

Role of the Civil Services in Democracy

In a democracy, power vests with the people. This power is exercised through its elected representatives who have the mandate to govern them for a specific period. The civil services by virtue of its knowledge, experience and understanding of public affairs assist the elected representatives in formulating policy and are responsible for implementing these policies. Parliamentary democracies are usually characterized by a permanent civil service which assists the political executive. Under the Presidential form of government (like in the US), the higher echelons of the civil services are, in contrast, appointed by the government of the day (spoils system). India has adopted the British model.

Some advantages of having an independent, permanent and impartial civil service are as follows:

- The spoils system has the propensity to degenerate into a system of patronage, nepotism and corruption. Having a credible recruitment process through an impartial agency provides a defence against such abuse.
- Public policy today has become a complex exercise requiring in-depth knowledge and expertise in public affairs. A permanent civil service provides continuity and develops expertise as well as institutional memory for effective policy making.
- A permanent and impartial civil service is more likely to assess the long-term social payoff s of any policy whereas the political executive may have a tendency to look for short term political gain.
- A permanent civil service helps to ensure uniformity in public administration and also acts as a unifying force particularly in vast and culturally diverse nations.
- A permanent civil service like any other reputable profession is likely to evolve over time an ethical basis for its functioning.

A healthy working relationship between Ministers and civil servants is critical for good governance. In any democracy, Ministers are responsible to the people through Parliament and therefore the civil servants have to be accountable to the Minister.

However, an impartial civil service is responsible not only to the government of the day but to the Constitution of the land to which they have taken an oath of loyalty. At the same time, implementing the policies of the duly elected government is a core function of civil servants. That is why the division of responsibility between the civil servants and ministers needs to be more clearly defined. A framework in which responsibility and accountability is well defined would be useful.

Constitutional Provisions

The Indian Constitution provides for separation of powers between the legislature, executive and judiciary with well-defined roles and responsibilities for each one of them. Since India is a parliamentary democracy, there is an interface between the legislature and the executive at the level of the Council of Ministers, which is collectively responsible to the legislature. In terms of Articles 53 and 154, the executive power of the Union and the States vests in the President or Governor directly or through officers subordinate to him.

These officers constitute the permanent civil service and are governed by Part XIV of the Constitution. The other part of the executive is the 'political'. The President or Governor is required to act according to the aid and advice of his/her Council of Ministers, appointed under Articles 73 and 163 of the Constitution. The President and Governor frame rules for the

conduct of business in the government. Work is allocated among Ministers as per the Government of India (Allocation of Business) Rules and the manner in which the officers are required to help the President or Governor to exercise his/her executive functions is governed by the Government of India (Transaction of Business) Rules. What this means is that though officers are subordinate to the President or Governor, they carry out the orders of the Council of Ministers in accordance with the rules framed in this behalf. The Rules of Business of Government do provide for the Secretary to the Government to advise his/her Minister about the course of action proposed in a particular matter and to submit to him a note which tells him about the propriety or legality of his/her orders and suggest that either such orders not be given or that they be suitably modified. The relationship between the Secretary and the Minister is organic. The Minister has the mandate of the people to govern, but the Secretary has an equivalent constitutional mandate to advise the Minister.

Once his/her advice has been suitably considered, unless the Minister passes an illegal order, the Secretary is bound to implement it. The Minister, on his/her part, is required to support the Secretary who is implementing his/her order. Once a law is framed or rules and regulations are approved, they apply to everyone, whether a member of the political executive or of the permanent civil service. A civil servant is required to implement the orders of government without bias, with honesty and without fear or favour. It is precisely in this area that a degree of a difference of opinion often occurs between the political executive and the civil servants.

The Civil Services in Post Independence India

In the initial years after Independence, relations between Ministers and civil servants were characterized by mutual respect and understanding of each other's respective roles, with neither encroaching upon the other's domain. However, in subsequent years, matters started changing for the worse. While some civil servants did not render objective and impartial advice to their Ministers, often some Ministers began to resent advice that did not fit in with short-term political interests. There was also a tendency for some Ministers at the Union and the State levels to focus more on routine administrative matters such as transfers in preference to policy making. At the same time, some civil servants learnt the art of 'maneuvering' for favours in return for pliability in their decision making. This trend was further accentuated by rising materialism and acquisitiveness in society as well as decline in values across the board. As a result, 'political neutrality' which was the hallmark of the civil service earlier in the period right after Independence, was gradually eroded. These trends led to the phenomenon of 'politicisation of the civil service' in India.

