

Police Reform Debates in India

Selected recommendations from:

- **The National Police Commission**
- **Ribeiro Committee**
- **Padmanabhaiah Committee Police Act**
- **Drafting Committee and the**
- **Supreme Court directives in Prakash Singh v/s Union of India**



Commonwealth Human Rights Initiative

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CHRI New Delhi Office

B-117, 1st Floor,
Sarvodaya Enclave,
New Delhi – 110017,
INDIA
T +91 (0)11 4318 0200
F +91 (0)11 2686 4688
info@humanrightsinitiative.org

CHRI London Office

Institute of Commonwealth Studies
School of Advanced Study,
University of London, 2nd Floor,
South Block, Senate House,
Malet Street,
London WC1E 7HU
T +44 (0)207 862 8857
F +44 (0)207 862 8820
chri@sas.ac.uk

CHRI Accra Office

House No. 9,
Samora Machel Street
Asylum Down,
Opposite Beverly Hills Hotel,
Near Trust Towers,
Accra, Ghana
T +233 (0)302 971170
F +233 (0)302 244819
chriafrika@humanrightsinitiative.org

www.humanrightsinitiative.org

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Introduction

India's police continue to be governed by an archaic and colonial police law passed in 1861. The Indian Constitution makes policing a state subject and therefore the state governments have the responsibility to provide their communities with a police service. However, after-independence most have adopted the 1861 Act without change, while others have passed laws heavily based on the 1861 Act.

The need for reform of police in India and - fundamentally- the police laws, has been long recognised. There has been almost 30 years of debate and discussion by government-created committees and commissions on the way forward for police reform, but India remains saddled with an outdated and old-fashioned law, while report after report gathers dust on government bookshelves without implementation.

This publication sets out selected reforms of these committees, beginning with the National Police Commission, the first committee set up by the Indian government to report on policing. The National Police Commission began sitting in 1979, in the context of a post-Emergency India, and produced eight reports, including a Model Police Act, between 1979 and 1981.

In 1996, two former senior police officers filed a public interest case with the Supreme Court, asking for the Court to direct governments to implement the recommendations of the National Police Commission. The Supreme Court directed the government to set up a committee to review the Commission's recommendations, and the Ribeiro Committee was born. The Committee, under the leadership of J.F. Ribeiro, a former chief of police, sat over 1998 and 1999, and produced two reports.

In 2000, the government set up a third committee on police reform, this time under the stewardship of a former union Home Secretary, Mr. K. Padmanabhaiah. This Committee released its report in the same year.

In 2005, the government put together a group to draft a new police Act for India. Headed by a senior advocate of the Supreme Court, Mr. Soli Sorabjee, the Police Act Drafting Committee submitted a Model Police Act to the union government in late 2006.

At the same time, the Supreme Court made further directions in the long running public interest litigation on police reform. The Court directed the governments of India to

implement police reform, and provided them with a framework within which to begin the reform process.

Selected recommendations from each of these committees have been included in this publication, as well as the Supreme Court directives. Two government committees that took place between 2001 and 2004 and made recommendations regarding the police have not been included as they either dealt with broader criminal justice issues (the 2001-2003 Malimath Committee on Reforms of Criminal Justice System) or were limited to prioritising the recommendations of previous committees (the 2004-2005 Review Committee on the Recommendations of National Police Commission and Other Commission/Committees).

National Police Commission (1979 -1981)

The National Police Commission (NPC) was put together in 1977 by the union government. It was given wide terms of reference that included the organisation, role, and functions of the police, police-public relations, political interference with police work, misuse of police power and police accountability and performance evaluation. The NPC produced eight reports between 1979 and 1981, setting out wide reaching recommendations for reform. Selected recommendations from each of the eight reports are set out below.

National Police Commission First report - February 1979

The following recommendations have been selected from the first report of the NPC.

1. Police department inquiries into complaints

- 1.1. First, the police hierarchy should consider and deal with a large number of the complaints that are made against the police. The appropriate investigating officers, depending on the rank of officer subject to the complaint, are set out in the table below.

Complaint against	Inquiry by
Head Constable/Constables	Inspector of police or more senior officer
Sub-Inspectors/Assistant Sub-Inspectors	Deputy Superintendent of Police more senior officer
Inspectors of Police/ Deputy Superintendent of Police/ Assistant Superintendent of Police	Superintendent Police or more senior officer
Superintendent of Police or more senior officer	Complaints Cells directly supervised by the Deputy Inspector General or Inspector General

- 1.2. Complaint cells should be established in each district, range and at state headquarters for complaints that cannot be dealt with by inquiry by an officer.

- 1.2.1. In each district, a special complaints cell should be headed by the Deputy Superintendent (working under the District Superintendent) to handle inquiries into allegations of police misconduct in which the normal investigation process is likely to be biased.
- 1.2.2. In each range, complaint cells should be headed by the Range Deputy Inspector General for handling inquiries that may involve scrutiny of the Superintendent of Police's conduct.
- 1.2.3. At the state level, there should be a special cell to handle inquiries that require attention at the state level. This cell will work under a Superintendent of Police, supported by Deputy Superintendents of Police and Inspectors, all working under the Inspector General of Police.
- 1.3. Inspectors and more senior officers (as well as all officers in charge of a complaint cell) should maintain complaints registers.
 - 1.3.1. The district level complaint cells should frequently check and ensure the proper maintenance of the registers and the expeditious disposal of complaints by field officers in the district.
 - 1.3.2. The range level complaints cells should conduct surprise checks in each district to ensure complaints are being properly recorded and dealt with.
- 1.4. Inquiry officers should comply with the following guiding principles.
 - 1.4.1. The complainant should be heard in detail and every effort must be made by the inquiring officer to ascertain the truth by examining such other witnesses as he or she considers necessary, without insisting that the complainant produce the witness.
 - 1.4.2. Important witnesses shall as far as possible be questioned in the presence of the complainant.
 - 1.4.3. Throughout the conduct of the inquiry, the Inquiry Officer should avoid doing anything which might create a doubt in the complainant's mind about the objectivity and impartiality of the inquiry.

- 1.4.4. The inquiry shall, as far as is practical, be conducted in an appropriate public building or place in or near the complainant's home.
- 1.4.5. If the Inquiry Officer reports that the complainant does not want to continue with the complaint, the facts and circumstances of that case should be verified by either the Inquiry Officer's senior or the district complaint cell.

2. Judicial inquiry into complaints

- 2.1. Judicial inquiry should be made mandatory in the following categories of complaints against the police:
 - alleged rape of a woman in police custody;
 - death or grievous hurt caused while in police custody; or
 - death of two or more people during police fire to disperse an unlawful assembly.

3. District Inquiry Authority inquiries into complaints

- 3.1. A District Inquiry Authority (DIA) should be set up in each district. The DIA should be an Additional Session's Judge who is nominated by the state government in consultation with the High Court.
- 3.2. The DIA should be assisted by an assessor, who should be an Additional Superintendent or a senior Deputy Superintendent nominated by the Inspector General of Police for each district or a group of districts.
- 3.3. The DIA should complete inquiries into a case within four months. In exceptional circumstances, reasons for delay and an anticipated completion date can be provided to the state government.
- 3.4. The DIA should be given statutory power to summon witnesses and secure evidence. The DIA should be able to secure these powers under the Commission of Inquiry Act 1952.
- 3.5. The DIA should send his or her report of the inquiry to the state government.

The government should be required to publish the report and its response to the report within two months.

- 3.6. The DIA should also be an independent oversight authority that monitors the inquiries dealt with within police departments. As soon as an inquiry is completed, the result should be communicated to the complainant. The complainant should have a right of appeal to the DIA, who should be authorised to access the relevant documentation and deal with the appeal.
4. **A Police Complaint Board should be set up at the state level (by the State Security Commission) to monitor the entire complaints process in the state. The Board should operate as a sub-committee of the Security Commission.**

National Police Commission Second report - August 1979

The following recommendations have been selected from the second report of the NPC.

