

It's Politics As Usual with Policing

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RECENT POLICE TRANSFERS FLY IN THE FACE OF SUPREME COURT'S RULING

On 20 May the Gujarat government transferred 69 police officers of various ranks. It was business as usual at the Home Department—the favoured rewarded with plum postings and the rest moved off to side appointments. The move mimics similar wholesale shifts of police that took place in Gujarat in August and November 2007.

In this Gujarat, often lauded as administratively ahead of other states, keeps company with several others where arbitrary transfers and overt political interference are the norm. Earlier this month Madhya Pradesh removed its DGP prematurely. This move was a bold-faced violation of MP's own Ordinance (12 Feb 2007) which guarantees DGPs 2 years tenure. Similarly, in Kerala, where the independent-minded DGP dared to defy the Government's express orders and enact his own set of merit-based set of transfers, the Executive's response was simply to rescind all of the transfers within 24 hours! The preferred tactic of the Chhattisgarh Government has been to justify arbitrary political transfers such as the removal of 9 SPs in October 2007 under the nebulous rationale of "*administrative exigency*".

News of these events is jarring on several levels. First, frequent and arbitrary transfers dislocate administrative work and make it difficult to fix responsibility in regard to delays and lapses in the discharge of duties. Transfers perpetuate uncertainty and instability within the force, and limit the potential for developing a professionalised police organisation which operates on merit and performance.

Second, Gujarat's wholesale transfer is particularly problematic as the Executive has reinstated and even promoted many of the very officers who were removed just before the State elections by order of the Election Commission. Presumably the EC felt these officers could not be trusted to execute their public service duties in an even handed manner. However, rather than scrutinising these alarming findings, the Government has reinstated these officers to their very same posts!

Third, and most importantly, all of these transfers fly in the face of the Supreme Court's landmark ruling in *Prakash Singh v. Union of India*. Disgusted by decades of intransigence by the Union and State Governments on the issue of police reform, the Apex Court in 2006 issued 7 strong directives for immediate compliance. Among the principal targets was putting a stop, as the Court called it, to the "overdose of unhealthy and petty political interference at various levels starting from transfer and posting of policemen of different ranks".

The Court ordered the States to put in place Police Establishment Boards to decide transfers, postings and appointments without political interference. These Boards must include only the DGP and the 4 other most senior officers—politicians and civil servants are to have no formal role. The Court also ruled that the decisions of the Boards are effectively binding: The Government is only allowed to interfere with a decision of a Board "in exceptional cases only after recording its reasons for doing so".

The Court's logic is simple. If the police have control over their own transfers, postings and appointments, it removes the principal lever of political control that is currently exercised over the police, and enables the officers to do their job without fear or favour. Pragmatically, it allows the police to get on with their core business of ensuring law and order, and serving and protecting the people, rather than having to constantly curry favour with top political brass to ensure they will not be victimised in the next officer "reshuffle".

The Court's Order is binding law and it gave Governments until 31 December 2006 to create the Boards. But the responses of various Governments has ranged from indifference to *de facto* contempt of Court. Gujarat, after its initial effort to petition for a review of the Court's Order failed, reluctantly drafted a weak Bill to amend its Police Act. The new Bill does not comply with *any* of the Court's directives. For example, s.32D(1)(3) of the Bill allows the inclusion of the Deputy Secretary of the Home Department as a member of the Gujarat Police Establishment Board. This is plainly contrary to the Court's goal of ensuring a truly independent Board to decide internal career paths and operational postings, and perpetuates the very political interference that the Board was meant to alleviate!

Gujarat's example, along with the events observed in MP, Kerala and Chhattisgarh, reveal the same disturbing trend—Governments are determined to do as they please and maintain the *status quo* while ignoring the authority of the Apex Court. This does not augur well for the rule of law and these State Governments have a lot to answer for, to the Court, to the police, and most importantly, to the public they are meant to serve.