Areas of Friction

The areas of potential conflict in the relationship between the political executive and the permanent civil service can be identified as follows:

- The concept of neutrality
- Advisory role of civil servants in policy making
- Statutory role of the civil servants
- Appointments/Recruitment to the civil services
- Transfers and postings of civil servants

The Concept of Neutrality

Sardar Patel had made the following observations in the Constituent Assembly to support the continuance of the pre-independence civil service structure:-

"It needs hardly to be emphasized that an efficient, discipline and contended civil service assured of its prospects as a result of diligent and honest work, is a sine-qua non of sound administration under democratic regime even more than under an authoritarian rule. The service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum if not eliminated altogether."

Unfortunately, this vision of civil service neutrality no longer holds good. Changes in governments particularly at the state level often lead to bulk transfer of civil servants. Political neutrality is no longer the accepted norm with many civil servants getting identified, rightly or wrongly, with a particular political dispensation. There is a perception that officers have to cultivate and seek patronage from politicians for obtaining suitable positions even in the Union Government. As a result, the civil services in public perception are often seen as increasingly politicized.

The 2nd ARC is of the view that the political neutrality and impartiality of the civil services needs to be preserved. The onus for this lies equally on the political executive and civil servants. The Commission in its Report on "Ethics in Governance" while examining the ethical framework for Ministers has recommended that a code of ethics for Ministers should inter-alia include the following:

"Ministers must uphold the political impartiality of the civil service and not ask the civil servants to act in any way which would conflict with the duties and responsibilities of the civil servants." As observed by Paul Appleby, civil servants should not confuse 'political neutrality' with 'programme neutrality'. At the stage of policy formulation, the role of civil servants is to render free and frank advice which should not be coloured by any political considerations. Once a policy or programme has been approved by the elected government, it is the duty of the civil servant to faithfully and enthusiastically see to its implementation. Not carrying out this task in the right spirit would amount to misconduct inviting appropriate sanctions.

Code of ethics for Ministers

A Group of Ministers (GoM) in mid-2013 asked the government to consider a draft code of ethics for ministers and code of conduct for public servants after it was recommended by the Administrative Reforms Commission (ARC) to safeguard the political neutrality and impartiality of the civil services.

The GoM headed by Defence Minister A.K. Antony met to consider recommendations of the tenth report of the ARC asked the Department of Administrative Reforms and Public Grievances.

The GoM members felt such a code was imperative and that it will certainly add to the neutral and transparent working relationship between bureaucracy and ministers.

"There is a need to safeguard the political neutrality and impartiality of the civil services. The onus for this lies equally on the political executive and the civil services.

"This aspect should be included in the Code of Ethics for Ministers as well as the Code of Conduct for Public Servants," the ARC had recommended.

In addition to the existing code of conduct for ministers, there should be a code of ethics to provide guidance on how ministers should uphold the highest standards of constitutional and ethical conduct in the performance of their duties, the fourth report had suggested.

It had also recommended setting up of dedicated units in the offices of the Prime Minister and the Chief Ministers to monitor the observance of the code of ethics and conduct.

In December 2013, Union Cabinet approved a new code of conduct for ministers that debars them from asking civil servants to carry out actions that are not in line with their duties.

The code, though not given a legal backing, will be enforced by the Prime Minister at the Centre and the chief ministers in the states. As per the revised norms, ministers must uphold the political impartiality of the civil services and avoid instructing a civil servant to do things other than those included in his official duties and responsibilities.