1. Criminal Justice Commission

- 1.1. The police cannot achieve complete success in their work unless all wings of the criminal justice system operate with simultaneous efficiency. A Criminal Justice Commission should be set up to comprehensively monitor the performance of all agencies and apply corrective measures.
- 1.2. The existing Law Commission may also function as a Criminal Justice Commission. Such arrangements at the centre should be supported by similar arrangements at the state level.

2. Role of the police

- 2.1. The basic role of the police is to function as a law enforcement agency and render impartial service to the law, without any heed to the wishes, indications or desires expressed by the government which either come in conflict with or do not conform to the provisions contained in the constitution or laws. This should be spelt out in the Police Act.

2.2. The police should have a recognised service-oriented role in providing relief to people in distress situations. They should be trained and equipped to perform the service-oriented functions.

3. Political interference in police work

3.1. In the existing system, the police function under the executive control of the state government. The manner in which political control has been exercised over the police in this country has led to gross abuses, resulting in erosion of rule of law and loss of police credibility as a professional organisation.

3.2. The threat of transfer or suspension is the most potent weapon in the hands of the politicians to bend the police to their will.

3.3. The superintendence of the state government over the police should be limited to ensure that that police conduct is in strict accordance with law.

3.4. In the performance of its preventive tasks and service-oriented functions, the police organisation should be subject to overall guidance from the government, which should lay down broad policies for adoption in different situations. However, there should be no instructions in regard to actual operations in the field.

3.5. With regard to investigation work, the police should be beyond any intervention by the executive or politicians.

3.6. A State Security Commission should be set up to help the state government discharge its superintendence responsibilities openly and within the existing legal framework. The State Security Commission should be set up in each state, by law, and comprise of seven members, including:

- the Minister in-charge of police as the Chair;
- two members from the state legislature, one from the ruling party and another from an opposition party, to be appointed on the advice of the Speaker of the state legislature; and
- four other members appointed by the Chief Minister, subject to approval by the state legislature, from amongst retired judges of the High Court, retired

senior government servants, social scientists or academicians of public standing and eminence.

- 3.7. The Chief of Police should be the secretary of the Commission, which should have its own support office.
- 3.8. The State Security Commission should perform the following functions:
- lay down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police;
 - evaluate the performance of the state police every year and present a report to the state legislature;
 - function as a forum of appeal for officers subjected to illegal orders and with regard to their promotions; and
 - generally reviewing police functioning.

4. Chief of Police - appointment and tenure

- 4.1. The head of the police force should be selected from a panel of three Indian Police Service officers from the relevant state cadre. The selection panel shall be prepared by a Committee made up of:
- the Chairperson of the Union Public Service Commission as the Chair;
 - the union Home Secretary;
 - the senior-most among the Heads of the Central Police organisations;
 - the Chief Secretary of the state; and
 - the existing Chief of Police in the state.

5. The Chief of Police should be assured of a fixed tenure of office. The tenure may be for four years or for a period extending up to retirement, whichever is earlier.

6. The removal of the Chief of Police from his or her post before the expiry of tenure should require approval of the State Security Commission, except when

the removal is consequent upon disciplinary action, suspension, retirement, or promotion with the Chief's consent.

7. Transfer and suspension orders

- 7.1. Police officers should be protected against illegitimate transfer and suspension orders.
- 7.2. There should be a provision in the Police Act specifying which authorities can make suspension and transfer orders for different ranks.
- 7.3. A transfer order passed by any authority other than that specified in the Act should be rendered null and void.

National Police Commission Third report - January 1980

The following recommendations have been selected from the third report of the NPC.

1. Police and disadvantaged groups

- 1.1. A special investigation cell should be created in the police department at the state level to monitor the progress of investigation of cases under the Protection of Civil Rights Act or other atrocities against Scheduled Castes and Tribes.
- 1.2. A composite cell may be put together at the district level (under the Sub-Divisional Officer) to inquire into complaints made by members of Scheduled Castes and Tribes, particularly those relating to lapses in administrative measures meant for relief.
- 1.3. A common complaint of people from disadvantaged groups is that police do not respond to an allegation of mistreatment on the basis that the complaint is non-cognisable (and so cannot be investigated without orders from a Magistrate). Section 155 of the Code of Criminal Procedure should be amended to facilitate appropriate and effective police response to non-cognisable complaints in two types of cases:
 - to protect a person from the disadvantaged group from exploitation and

- injustice; or
- to prevent a breach of public peace that might result from absence of effective action on complaint of a non-cognisable offence.

1.4. A comprehensive law should be passed setting out the procedure for the allotment of land to landless poor. Police officers from the local police station should be associated with the act of handing over possession of land to the landless and a brief record of this should be kept in the police station records.

2. Officer postings

2.1. The postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police.

2.2. The Chief of Police should be exclusively responsible for selecting and posting Superintendents of Police in charge of districts.

3. Guidelines for arrest

3.1. Strict guidelines for arrest should be put in place and must be strictly be observed. The guidelines that must be observed when making arrests are set out below.

- The case involves a grave offence such as murder or rape (or other like offences) and it is necessary to arrest the accused and bring his or her movements under restraint to give confidence to frightened victims
- The accused is likely to abscond and evade the processes of law
- The accused is given to violent behaviour and is likely to commit further offences unless his or her movements are brought under restraint
- The accused is a habitual offender and unless kept in custody he/she is likely to commit similar offences again

3.2. Sections 2(c) and 2(l) of the Code of Criminal Procedure should be amended to remove the emphasis on arrest in the definition of cognisable and non- cognisable offences. In addition, section 170 of the Code of Criminal Procedure should be amended to make it clear that it is not mandatory to make an arrest in a non-bailable case.

4. Guidelines for the use of handcuffs

4.1. The following guidelines should be observed when using handcuffs.

- A person should not be handcuffed if he can be kept in custody without handcuffs (because of their age, gender or infirmity)
- A person arrested for a bailable offence should not be handcuffed (unless there is a special reason such as a belief that the person is likely to escape)
- In court, an accused person should not be handcuffed (except with the permission of the court)
- Detainees who are under trial and other accused should not be handcuffed (unless there is a reasonable expectation that he will use violence or attempt to escape. The police escort must be strong enough to prevent escape.)
- If a person is handcuffed, the reasons for handcuffing must be set out in the Sentry Relief Book
- Under no circumstances should handcuffs be used for a person who is aged, bed-ridden in hospital, a woman, a juvenile or a civil prisoner.

5. Petty cash

5.1. Police stations should be given adequate petty cash to meet day to day costs of the police station. This is to prevent corruption.

National Police Commission Fourth report - June 1980

The following recommendations have been selected from the fourth report of the NPC.

1. Registration of First Information Report

1.1. Victims of crimes are sometimes turned away from a police station on the basis that the alleged crime occurred in another police station's jurisdiction and the victim must go to that police station to complain. Section 154 of the Criminal Procedure Code should be amended to state that a police station must register

a First Information Report (FIR) regardless of jurisdiction and then, if necessary, transfer the FIR.

2. Witness examination

- 2.1. Witness examination should take place as near as possible to the scene of the alleged offence or the relevant witness's home.

3. Witness statements

- 3.1. Under existing law, a police officer is prevented from obtaining the signature of the person whose statement has been recorded by him or her. Current practice is for an officer to record in detail a witness statement during an investigation. Instead, an investigating officer should record the facts as he or she understands them following examination of a witness. This statement should be in the third person and in the officer's language. A copy of the statement should be handed over to the witness after receiving an acknowledgment from the witness of this. This procedure should prevent the padding of statements.

4. Returning stolen property

- 4.1. The current practice is to transfer stolen property recovered by police to court custody, and to return the property to the rightful owner at a much later stage of proceedings. During the intervening period, there is considerable risk of damage to the property owing to indifferent handling at different stages of police and court custody. Existing laws should be amended to facilitate an early return of recovered property, even during the investigation, protected by appropriate bonds for safe retention and later production in court.

