in India and so is the role of police. In other words it can be stated that, police and politicians both are part of the same larger goal of maintaining public order, peace and tranquillity.

As democratically elected government is the representative and the guardian of the public interest, having political supervision and accountability over the police act is in fact an essential element for the society.

Thus, having political influence is not bad per-se, but with the passage of time and with the development of vested interests on the both sides, it has taken a shape where it has become dangerous to democratic setup.

POLITICAL INFLUENCE



Source: A research study on “creating a functional positive police- politician interface for public order maintenance”²⁴

Thus we can conclude by saying that, having political supervision is not inherently bad and in order to work effectively, proper balance needs to be maintained and a line has to be drawn as to what amounts to legitimate political influence and what amounts to illegitimate political interference. In general, in matters of law enforcement i.e., matters related to investigation, arrest etc and in matter of administration of police, i.e., related to appointment, removal, etc. the police must work independently. Apart from this, police

²⁴https://www.svpnpa.gov.in/images/npa/pdfs/CompletedResearchProject/27_researchcreatingfunctionaapositivepolice.pdf



accountability and political supervision is the rule, and independence from governmental directions is the exception and even if the matter falls within the exclusive domain of police, it can be held accountable for the same.

2. POLICE-EXECUTIVE INTERACTION IN OTHER COUNTRIES

In order to make our system better, it is imperative to look at the best police practices prevailing in other countries so as take inspiration from them and to learn from their experiences.

2.1 SOUTH AFRICA

After years of struggle against apartheid, finally independence in South Africa is achieved in late 1990s and consequently, the South African constitution is one of the most reformative constitutions in the world. S.199(7) of the South African Constitution explicitly provides for independence of police from political powers.

S. 199(7) states, “Neither the security services, nor any of their members, may, in the performance of their functions -

- (a) prejudice a political party interest that is legitimate in terms of the Constitution; or
- (b) further, in a partisan manner, any interest of a political party”

Thus, in South Africa the constitution itself provides for autonomy of police.²⁵

2.2 NIGERIA

Nigerian Constitution was also adopted in 1999 and hence it is also a recent constitution. The Constitution itself provides for the formation of “Nigeria’s Police Service Commission” which is an independent body and is the “most powerful and autonomous civilian oversight institutions in the world” as it has administrative as well as legal powers.²⁶

2.3 NEW ZEALAND

In New Zealand, the Policing Act was passed in 2008 after legislative and public scrutiny. S.16 and S.30 of the said Act provides for “the New Zealand Police’s responsibilities to the political executive (through the Minister in charge)” and “what duties and functions the police are not responsible to the executive to and which must be acted on independently by the police” respectively.²⁷

CONCLUSION

As seen above, political supervision on police is imperative but using powers arbitrarily, against the spirit of democracy is hazardous. Thus, what is required in our society is proper framework and delineation of powers between the executive and the police. It was observed by the National Police Commission that, “what started as a normal interaction between the politicians and the services for the avowed an objective of better administration with better awareness of public feelings and expectations, soon degenerated into different forms of intercession, intervention and interference

²⁵ Supra note 2

²⁶ Id.

²⁷ Id.



with malafide objectives unconnected with public interest.”²⁸

SUGGESTIONS

- There is a need to change the mind set of people, as it is citizens only who initiate the political interference.
- As the police Act 1861 is colonial and archaic law, there is a need to amend it so as to make it adaptable to the current existing situations. While amending the laws, the opinion of police personnel should be taken into consideration.
- As seen in Nigeria, South Africa and New Zealand, appropriate legal framework should be there and it should be followed in letter and spirit which is exhaustive, clearly defining the roles and responsibilities of police.
- Independent body consisting of human right activists, politicians, members of administrative services, should be set up to keep a check on misuse/underuse of police powers.

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²⁸Satya Pradhan, A research Study on “Creating a functional positive police-political interface for public order maintenance”

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