Advisory Role of Civil Servants in Policy Making

Rendering policy advice to the political executive is the most important "staff function" of the civil servant. Policy making is the ultimate responsibility of the Minister. After a policy is approved by the elected government, it is duty of the civil servant to implement such policy in the right earnest whether he/she agrees with it or not. At the same time, it is the duty of the civil servant to provide the factual basis, thorough analysis of all possible implications of any measure under consideration and free and frank advice, without fear or favour, at the stage of policy formulation. However, for civil servants to be able to provide appropriate policy inputs, they must acquire the necessary combination of a broad perspective of the sector as well as of the Government as a whole, combined with conceptual clarity and requisite knowledge.

If a policy that is being formulated is perceived by the civil servant to be against public interest, his/her responsibility is to convince the political executive about the adverse implications of such a policy. However, if the political executive does not agree with such an advice, there is little that the civil servant can do other than putting his/her views clearly on record. It is for the other institutional mechanisms such as Parliament, the CAG, Judiciary and ultimately the electorate to hold the political executive to account for bad policy.

Statutory Role of the Civil Servants

Civil servants are required to discharge statutory functions under various legislative enactments which may sometimes be quasi-judicial in nature. The role of the executive magistrate under the Cr. PC, the role of an Assessing Officer under the Income Tax Act and of the SHO under the Cr. PC and the respective Police Acts are some examples of such functions. It has been observed that there is an increasing trend on the part of the senior functionaries both in the civil services as well as elected representatives including Ministers to interfere in such statutory functions. Acquiescence in the face of such interference is primarily the fault of the officer who has been entrusted with these statutory functions although those bringing such extraneous pressures should also be held to account.

Appointments/Recruitment to the Civil Services

The Constitution of India provides for an independent Union Public Service Commission (UPSC) and State Public Service Commissions (PSCs). It lays down that it shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the States respectively. However, while the UPSC enjoys an untarnished reputation for having developed a fair and transparent recruitment system, the same cannot be said for all the State PSCs. In addition, a large number of recruitments to various positions is done by departments of government and different organizations under their control both at the Union and the State government levels. Examples of such large scale recruitments which have often been the subject of complaints and controversies are recruitments to the posts of Police constables, teachers, bus-drivers and conductors etc. The Commission feels that it is essential to lay down certain principles/norms for such recruitments to avoid complaints of favouritism, nepotism, corruption and abuse of power that have often characterized these recruitment exercises. These principles are :

- Well-defined merit-based procedure for recruitment to all government jobs
- Wide publicity and open competition for recruitment to all posts
- Minimisation, if not elimination, of discretion in the recruitment process
- Selection primarily on the basis of written examination or on the basis of performance in existing public/board/university examination with minimum weightage to interview.

Postings and Transfers of Civil Servants

The National Commission to Review the Working of the Constitution made the following observations regarding transfers and postings of civil servants:

“Arbitrary and questionable methods of appointments, promotions and transfers of officers by political superiors also led to corrosion of the moral basis of its independence. It has strengthened the temptation in services to collusive practices with politicians to avoid the inconvenience of transfers and to gain advantages by ingratiating themselves to political masters. They would do the politicians’ biddings rather than adhere to rules. Lest the situation becomes more vicious, it is necessary that a better arrangement be conceived under the Constitution. The question of appointments, transfers and placements is not to be left to the discretion of the politicians or administrative bosses but be entrusted to independent and autonomous boards. The Commission, therefore, recommends that the questions of personnel policy including placements, promotions, transfers and fast-track advancements on the basis of forward-looking career management policies and techniques should be managed by autonomous Personnel Boards for assisting the high level political authorities in making key decisions. Such civil service boards should be constituted under statutory provisions.

They should be expected to function like the UPSC. Reputed management experts from institutes of management, well known for their excellence, should be inducted into these boards to provide a broad based pool of expertise. The principle is not to take politics out of personnel policy but to make knowledge and information institutionally available to the political decision-makers on the basis of appropriate parliamentary legislation under Article 309. The sanctity of parliamentary legislation under Article 309 is needed to counteract the publicly known trends of the play of unhealthy and destabilizing influences in the management of public services in general and higher civil services in particular.”

Arbitrary and motivated transfers of government servants which are not in public interest and good governance have become a matter of great concern particularly in some States.