5. Compounding offences

- 5.1. If the parties to a dispute want to settle the dispute amicably, police officers should be empowered to compound offences in simple cases, even at the investigation stage. Currently, this facility is only available at the trial stage. This change would also reduce court workload.
- 5.2. Safeguards should be put in place to prevent a forced compromise.

6. Communicating arrest

- 6.1. The Code of Criminal Procedure should be amended to mandate the police to communicate an accused person's arrest to the people reasonably named by the accused person to prevent the accused's family becoming concerned about where the accused person is.

7. Reducing mistreatment in custody

- 7.1. Senior officers should make surprise visits to police stations to detect persons held in illegal custody and ill treatment of detainees.
- 7.2. The magistrate should be required to question the arrested person if he or she was ill treated by the police and in case of a complaint of ill treatment, the magistrate should get the arrested person medically examined.
- 7.3. Where death occurs or grievous hurt is inflicted on a person in police custody a judicial inquiry should be mandatory.
- 7.4. Police performance should not be evaluated primarily on the basis of crime statistics or number of cases solved.
- 7.5. Training institutions should develop scientific interrogation techniques and impart effective interrogation instructions to trainees.

National Police Commission Fifth report - November 1980

The following recommendations have been selected from the fifth report of the NPC.

1. Police recruitment

- 1.1. Officers should only be recruited as Constables or members of the Indian Police Service.
- 1.2. Recruitment to other levels of the police hierarchy should be eliminated in a phased manner.

1.3. Properly developed psychological tests should form part of the selection procedure. The central government should develop the psychological tests with the help of the Ministry of Defense.

1.4. There should be constant evaluation of the performance, attitudes and behaviour of all recruits during training. Underperforming recruits should be removed from training.

2. Control of the District Magistrate

2.1. Section 4 of the Police Act of 1861 states that the District Police are subject to the “general control and direction” of the District Magistrate. This should not be interpreted as allowing the District Magistrate to interfere in the internal management of the police force.

2.2. The police should be accountable to the law. Any rule or regulation that unnecessarily subordinates the police to the District Magistrate should be removed.

2.3. Where cooperation between different departments is required, the District Magistrate should play a coordinating role, and this role should be recognised by the police. (Note that the NPC set out the areas where the District Magistrate could act as a coordinating authority.)

3. Police conduct

3.1. Police public relations are unsatisfactory. The police organisation’s poor image stems from police partiality, corruption, brutality and failure to register cognisable offences.

3.2. Police officers should develop an attitude of courtesy and consideration towards members of the public who come to them for help.

3.3. The way that junior police behave towards the public is influenced by the way they are treated by senior police. The way that police treat one another should be reformed.

4. Victims of crime

4.1. The criminal justice system shows no concern for victims of crime. A Criminal Injuries Compensation Act should be drafted.

5. Transparency

- 5.1 All police activities should be as transparent as possible, except for the following areas:
- operations;
 - intelligence that is used to plan and conduct investigations;
 - privacy of the individual citizen; and
 - judicial requirements.

6. Women police officers

- 6.1. Women police officers should be given a greater role in investigations work. Women officers should become an integral part of the police organisation, performing a special role dealing with crimes against women and children and tackling juvenile delinquency.
- 6.2. Women police officers should share all the duties performed by male officers. Women officers should be recruited in much larger numbers than at present, particularly to the ranks of Assistant Sub-Inspectors and Sub-Inspectors of Police.

National Police Commission Sixth report - March 1981

The following recommendations have been selected from the sixth report of the NPC.

1. Promotion of senior officers

- 1.1. Before promotion to the rank of Superintendent of Police, Deputy Inspector General of Police or Inspector General of Police, all India Police Service officers should be required to undertake a pre-promotion course, followed by an examination and an objective selection process.
- 1.2. An officer who fails to qualify as a Deputy Inspector General or Inspector General three times should be retired from service.

2. Creation of central India Police Services cadres

- 2.1. Two central India Police Service cadres should be constituted - one for paramilitary organisations and the other for organisations such as the Intelligence Bureau, the Central Bureau of Investigations and the Research and Analysis Wing.

3. Police Commissionerate system in major cities

- 3.1. In major urban areas, crime and law and order situations develop rapidly, requiring a speedy and effective operational response from the police. This is only possible where the police are organised to perform the twin basic functions of decision-making and implementation. In cities with a population over 5 lakhs (or where factors such as rapid urbanisation or industrialisation require), a Police Commissionerate system should be put in place.

4. Communal riots

- 4.1. Special investigating squads formed under the state Criminal Investigations Department should be set up to investigate serious crimes committed during communal riots. The squads should be staffed with officers of proven integrity and impartiality.
- 4.2. Communal riots should be vigorously investigated and offences committed during the riot prosecuted.
- 4.3. State governments should not withdraw charges relating to communal riots. Claims that this strategy promotes communal harmony is illusory and should be discouraged.

5. Reservations

- 5.1. Reservations for minorities and scheduled castes and tribes to reflect community makeup should not be legislated as it would fragment the police organisation along caste and communal lines and is inconsistent with the idea that the police organisation must rise above caste and creed and act impartially as a law and order agent.

5.2. The composition of the police should reflect the general mix of communities as it exists in the society so that it can command the confidence of different sections of society.

6. Separation of investigation and law and order

6.1. Investigation staff should be separated from law and order staff at the police station level in urban areas.

6.2. The separation of investigation and law and order staff should not be rigid and all staff in a police station should report to the Station House Officer.

6.3. Senior officers (officers more senior than the Station House Officer) should remain responsible for both law and order and investigations within their jurisdiction. At the police station level, the Station House Officer should have overall responsibility for all policing tasks within the station.

6.4. Investigations work should be closely supervised by a gazetted officer regardless of the location of the relevant station. In larger cities, the number of officers in the supervisory rank can be increased and more senior officers used.

National Police Commission Seventh report - May 1981

The following recommendations have been selected from the seventh report of the NPC.

1. Standards for police stations

1.1. A police station in a rural area should not have territorial jurisdiction of more than 150 kilometres.

1.2. In urban areas, population density should be the main consideration when creating jurisdiction.

1.3. A police station should not service more than 60,000 people. If the station registers more than 700 crimes annually, another police station should be set up.

- 1.4. Police stations in cities that deal with more than 900 cognisable offences under the Indian Penal Code annually should have a Deputy Superintendent or Assistant Superintendent as Station House Officers. Police Stations investigating over 300 IPC cases per year should be headed by an Inspector of Police. The third category will consist of smaller police stations headed by Sub Inspectors.
- 1.5. An investigating officer should not be required to investigate more than 50 to 60 cases each year.

2. Police hierarchy

- 2.1. There should be an increase in the number of officers at the middle level of the police hierarchy (Assistant Sub-Inspector, Sub-Inspector, and Inspector).
- 2.2. There should be a reduction in the number of junior officers (constabulary). This will provide a larger number of investigating officers and improve promotional opportunities for junior officers.

3. Internal management

- 3.1. The internal management of each police organisation should be the responsibility of the Chief of Police. The Chief of Police's powers regarding personnel, finance and infrastructure management should be increased.

4. State Armed Battalions

- 4.1. There should be a central law to ensure uniformity in composition, officer patterns, training, discipline and efficiency of state armed police battalions.

5. Establishment of a Central Police Committee

- 5.1. A Central Police Committee should be created to advise and monitor the police. The Central Police Committee should advise the central government and State Security Commissions on the following matters:
 - police organisation and police reforms in general terms;
 - central grants and loans to the state police forces for their modernisation and development; and

- budgetary allotments to state police forces.

5.2. The Committee could also generally evaluate policing nationally.

6. Establishment of an All India Police Institute

6.1. An All India Police Institute should be created. The Institute would be a professional organisation for police and should function under the Central Police Committee.

National Police Commission Eighth report - May 1981

The following recommendations have been selected from the eighth report of the NPC.

1. Accountability for performance

1.1. There should be continuous monitoring of the performance of each police force. The State Security Commission should have an independent cell to evaluate police performance.

1.2. The State Security Commission will prepare a report on the performance of the police in its state for the state legislature. This report will be informed by the Chief of Police's annual administration report and the Central Police Committee's assessment report.

1.3. Police officers should be taught the concept of accountability to the people, both as individuals and as an organisation.

2. Withdrawal of protection from prosecution

2.1. Protection available to the police officers should be withdrawn under sections 132 and 197 of the Code of Criminal Procedure, which provide protection to various categories of public servants from prosecution for acts they commit in the course of performing their duties.

2.2. The state should pay for the defence of a police officer who is being prosecuted.

3. Replace Police Act

- 3.1. The current police Act should be replaced. The new law should change the system of superintendence and control over the police and mandate the police to promote the rule of law and render impartial service to the community.

Ribeiro Committee (1998 - 1999)

In 1996, two former senior police officers (“the petitioners”) filed a public interest case in the Supreme Court requesting the Court to direct the governments of India to implement the recommendations of the National Police Commission. In May 1998 the government set up the Ribeiro Committee in compliance with the directions of the Court. The Committee’s terms of reference were to review action taken to implement the recommendations of the National Police Commission, the National Human Rights Commission and the Vohra Committee, to suggest ways and means to implement the pending recommendations and to make any other recommendations which it considered necessary.

At the petitioner’s request, the Supreme Court directed the Committee to review the action taken to implement the National Police Commission’s recommendations. The Supreme Court specifically asked for recommendations on State Security Commissions (or Police Authorities), procedures for the appointment of Police Chiefs (focusing on transparency, promotion on merit and tenure) and separating the investigation and law and order functions of the police.

The Committee released two reports. The first, released in October 1998, dealt with the Supreme Court’s specific concerns. The second, more general report, was released in March 1999.

Ribeiro Committee

First report - October 1998

The following are selected recommendations from the Ribeiro Committee’s first report.

1. Police Performance and Accountability Commission

1.1. A State Security Commission, as recommended by the National Police Commission (see Section 3.6 under Second Report of NPC at page 7), should be set up in each state. It should be called the Police Performance and Accountability Commission.

1.2. The Commission should be convened by the Deputy General of Police, who should also be its secretary. The Commission should be made up of the following members:

- the Minister in charge of police as the Chairperson;

- the leader of the opposition;
- the Chief Secretary of the state;
- a sitting or retired judge nominated by the Chief Justice of the state’s High Court; and
- three other non-political citizens of “proven merit and integrity”. These three citizens should be chosen by a committee put together by the Chairperson of the National Human Rights Commission.

1.3. The four non-political members of the Commission, excluding the Chief Secretary, should hold office for three years.

1.4. The Commission’s powers should be advisory and recommendatory.

1.5. The Commission should look at police performance and accountability. Its functions should be the same as the Commission contemplated in the National Police Commission’s second report (see section 3.6 on page 7). The Commission should also be empowered to ensure that no premature transfers of senior officers (above the rank of Superintendent) are made without the Commission’s clearance and that all transfers are lawful.

2. District Police Complaints Authority

2.1. A District Police Complaints Authority should be set up in each district. The Authority will be made up of the Principal District and Sessions Judge, the District Collector and the District Superintendent

2.2. The body should not be set up by statute. It should look into complaints made by the public of police excess, arbitrary arrest and detention, false implication in criminal cases, and custodial violence. The Authority should then make appropriate recommendations to the Police Performance and Accountability Commission, as well as to the government and the State or National Human Rights Commission.

3. Police Establishment Board

3.1. A Police Establishment Board should be set up in each state. The Board will be made up of the Director General of Police and other four most senior officers.

3.2. Existing rules should be amended to give the Board legal authority to monitor all transfers, promotions, rewards and punishments as well as other service related issues, within the police organisation.

4. Government rules on transfers, tenures, promotions, rewards and punishments

4.1. The government should frame rules on transfers, tenures, promotions, rewards and punishments and the police authorities designated to administer these rules. Any departure from these rules should be brought to the attention of the Police Performance and Accountability Commission.

5. Selection of Director General of Police

5.1. The Director General of Police should be selected by the Chief Minister from a panel of three names prepared by a selection committee. The selection committee should be made up of:

- the Chairman of the Union Public Service Commission as the Chair;
- the union Home Secretary;
- the Director of the Intelligence Bureau;
- the state's Chief Secretary; and
- the state's incumbent Director General of Police.

5.2. The selection committee may consult the Central Vigilance Commission before drawing up a panel.

5.3. The Director General of Police should have a fixed tenure of three years. He or she should only be removed within the period of tenure on the recommendations of the Police Performance and Accountability Commission and for specified reasons, made in writing to the government.

6. Investigations

6.1. The investigation wing of the police would be insulated from undue pressure if the Director General of Police is selected as recommended by the Riberio

Committee and given tenure. It would also be protected from undue pressure if the Police Performance and Accountability Commission discharged its functions of overseeing the police and ensuring accountability.

- 6.2. All investigating officers should be trained in scientific methods of investigation. Investigating officers should not be used for law and order duties, except in small rural police stations where it is not possible to demarcate the investigation and law and order functions.
- 6.3. Officers allocated to investigations should not be transferred to a law and order role or other duties until they have completed at least five years of investigations work.

Riberio Committee Second report - March 1999

The following are selected recommendations from the Ribeiro Committee's second report.

1. Replace police law

- 1.1. New legislation is needed to replace the Police Act of 1861.

2. Central mechanisms

- 2.1. The National Police Commission's recommendation that there should be a union-level State Security Commission should be disregarded. The Supreme Court has already given directions for the Central Bureau of Investigations to be set up. The other organisations covered by the NPC recommendation should not be subject to a central policing bureau (the Intelligence Bureau is an intelligence organisation and the Border Security Force and the Central Reserve Force are para-military groups none of these groups are involved with local politics or politicians).
- 2.2. The Central Police Committee should advise the central government. The State Security Commissions, as recommended in the NPC's seventh report, should be constituted.

3. Investigations

- 3.1. The recommendations of the Law Commission regarding the separation of the investigative and law and order functions of the police should be implemented urgently.

4. Recruitment

- 4.1. The NPC's recommendations regarding recruitment, training and welfare of the constabulary should be implemented.
- 4.2. The minimum educational qualifications for recruitment as Constable should be higher secondary school.
- 4.3. Each state should establish an independent Police Recruitment Board. The Board should recruit all non-gazetted ranks.

5. Promotions

- 5.1. The National Police Commission's recommendation that the hierarchy of the police be reorganised, with reduced numbers of junior officers and more officers in the mid-level ranks, should be implemented.

6. Training

- 6.1. The quality of training in police training institutions must be improved to enhance the performance and behaviour of the police.

Padmanabhaiah Committee (2000)

In January 2000, the central government put together another committee to look at police reform, commonly known as the Padmanabhaiah Committee on Police Reforms. The Committee completed its report in August 2000.

The Committee's terms of reference were very wide and required the Committee to examine challenges that the police would face in the next millennium; to envision a force that would be people friendly and yet able to effectively tackle problems of organised crime, militancy and terrorism; suggest ways to transform the police into a professional and competent force; identify mechanisms to insulate police from political interference; consider redressal of public grievances and of police grievances; devise ways of securing public trust and cooperation; and examine the need for 'federal crimes' and creation of a Federal Law Enforcement Agency.

The following are some of the important recommendations of the Padmanabhaiah Committee.

1. **Replace police law**

1.1. New legislation is needed to replace the Police Act of 1861.

2. **Recruitment**

2.1. Recruitment should focus on hiring sub-Inspectors instead of Constables. To increase the ratio of senior to junior officers (referred to in the report as a "teeth to tail ratio"), recruitment of Constabulary should be restricted until a teeth to tail ratio of 1:4 is achieved. Currently, this ratio ranges from 1:7 to 1:15 in different states.