The Union Government has initiated several measures in order to ensure security of tenure to civil servants. The Rules governing the All India Services have been amended and provision made for fixation of tenures of posts encadred with the AIS. For example, the Indian Administrative Service (Cadre) Rules, 1955, have been amended :A cadre officer, appointed to any post for which the tenure has been so determined, shall hold the minimum tenure as prescribed except in the event of promotion, retirement, deputation outside the State or training exceeding two months. An officer may be transferred before the minimum prescribed tenure only on the recommendation of a Committee on Minimum Tenure . The tenure of several posts has been notified accordingly for many States.

Civil service refers to the body of government officials who are employed in civil administration that are neither political nor judicial. The founding fathers of the Constitution wisely provided, by making provisions in Part XIV of the Constitution, for apolitical and independent civil services, with requisite protection for service matters. These provisions pertain not just to the union but also the states. One of the provisions of the Constitution (Article 312) which was hotly debated and faced considerable opposition, particularly from the provincial governments, pertained to the creation of All India Services (AIS) with recruitment based on All India competitive examination and dual control by the centre and the states. Such a constitutional protection was meant to enable the AIS to operate independently, freely, objectively and fearlessly. Unfortunately, political interference and administrative acquiescence has severely dented the professional fibre of the service.

The civil service system is the backbone of the administrative system which acts as most important tool for governance of our country. In post-independent India civil service was reorganised. There are three tiers of administration – Union/Central Government, State Government, and Local Government. At the central level, the civil service include the All India Services, namely the Indian Administrative Service (IAS), Indian Foreign Service (IFS), Indian Forest Service (IFS), and Indian Police Service (IPS). Apart from these there are various other Central Services like the Indian Income Tax Service, Indian Railways Service, etc. at central level. The State Governments have their own services – State Civil Service.

Over the period the role of civil services has changed. During British period, enforcement of law and order and collection of revenue was the main concern of civil servants. In post independence India, when the Government acquired the role of Welfare State, civil services acted as an important tool for implementing national and state policies of welfare and planned development. From the 1990's, globalisation policies followed by the government have had their impact on the nature of civil services- greater role for entrepreneurs is given and bureaucracy has to accordingly change. In the current century, essentially in the last about one decade, the bottom pressures and entitlement regime has further made changes in the way civil services functions- greater transparency and accountability, e-governance being a major impetus.

The Indian civil services, with its national character, have been a strong binding force to the Union of States. The institution of civil service has rendered service to the overall socio-economic development of the country. It has been at the forefront of the development process right from the 'commanding heights regime' to the 'liberalization and de-regulation era'. It has acted as a force of unity among diversity. It has not only played a pivotal role in designing and activating policies, it has also ensured basic service delivery at the grass root level to the marginal section of our society.

The importance of the civil service to the Indian administrative system stems from the following:

- Service presence throughout the country and its strong binding character
- Non-partisan advice to political leadership in the midst of political instability and uncertainties
- Administrative and managerial capacity of the services
- Effective policy-making and regulation
- Effective coordination between institutions of governance
- Leadership at different levels of administration.
- Service delivery at the cutting edge level
- Provide 'continuity and change' to the administration.

Since civil services are considered as the most important element of Indian administrative system that has the responsibility to fulfil the development objectives of the welfare state, so, any failure or shortcomings in fulfilment of these objectives are attributed to the failure of civil services.

Some of the criticism of Indian civil services is:

- Lack of professionalism and poor capacity building
- Alienation from the public and lack of understanding of what people want
- Inefficient incentive systems that do not appreciate upright and outstanding civil servants
- Lack of performance culture and focus on outputs and not outcomes – inappropriate performance appraisal
- Lack of adequate transparency and accountability procedures
- politicisation
- A gradual erosion in public service values, ethics and morale

So, on the basis of experience so far and some other developments of the present era like globalisation, restless and educated public that has become demanding, technological options in administration, coalition nature of polity, etc., it is recognized that reforming the civil service is necessary.

For 'Good Governance' which is one of the most important goals of the modern welfare State, civil services have to re-orient themselves because with its present attitude and training civil services are not able to come upto people's expectations.