2.2. Constables should be recruited at a young age. Candidates who have passed the 10th class school examination and who are below 19 years of age should be eligible to take an entrance examination. Successful candidates should be put through a two-year training programme and qualify for appointment only after passing a final examination.

2.3. Sub-Inspector candidates should have passed the 12th class school examination. Candidates should be below 21 years of age and recruited on the basis of results

from an entrance examination. Successful candidates should be put through a three-year training programme and qualify for appointment after passing a final examination. 50% of vacancies for this rank should be filled by direct recruitment, and 50% should be filled through promotion.

3. Training

- 3.1. A Police Training Advisory Council should be set up at the union level and also in each state, to advise the relevant Home Minister on police training
- 3.2. Existing Constables should be retrained. Those who do not successfully complete training should be compulsorily retired.

4. Promotions

- 4.1. All promotions should be subject to completing mandatory pre-promotion training and passing pre-promotion examinations.

5. Appointments, transfers and fixed tenure

- 5.1. A tenure policy should be put in place to prevent illegitimate political interference in police functioning.
- 5.2. The Director General of Police should be appointed by the government from two names put forward by a selection committee made up of:
 - the Chief Justice of the state High Court as Chairperson;
 - the state Chief Secretary; and
 - an eminent public person
- 5.3. A Police Establishment Board, consisting of the Director General of Police and three other members of the police force selected by the Director General should be constituted to approve transfers of all officers of the rank of Deputy Superintendent of Police and above.
- 5.4. The minimum tenure of all officers should be two years.

5.5. A committee should be constituted to hear representations from police officers of the rank of Superintendent of Police and above alleging violation of rules in the matter of postings and transfers. The Committee should comprise:

- the Chief Secretary as Chairperson,
- the Home Secretary; and
- the Director General of Police.

6. Crime prevention and investigations

6.1. In each district, there should be a crime prevention cell made up of officers who specialise in crime prevention work.

6.2. Investigation and law and order functions should be separated. In the first phase, this separation should take place at police station level in urban areas. An additional Superintendent of Police should be exclusively responsible for crime and investigation work.

6.3. Confessions made to identified officers (Superintendents and more senior officers) should be admissible in evidence. This will require the deletion of sections 25 and 26 of the Indian Evidence Act 1872.

6.4. Every police station should be equipped with investigation kits and every sub-division should have a mobile forensic science laboratory.

6.5. The Law Commission of India should review the classification of offences into cognisable/non-cognisable for relevancy. The Law Commission should also review the powers of the police to investigate.

7. Police performance

7.1. A permanent National Commission for Policing Standards should be established to lay down common standards for the police across the different states, and to ensure state governments set up mechanisms to enforce the standards.

7.2. An independent Inspectorate of Police should be set up in law to monitor the police organisation and to provide reports to the state government on police functioning. The Inspectorate should provide annual and thematic reports.

7.3. Specialisation in particular areas of policing should be encouraged.

8. Police accountability

8.1. A non-statutory District Police Complaints Authority should be set up. The Authority should be made up of:

- the District Magistrate as Chairperson;
- a senior Additional Sessions Judge;
- the District Superintendent of Police; and
- an eminent citizen nominated by the District Magistrate.

8.2. The police department itself should investigate public complaints against the police. Complainants who are unsatisfied with the internal process should make a complaint to the District Police Complaints Authority.

8.3. If a complaint is made of rape of a woman or death of any person in custody, a judicial enquiry should be mandatory.

8.4. The police Code of Conduct should be enforced and simpler, more effective procedures for removing corrupt officers put in place.

9. Resources

9.1. State governments must give high priority to the allocation of resources to the police.

9.2. Central funds marked for modernising or upgrading the police organisation should only be released where state governments have complied with basic organisational standards, such as drafting a human resources and career planning system, ensuring a transparent recruitment, promotion and transfer policy and meeting minimum training standards.

10. Specific offences

- 10.1. Capability within identified police institutions should be enhanced. Identified police institutions include the National Police Academy (training), the Central Bureau of Investigation (investigation), the Intelligence Bureau (surveillance) and the National Crime Records Bureau (cyber-technology and forensics).
- 10.2. Specific offences that have interstate, national and international aspects should be declared federal offences and investigated by the Special Crimes Division of the Central Bureau of Investigation, which should function under the administrative control of the Ministry of Home Affairs.
- 10.3. Standards of proof and legal procedures relating to terrorism-related crimes should be reviewed. A comprehensive law to address terrorist offences should be enacted.
- 10.4. There should be a national Counter-terrorism Coordinator to prepare an India-wide counter-terrorism plan and budget.

11. Miscellaneous

- 11.1. A Constable should be classified as a skilled worker.
- 11.2. In recognition of the shift nature of police work, police personnel should be provided one day off each week and required to go on earned leave each year. Holiday homes may be constructed for police personnel.
- 11.3. VIP security needs to be reviewed and dismantled.
- 11.4. Community policing philosophies should be embraced. The union government should produce a handbook on community policing, provide training on community policing and fund pilot community policing projects.
- 11.5. Administration of the criminal justice system should be reviewed and comprehensively reformed.

Police Act Drafting Committee (2005 - 2006)

In 2005, the Government of India set up another committee known as the Police Act Drafting Committee, chaired by Soli Sorabjee. The Committee began sitting in September 2005 and submitted a Model Police Act to the union government in October 2006.

The Committee's terms of reference were to draft a new Police Act in light of the changing role and responsibilities of the police, as well as the challenges presented by the increase in insurgency, militancy and naxalism in India. The terms of reference required the new Act to include measures to change the police attitude (including a working methodology to involve the community in policing) and reflect the community's expectations of a modern police service. When drafting the law, the Committee was also required to consider forensic methods of policing. The terms of reference also mandated that the new Police Act should address the issues of human rights, concerns for women, and people belonging to Scheduled Castes and Scheduled Tribes.

The preamble to the Model Police Act 2006 that was produced by the Committee sets out its vision of policing.

The Preamble

WHEREAS respect for and promotion of the human rights of the people, and protection of their civil, political, social, economic and cultural rights, is the primary concern of the Rule of Law;

AND WHEREAS, it is the constitutional obligation of the State to provide impartial and efficient Police Service safeguarding the interests of vulnerable sections of society including the minorities, and responding to the democratic aspirations of citizens;

AND WHEREAS such functioning of the police personnel needs to be professionally organised, service oriented, free from extraneous influences and accountable to law;

AND WHEREAS it is expedient to redefine the role of the police, its duties and responsibilities, by taking into account the emerging challenges of policing and security of State, the imperatives of good governance, and respect for human rights;

AND WHEREAS it is essential to appropriately empower the police to enable it to function as an efficient, effective, people-friendly and responsive agency;

NOW, THEREFORE, since it is necessary for this purpose to enact a new law relating to the establishment and management of the Police Service, it is hereby enacted as follows:

The following are some important provisions taken from the Model Police Act 2006.

1. Control and supervision of the police

- 1.1. Superintendence of the police shall vest in the relevant state government. The state government must be responsible for ensuring an efficient, effective, responsive and accountable police service.
- 1.2. Superintendence shall be limited to promoting “professional efficiency of the police” and ensuring that “[police] performance is at all times in accordance with law.” This shall be achieved by laying down policies and guidelines, setting standards for quality policing, facilitating the implementation of standards and ensuring that the police service performs its tasks and has functional autonomy.
- 1.3. Administration of the police shall vest in the Director General of Police. The government shall not be able to interfere with the Director General’s powers except in accordance with prescribed rules or in exceptional circumstances (where reasons should be recorded). The powers of administration will include:
 - supervising the functioning of the police at all levels;
 - appointment to subordinate ranks (all officers below the rank of Deputy Superintendent of Police);
 - deployment;
 - transfers and disciplinary action up to and inclusive of the rank of Inspector of Police; and
 - advising the government on the placement of officers of and above the rank of Assistant/Deputy Superintendent of Police.

2. State Police Board

- 2.1. The State Security Commission suggested by the National Police Commission must be put in place and shall be called the State Police Board.
- 2.2. The State Police Board must be created by legislation. It shall be composed of:
 - the Home Minister as its Chairperson;

- the Leader of the Opposition in the state assembly;
- a retired High Court judge nominated by the Chief Justice of the High Court;
- the Chief Secretary;
- the Home Secretary;
- the Director General of Police as the member secretary; and
- five non-political persons of proven integrity and competence from the fields of academia, law, public administration, media or non-government organisations.

2.3. The five non-political members shall be appointed by a selection panel. To ensure the independence of the non-political members, the selection panel must be made up of:

- a retired Chief Justice of the High Court nominated by the current Chief Justice of the High Court;
- the Chair of the State Public Service Commission; and
- the Chair of the State Human Rights Commission, or in its absence, a person nominated by the Chair of the National Human Rights Commission.

2.4. The Board shall perform the following functions:

- frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing;
- select and prepare a panel (on the basis of seniority and merit see below) of three senior most police officers for promotion to the post of Director General of Police;
- identify performance indicators for police evaluation; and
- conduct organisational performance evaluation.

3. Selection of Director General of Police

3.1. The Director General of Police must be appointed by the government from amongst the three of the most senior officers selected by the State Police Board.

3.2. When the State Police Board is selecting officers to be considered by the government, it must take into account the following:

- length of service and fitness of health;
- performance appraisal reports (for the last 15 years);
- the officer's range of relevant experience, including work experience in central police organisations, and training courses taken;
- indictment for any criminal or disciplinary proceedings or if a court has framed charges against the officer in cases involving corruption or moral turpitude; and
- any awards for gallantry, or distinguished and meritorious service.

4. Security of tenure

- 4.1. All officers must be provided with a minimum of two years tenure in a particular post to ensure they are free to complete their tasks free of illegitimate interference. An authority mandated to transfer officers of a particular rank (or to a particular post) may transfer officers before the passing of two years, but only if reasons are recorded.
- 4.2. The Director General of Police shall have a minimum tenure of two years, irrespective of their date of superannuation (retirement upon attaining a particular age). The Director General can only be removed before his or her tenure comes to an end if he or she is:
- convicted of a criminal offence or is charged by a court with an offence related to corruption or moral turpitude;
 - suspended or punished under the appropriate disciplinary rules;
 - incapacitated by physical or mental illness; or
 - promoted to a higher post (but only with his or her consent).
- 4.3. Station House Officers, officers-in-charge of a police circle of sub-division and the Superintendent of Police in each district shall have a minimum tenure of two years and a maximum tenure of three years. These officers can be removed before the expiry of tenure if he or she is:
- promoted to a more senior rank;
 - charged by a court or convicted of a criminal offence;

- suspended or punished under the appropriate disciplinary rules;
- incapacitated by physical or mental illness; or
- selected to fill a vacancy created by another officer's promotion, transfer or retirement.

In exceptional circumstances, these officers may also be removed:

- for gross inefficiency and negligence; or
- where a preliminary inquiry into the officer's conduct establishes a prima facie case of a serious nature.

If an officer is removed in exceptional circumstances:

- the removing authority shall inform the reasons to the next higher authority and the Director General of Police (in writing); and
- the removed officer may appeal to the Establishment Committee (described below), which should consider the case and make recommendations to the removing authority.

5. Transfers

- 5.1. Power to transfer is given to different authorities depending on rank or post. Transfer is prohibited by any authority other than the one specified in law.
- 5.2. The government shall post officers to all positions in the ranks of Assistant/ Deputy Superintendent and above. In each case (except for the Director General of Police), the government should be guided by the recommendations of the Police Establishment Committee, made up of the Director General of Police and four other senior-most officers. The government must accept these recommendations or record its reasons for disagreement in writing.
- 5.3. The Director General shall decide all initial transfers of officers who are Sub-Inspectors or Inspectors to a police range as well as transfers of these officers from one range to another, after considering the recommendations of the Establishment Committee.

- 5.4. The Range Deputy Inspector General shall decide inter-district transfers of Inspectors and more junior officers within a range on the recommendations of a committee made up of all the District Superintendents of Police in the range.
- 5.5. The District Superintendent of Police shall decide the transfer of Inspectors and more junior officers within a district on the recommendations of a committee made up of all the Additional, Deputy and Assistant Superintendents of Police in a district.

6. Complaints of officers given illegal orders

- 6.1. The Police Establishment Committee must consider complaints from police officers who have been given an illegal order and then make appropriate recommendations to the Director General of Police.
- 6.2. If the complaint is against an authority who is of the rank of the officers of the Establishment Committee or more senior (for example the Director General of Police, the Home Secretary or the Home Minister), then the Committee shall forward the complaint to the State Police Board for further action.

7. Promotions

- 7.1. Promotion must be based on merit, evaluated by a qualifying examination and a performance evaluation.
- 7.2. The union government must frame the evaluation criteria for officers of the Indian Police Service. The Director General of Police shall frame the evaluation criteria for the remaining officers in the relevant state (with the approval of the state government). Note that the Model Act also mandates the state Police Recruitment Board to set out the merit and seniority criteria for promotion for different ranks.
- 7.3. All meritorious officers should have the opportunity to be promoted at least three times during their tenure.

8. Recruitment

- 8.1. Recruitment to the police organisation shall continue to be at the following three levels:

- to the Indian Police Service through the Union Public Service Commission;
- to Deputy Superintendent of Police through the State Public Service Commission; and
- direct recruitment to non-gazetted ranks through a state-level Police Recruitment Board. This Board created under the Model Act shall ensure that the process of recruitment is transparent, and adopts codified and scientific systems and procedures.

8.2. Civil Police

8.2.1. Direct recruitment to the civil police must be limited to:

- Deputy Superintendent of Police;
- Sub-Inspector; and
- Civil Police Officer Grade II.

8.2.2. Constables shall be replaced by a Civil Police Officer, with a higher standard of education and training as set out below:

- a person between the ages of 18-23 years, with a minimum qualification of 10+2 higher secondary education shall be inducted as a trainee for three years; and
- successful completion of training, including a Bachelor's Degree in Police Science, leads to the trainee cadet becoming a Civil Police Officer, Grade II.

8.3. Armed Police

8.3.1. Direct recruitment to the armed police shall be limited to:

- Deputy Superintendent of Police or Assistant Commandant;
- Reserve Sub-Inspector; and
- Constable.

8.3.2. The minimum educational qualification for a Constable in the armed police shall be matriculation, while a reserve Sub-Inspector must be a graduate. A Constable shall be between 18-21 years of age and a reserve Sub-Inspector between 21-24 years.

- 8.4. Recruitment must be such that the composition of the police service reflects all sections of the community (including gender).

9. Training

- 9.1. Training must be provided for new officers and also when existing officers are posted to a different branch. Annual refresher classes must be held.
- 9.2. Training must be linked to the career development schemes of all police officers.
- 9.3. The state government shall lay down a training/education policy covering all ranks and categories of police personnel.
- 9.4. The state government must periodically create and upgrade the infrastructure and capabilities of its training institutions.

10. Strengthening police investigations

- 10.1. Investigation and law and order functions shall be separated (a model is proposed to ensure this happens without affecting the chain of command). Specialised crime investigation wings and departments must be equipped with adequate facilities, scientific aids, and qualified and trained human resources.
- 10.2. At the state level, a Criminal Investigation Department must be created to investigate inter-state and inter-district crimes, as well as other serious crimes either notified by the state government or allocated to the Department by the Director General of Police. A Deputy Inspector General of Police shall head the Department. The Department must have specialised units for investigating cyber crime, organised crime, homicide, economic offences and any other offences that require specific investigative skills (and are specifically notified by the state government).
- 10.3. A Special Crime Investigation Unit shall be created at the police station level in all urban and crime-prone rural areas. A Sub-Inspector or a more senior officer shall head the Unit. The Unit must investigate offences such as murder, kidnapping, rape, dacoity, robbery, dowry-related offences, serious cases of cheating, misappropriation and other economic offences that are notified by the Director

General of Police or allocated by the District Superintendent of Police. All other crimes shall continue to be investigated by other officers in the police station.