A well-functioning civil service helps to foster good policymaking, effective service delivery, accountability and responsibility in utilizing public resources which are the characteristics of good governance.

Governance reform refers to the improvement of legal, institutional and policy frameworks to create proper decision making and implementation environments for economic growth and distribution. It encompasses participatory systems for elements of civil society to become actively involved in formulation of policies and programmes and their implementation. It also includes effective and transparent systems and processes for accountability in government activities.

Civil Services and Globalisation:

Following factors are relevant

- Fast pace of globalisation is mainly driven by the rapid advancement of communication technology and it is necessary to develop our civil services into a technology savvy force. Recent trends in the compositional make up of civil services - like increasing numbers of engineers, doctors, management degree holders, and agriculture graduates would help in enhancing technical orientation of our civil services.
- In the era of globalisation, the role of the State has changed. Since economic liberalisation has led to the diminishing role of state, it has resulted in the marginalisation of a section of society who is economically weak and can't take advantage of the economic opportunities provided by economic liberalisation. The State will have to take care of this section by redistributive policies. State's main emphasis should be on social sector. For this bureaucracy has to be retrained to deliver and be answerable as most of these programmes are entitlements- employment, information, food etc. Attitudinal changes are called for.
- Globalisation has increased the importance of international organisations like IMF, World Bank, WTO, WIPO etc. IPR laws and their knowledge is becoming critical. Dealing with these organisations needs professionalism, tough negotiating skill, etc.

Civil Service Reforms

Civil service reform is a deliberate action to improve the efficiency, effectiveness, professionalism, broad social base of selection and democratic character of a civil service, with a view to promoting better delivery of public goods and services, with increased accountability. Such actions can include organizational restructuring, improving human resource management and training, enhancing pay and benefits while assuring sustainability under overall fiscal constraints, and strengthening measures for public participation, transparency, and combating corruption.

Civil Service Reform in India

The Indian bureaucracy, with its national character, has been a strong binding force to a Union of States. The institution of civil service has rendered yeoman service to the overall socio-economic development of the country. It has been at the forefront of development process right from the 'commanding heights regime' to the 'liberalization and de-regulation era'. It has not only played a pivotal role in designing and activating policies but also ensured basic service delivery at the cutting edge of government-citizen interface.

Civil Service Reforms and Socio-Economic Development

Civil Service Reform aims at strengthening administrative capacity to perform core government functions. These reforms raise the quality of services to the citizens that are essential to the promotion of sustainable economic and social development. CSR can contribute to good governance, macroeconomic stabilization by restoring budgetary stability, better utilisation of public funds, developmental impact, people friendly approaches to law and order etc.

The reform can contribute to the design and implementation of an equitable programme of social development. Enhancing the capacity of civil servants and improving their morale are critical to all these functions.

The main components of Civil Service

Reform should pertain to the following:

1. Recruitment
2. Capacity building through more relevant training
3. Performance & Promotion
4. Professionalism & Modernity : e-gov; mindset changes
5. Accountability (read ahead)

Recruitment

The recruitment examination for Indian Civil Services is one of the rigorous examination across the world. Globalisation, technological developments, public private partnerships, civil society activism and explosion of expectations from an educated and upwardly mobile public are demanding that recruitment pattern should change. UPSC has responded with a new system from 2011 and 2013 respectively for Preliminary and Mains examination. Prime Minister's Rural Development Fellows appointed in 2012 by selecting young professionals from top professionals institutions like IITs, IIMs, TISS and others is one such measure.

Reforming and Restructuring Human Resource Management

Building a motivated and capable civil service requires merit-based and non-discriminatory recruitment, which rests on the absence of political patronage, transparent rules and procedures, open competition and selection by an independent agency. Subsequently, important elements in meritocracy and the motivation of employees are the opportunities for promotion, recognition and reward for performance, inter-sector mobility, placement in right jobs and the scope for skill upgrading and self-improvement. It is equally important to address demotivating factors like frequent and arbitrary transfers as well as special factors affecting women in office and field jobs. A statutory body Civil Services Board (CSB) can be created to look into issues such as transfers and promotion of Civil servants (NCRWC). This will help in reducing political pressures on the careers of civil servants. As there should be cohesion between the political masters and the civil servant for ensuring good governance, the civil service board can be used to delink civil service performance issues from politics. A clear demarcation line can be drawn between the two with the establishment of such boards.