- 10.4. Officers in the Special Crime Investigation Unit and in the Criminal Investigation Department at the state level shall have a minimum tenure of three years (with a maximum tenure of five years). Officers posted to the Special Crime Investigation Unit cannot be given any other duty, except under exceptional circumstances and with the written permission of the Director General of Police.
- 10.5. The chain of command should remain intact despite the separation of investigation and law and order functions. To achieve this, the Station House Officer shall continue to supervise all officers in the Police Station including those posted in the Special Crime Investigation Unit. In addition to the Station House Officer, an Additional Superintendent of Police at the district level must supervise these investigations as well. The Additional Superintendent shall report to the District Superintendent.
- 10.6. At the district level, Special Investigation Cells shall be created to investigate more serious and complex offences, including economic crimes. Investigations by officers in this Cell shall be supervised by the Additional Superintendent who is also supervising the work of the officers in the Special Crime Investigation Unit at the police station level. Depending upon the volume of cases, the Additional Superintendent who is supervising investigations may be assisted by Deputy Superintendents who are posted in the district for the specific purpose of ensuring quality investigations.

11. Accountability for performance

- 11.1. The police organisation should aim to achieve goals set out in two 'plans' (created under the Model Act). The first is a Strategic Plan that sets out the policing goals for the next five years (there is a reference elsewhere in the Model Act to three year strategic plans - This is most likely a typing error). The second are Annual Plans that aim to achieve the overall goals set out in the Strategic Plan. The government shall prepare both these plans, in consultation with the State Police Board. The government and the Board (which has the Director General of Police as the member secretary) must also consult the District Superintendents of Police before preparing the plans. The District Superintendents shall, in turn, consult with the community before providing their input. The plans must be laid before the state legislature to generate focused debates on policing strategy.

- 11.2. Identified performance indicators shall be used along with the plans to evaluate organisational performance. The Police Board must identify these performance indicators, which should include:
- operational efficiency;
 - public satisfaction;
 - victim satisfaction (both in terms of police investigation and response);
 - accountability;
 - use of resources; and
 - human rights record.
- 11.3. The State Police Board shall regularly evaluate the performance of the police organisation in each district, as well as the state police as a whole. When conducting an evaluation, the Board shall be assisted by an Inspectorate of Performance. This Inspectorate shall be headed by a retired Director General of Police and made up of serving or retired police officers, social scientists, police academics and crime statisticians. The members of the Inspectorate shall be appointed by the government from a list of candidates prepared by the State Police Board.

12. Accountability for misconduct

- 12.1. Police misconduct that affects the rights of the public must be addressed internally or externally (external review should be undertaken by independent civilian accountability agencies at the state and district levels) depending on the gravity of the offences. Police misconduct that violates prescribed codes of behaviour without affecting an individual shall be dealt with internally through departmental procedures that award appropriate penalties.
- 12.2. The state government must set up a Police Accountability Commission at the state level to inquire into extremely “serious misconduct”, which is defined as:
- death in police custody;
 - grievous hurt;
 - rape or attempted rape; and
 - illegal arrest or detention.
- 12.3. Inquiries by the Commission shall replace internal inquiries, and its findings shall be binding on the police department and the government. The only discretion

or power that the police or government shall have in such cases is to award punishment in cases where the Commission finds an officer guilty.

- 12.4. The police must be under a duty to forward all cases of serious misconduct to the Commission for inquiry.
- 12.5. Except in cases of serious misconduct, the police department shall retain the power to internally inquire and discipline officers.
- 12.6. The Commission shall be made up of five members that have a credible record of integrity and commitment to human rights. Of the five members, at least one must be a woman, and not more than one should be a police officer. The members must include:
- a retired High Court judge as the Chairperson;
 - a retired police officer of the rank of Director General of Police from a different state cadre;
 - a person with a minimum of ten years experience either as a judicial officer, public prosecutor, practising advocate, or a professor of law;
 - a person of repute and standing from civil society; and
 - a retired officer with experience in public administration from another state.
- 12.7. The state government must also put in place District Accountability Authorities in each police district or group of districts in a police range to monitor internal inquiries into cases of police misconduct that include any wilful breach or neglect by a police officer of any law, rule, or regulation that adversely affects the rights of an individual.
- 12.8. The District Accountability Authority shall have three members with a credible record of integrity and commitment to human rights and must include:
- a retired District and Sessions judge as the Chair;
 - a retired senior police officer; and
 - a person with a minimum of ten years experience either as a judicial officer, public prosecutor, practising lawyer, a professor of law, or a person with experience in public administration.
- 12.9. The government should be removed from selecting members of accountability bodies at both the state and district levels to ensure the independence of the

members. Similar selection panels shall be put in place to select the members of the accountability bodies at the state and the district level. At the state level, the selection panel should include:

- the Chair of the Police Accountability Commission. (He or she shall be appointed by the government from a panel of three judges prepared by the Chief Justice of the High Court);
- the Chair of the state Public Service Commission; and
- the Chair (or a member) of the State Human Rights Commission or, in its absence, the 'lokayukta' (ombudsman) or the Chair of the state Vigilance Commission

12.10. The police are under a duty to send quarterly reports detailing the complaints received against police officers and the action taken by the police organisation (where the case involves a member of the public). If a complaint relates to a Deputy Superintendent (or more senior officer), the reports shall be sent to the Commission at the state level; for other officers, the reports must be sent to the Authority at the district level. If the Commission or Authority believes that there has been a delay dealing with a complaint, it may direct the police to expedite the inquiry. If a complainant is not satisfied with the outcome of an inquiry and believes that the principles of natural justice have not been followed, the Commission or Authority may direct the police to institute a fresh inquiry by a different officer.

12.11. The Commission has all the powers of the National Human Rights Commission, including those of a civil court. It is specifically empowered to visit any police station or place used for detention.

12.12. Influence or interfering with the functioning of the Commission or the Authority is an offence punishable with one-year imprisonment. Threatening, coercing or offering an inducement to a witness or victim shall be deemed to be influencing or interfering with the Commission.

12.13. A complainant shall have the following rights:

- to be informed of the progress of an inquiry periodically and of any conclusion and action taken in their case.
- to be informed of the date and place of each hearing.
- to attend all the hearings.

- to have all hearings conducted in a language intelligible to the complainant, and if that is not possible, to be provided with an interpreter upon his or her request.

12.14. The complainant shall not be able to approach the Commission or the Authority if any other body or court is already examining the complaint.

12.15. If the Commission finds that a complaint of serious misconduct was vexatious or frivolous, it may impose a fine on the complainant.

13. Police offences

13.1. Identified police misconduct shall be considered a criminal offence. Identified misconduct includes illegal arrest, detention, search and seizure, failure to present an arrested person before a magistrate within 24 hours, subjecting a person to torture, inhuman or unlawful violence, gross misbehaviour and making threats or promises unwarranted by law. Non-registration of a First Information Report shall also be an offence punishable with three months imprisonment or fine (or both).

14. Miscellaneous

14.1. Each police station shall have separate toilets and detention areas for men and women. Police stations shall also have a Women and Child Protection Desk to record complaints of crimes against women and children. Police stations must display the Supreme Court guidelines and departmental orders dealing with arrests as well as the details of persons arrested and held in custody.

14.2. The roles, duties and responsibilities of the police must address the particular needs of disadvantaged groups. The special requirements of policing in rural and urban areas are also to be dealt with by the police law, including the implementation of village policing and a Commissionerate system.