Civil Service Accountability

The accountability of the civil servant has administrative, financial, judicial and other dimensions. In the recent years, there is a flurry of laws demanding greater transparency and accountability in India. RTI accountability is another area. For greater accountability, the following are some of the measures suggested:

- Strengthening and streamlining reporting mechanisms
- Streamlining and fast-tracking departmental enquiries
- Action on audit findings
- Implementation of Citizens Charters' for monitoring service delivery
- Right to Information Act and its enforcement
- Code of conduct for civil servants

Functions of the civil servant/Officer

A civil servant is responsible for the law and order and general administration in the area under his work. Typically the functions of an IAS officer are as follows:

- To handle the daily affairs of the government, including framing and implementation of policy in consultation with the minister-in-charge of the concerned ministry.
- Implementation of policy requires supervision.

- Filed work: Implementation requires travelling to places where the policies are being implemented.
- In the process of policy formulation and decision making, officers at various levels make their contributions and a final decision is taken by the minister concerned or the cabinet.

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The Constitution made the bureaucracy subordinate to the political power of the elected representatives. Following the liberal democratic framework, it provided functional autonomy to the civil service which was meant to remain politically neutral in implementing policy. Formal neutrality of the services has provided the public-minded civil servant the space necessary to maintain a distance from political pressures and also check the excesses of many elected representatives.

Civil service has been subjected to new pressures for it to become more people-friendly. A part of this has been a result of a deepening democratisation of Indian society which is challenging vested interests through mass mobilisations, a part is due to the spread of communication, information technology and the media and some also due to the institution of legal weapons like the right to information and the public interest litigation.

Democratic superintendence over the bureaucracy is certainly a must. Such a system of democratic checks and balances helps ensure that bureaucrats fulfil the constitutional mandate of maintaining neutrality and administrative efficiency. But such a balance between the democratic polity and the bureaucracy is possible only if the political culture is not reduced to patronage and narrow populism. In states where democratisation has struck relatively shallow roots democratic control over the bureaucracy becomes a caricature. The influence of the real estate lobby in Haryana, of the mining mafias in UP, Karnataka, Jharkhand and Chhattisgarh, and the big crony corporates in Gujarat are among many examples.

While the public outcry in support of Nagpal is welcome and her victimisation should end, it will be futile if this is seen in terms of an individual and not the systemic infirmities that the case illustrates. Hopefully this will further the move towards a better balance between political oversight and administrative neutrality. However, it will be equally dangerous if this leads to insulating the administration from democratic pressures.

Durga Shakti-related by Shailaja Chandra in the Indian Express August 12, 2013

The suspension of Durga Shakti Nagpal has stunned citizens across the country.

The Indian Administrative Service (IAS) was established in accordance with the provisions of Article 312 of the Indian Constitution. The acceptance rate of candidates aspiring to the IAS is just 0.01 per cent, making their selection among the most competitive in the world. It also makes these officers the most envied.

Every district (there are nearly 600 rural districts) is subdivided into two to three administrative divisions, each headed by a sub-divisional magistrate (SDM). As soon as the initial training is over, the new SDM is expected to enforce a string of laws and oversee the implementation of scores of schemes. The young officer is usually treated as a member of the district collector's family, and often of the divisional commissioner's as well. Their mentoring helps the officer understand and respond to the complexities of maintaining law and order and of providing leadership.

Conferred with magisterial powers under the CrPC, the SDM has to issue prohibitory orders when a danger to public peace or public health is apprehended, and order the search of property when there is suspicion that stolen or contraband goods are being concealed. Every act or rule which involves the maintenance of public order refers only to the district magistrate and the SDM. Nowhere does the CrPC or the law mention a minister or a chief minister. In a democratic set up, the latter are responsible only for laying down policy guidelines in such matters. The legal assessment of a magistrate cannot be faulted, much less overruled, by the political executive. Another reason for the importance of the DM and SDM is their direct role in the conduct of elections, including the maintenance of electoral rolls and the registration of voters under the Representation of the People Act.

It is essential to have a civil service authority that independently decides on the postings and transfers of IAS officers. Recommended by the Administrative Reforms Commission and promised by the Central government, it has been soft-pedalled for too long.

Supreme court and police reforms

In 2006, the Supreme Court of India delivered a historic judgment in Prakash Singh vs. Union of India instructing central and state governments to comply with a set of seven directives laying down practical mechanisms to kick-start police reform. The Court's directives seek to achieve two main objectives: functional autonomy for the police - through security of tenure, streamlined appointment and transfer processes, and the creation of a "buffer body" between the police and the government (SSC)- and enhanced police accountability, both for organisational performance and individual misconduct. The 7 directives are

- **Constitute a State Security Commission (SSC) to:**
 - (i) Ensure that the state government does not exercise unwarranted influence or pressure on the police
 - (ii) Lay down broad policy guideline and
 - (iii) Evaluate the performance of the state police
- Ensure that the DGP is appointed through merit based transparent process and secure a minimum tenure of two years
- Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years
- Separate the investigation and law and order functions of police
- Set up a Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police
- Set up a Police Complaints Authority (PCA) at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct
- Set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organisations (CPO) with a minimum tenure of two years.

T.S.R. Subramanian and Others vs Union of India case 2013 October

In October 2013 Supreme Court issued a series of path-breaking directions to insulate civil servants from political influence. The court stated that officers should have a minimum fixed tenure, they should not act on verbal orders from politicians, and civil service boards should be set up at central and state levels within three months to regulate postings, transfers and disciplinary actions. It also asked the government to pass a comprehensive law on the subject.

The directions were issued on a batch of public interest petitions moved two years ago. The petitioners included several former civil servants led by ex-cabinet secretary TSR Subramanian, former chief election commissioner N Gopalaswami, former election commissioner T S Krishna Murthy, former IPS officer Ved Prakash Marwah, and former CBI directors Joginder Singh and D R Kaarthikeyan.

Accepting their suggestions, the court asked the central and state governments to set up civil service boards to deal with transfers and postings of officials. The judges observed in the judgment that frequent transfers should be avoided so that benefits of the implementation of government policies and programmes could reach the poor. They noted that fixed tenures would promote efficiency and good governance. The judgment said much of the deterioration in the functioning of the bureaucracy was due to political interference.

The petitioners had argued that political masters gave oral instructions to civil servants, thus circumventing the Right to Information Act. That, they said, also encouraged corruption. Therefore, they had asked the court to issue directions to allow officials to act only on written directives.

The issue of "verbal orders" was first cited in the Santhanam committee report in 1964, which had asked civil servants to only act on written orders. That was reiterated by the Shah commission which found examples of oral orders being misused by civil servants during the Emergency in 1975.

The Second Administrative Reforms Commission in 2008 suggested the government constitute a civil service authority to decide on appointments to senior government positions. The court has now asked the government to form a civil services board to oversee transfers and postings. This could have long-term implications for the transfers and postings industry, especially at the state level, where ministers have been known to be whimsical and partisan and transfer and post bureaucrats to positions of choice.

Some cautioned against a fixed tenure. Critics say that there can be many reasons for transferring an incompetent officer. Courts cannot impose provisions of transfers and postings on any government, as those are its prerogative. Critics also said fixing a tenure was not a silver bullet, as in many cases incompetent bureaucrats could get positions from which they might be impossible to dislodge. However, such cases are exceptions and not the rule and can be accommodated.

At present, both the Centre and state governments have their own policies to regulate transfers and postings of officers, with a fixed tenure of three years. Most of these regulations provide for a clause under which the condition of a fixed tenure can be circumvented citing "administrative grounds".

'Civil services boards' (CSBs) are to be headed by the cabinet secretary and chief secretaries, respectively.

These boards, which the apex court now wants in the next three months, will recommend to the government which officer is the best one to man a given position of public importance. Government of the day may accept or reject the board's proposals, but the reasons for overruling will be recorded on paper.

The order is likely to bring greater order and transparency in transfers and posting