14.3. Policing in special security zones with redefined union-state relations and alternative administrative systems must be dealt with in the police law.

14.4. A Police Welfare Bureau must be set up to improve the welfare of police officers. Officer welfare shall be improved by providing free insurance cover, putting in place internal grievance redressal systems and introducing eight- hour shifts.

Prakash Singh v/s Union of India: the Supreme Court Directives 2006-2007

In 1996, two former Director Generals of Police filed a public interest case with the Supreme Court. In the case, they requested the Supreme Court to direct central and state governments to address the poor quality and performance of police in India. In 2006, the Court ruled that given the “gravity of the problem” and “total uncertainty as to when police reforms would be introduced” it would issue “appropriate directions for immediate compliance”.

These directions are binding upon central and state governments. Governments were initially required to report to the Court on steps taken to comply with the directions at the end of 2006. The majority of states filed applications seeking more time. Some of these applications also sought review of the judgment. The court refused to review its directions and ruled that governments were required to comply with its directions by the end of March 2007.

The following are some of important directions given by the Supreme Court.

1. State Security Commission

- 1.1. Each state government must constitute a State Security Commission that will ensure that the police are protected from illegitimate political interference.
- 1.2. The Commission will:
 - lay down broad policy guidelines for the police;
 - give directions for the performance of the preventive tasks and service oriented functions of the police; and
 - evaluate the performance of the police.
- 1.3. The recommendations of the Commission shall be binding on the government.
- 1.4. The Commission will be headed by the Chief Minister (or the Home Minister) and will include the Director General of Police as secretary. The other members of the Commission must be chosen to ensure independence from government; individual governments are free to choose from the models set out by the National Human Rights Commission, the Ribeiro Committee or the Police Act Drafting Committee.

2. Selection and minimum tenure of Chief of Police

- 2.1. State governments will appoint the Director General of Police from the three senior officers of the department who have been selected for promotion to the rank by the Union Public Service Commission.
- 2.2. The Union Public Service Commission shall select the candidates based on:
 - length of service;
 - very good record; and
 - range of experience for heading the police force.
- 2.3. Once an officer has been appointed as the Director General of Police, he or she must be provided with a minimum tenure of two years regardless of his or her date of retirement.
- 2.4. State governments, in consultation with the State Security Commission, may remove the Director General of Police from his or her post even before the expiry of his or her tenure for the following reasons:
 - a disciplinary action against the Director General under the All India Services (Discipline and Appeal) Rules;
 - a conviction by a court of law in a criminal offence or in a case of corruption;
 - incapacity to discharge duties.

3. Minimum tenure of other police officers

- 3.1. Police officers on operational duties in the field will have a minimum tenure of two years. These officers include:
 - the Inspector General of Police in-charge of a zone;
 - the Deputy Inspector General of Police in-charge of a range;
 - the Superintendents of Police in-charge of a district; and o the Station House Officers in-charge of a police station
- 3.2. Tenure is subject to promotion and retirement of the officers.
- 3.3. These officers may be removed before the completion of their tenure if:

- disciplinary proceedings are initiated against them;
- they are convicted for a criminal offence or in a case of corruption; or o they are incapacitated and cannot discharge their responsibilities.

4. Separation of investigation and law and order functions

- 4.1. Investigation and law and order functions must be separated. There must be full coordination between the two wings. Separation of functions may begin in towns and urban areas that have a population of ten lakhs or more.

5. Police Establishment Board

- 5.1. Each police organisation will create a body called the Police Establishment Board. This Board will be made up of the Director General of Police and four other senior officers of the department.
- 5.2. The Board will decide all transfers, postings, promotions and other service related matters of Deputy Superintendents of Police and more junior officers. The state government cannot interfere with the decision of the Board except in exceptional cases and only after recording reasons.
- 5.3. The Board will make recommendations to the government on postings and transfers of officers above the rank of Deputy Superintendent of Police. The government will ordinarily accept these recommendations.
- 5.4. The Board will also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and more senior officers regarding their promotion, transfer, disciplinary proceedings or their being subject to illegal orders.
- 5.5. The Board shall review the functioning of the police in the state.

6. Police Complaints Authority

- 6.1. Each state government will set up an independent body called the Police Complaints Authority to look into public complaints against police officers (Deputy Superintendent of Police and more junior police) at the district level. Similar Police Complaints Authorities should be created at the state level to deal with complaints against officers of the rank of Superintendent of Police and more senior officers.

- 6.2. The District Complaints Authority will be headed by a retired district judge who shall be chosen from amongst a panel of names proposed either by the Chief Justice of the High Court or by another judge of High Court nominated by him or her.
- 6.3. The State Complaints Authority shall be headed by a retired judge of the High Court or the Supreme Court and shall be appointed by the state government from a panel of names proposed by the Chief Justice.
- 6.4. Both authorities will be made up of three to five members depending upon the volume of complaints in the relevant district. These members shall be selected by the state government from a panel prepared by the State Human Rights Commission, Lokayukta and State Public Service Commission. The panel may include members who are retired civil servants, police officers or officers from any other department, or from civil society.
- 6.5. The members of the authorities will work full time and will be suitably remunerated.
- 6.6. The State Authority will be empowered to look into allegations of serious misconduct by police, which is defined as:
- death;
 - grievous hurt; or
 - rape in police custody.
- 6.7. The District Authority will be empowered to look into all complaints of:
- death;
 - grievous hurt;
 - rape in police custody;
 - allegations of extortion;
 - land/house grabbing; and
 - any incident involving serious abuse of authority.
- 6.8. The members of the authorities can employ staff to conduct field inquiries. The staff can consist of retired investigators from the Criminal Investigation Department, intelligence or vigilance departments or any other organisation.

- 6.9. A recommendation by the authority regarding a police officer who has committed an offence is binding. This means that the authority's inquiry replaces an internal inquiry.

7. National Security Commission

- 7.1. The central government must establish a National Security Commission at the union level comprising:

- the union Home Minister as the Chair;
- heads of the Central Police Organisations and two security experts as members; and
- the union Home Secretary as its Secretary.

The judgment does not clearly define "Central Police Organisations". These include two groups: central para-military forces and other central police organisations (such as the Bureau of Research and Development, Central Bureau of Investigations, Intelligence Bureau, and the National Police Academy). It is unlikely that the judgment intended to refer to both groups.

When the Court described the functions of the National Security Commission, it referred to the Central Police Organisations as "forces" (see below). This implies that the expression "Central Police Organisations" includes only the central para-military forces.

- 7.2 The Commission shall perform the following functions and make appropriate recommendations:

- Prepare a panel for the selection and placement of Chiefs of the Central Police Organisations, who should be given a minimum tenure of two years;
- review measures to upgrade the effectiveness of the Central Police Organisations;
- ensure that there is a proper coordination between the police forces;
- improve the service conditions of Central Police Organisation personnel; and
- ensure that the forces are utilised for the purposes they were raised.

8. Monitoring Committee

8.1 The non serious attitude of the State Governments towards the directives issued by the Supreme Court in the Prakash Singh Case was brought to the notice of the Supreme Court by the petitioners. This led to the setting up of a three member Monitoring Committee by the Supreme Court in May 2008. The terms of reference of the Committee were to:

- examine the affidavits filed by the state governments and union territories
- advise the respondents if they are falling short on the directives after considering the stated difficulties in implementation
- bring genuine problems of implementation to the Supreme Court's notice
- examine the new police legislations drafted at the state and central level to see if they are in the letter and spirit of the directives
- appraise the Court about unnecessary objections or delays from the respondents so that appropriate action can be taken against the States Governments
- provide status reports on compliance every six months

8.2 Between October 2008 and December 2009 the Committee filed four interim reports before the Court and in August 2010, the Committee submitted its final comprehensive report.

The Committee examined all the available documents, including the affidavits filed by the central and state governments before the Supreme Court. It also decided to take stock of the New Police Acts legislated by some of the states, in order to review whether or not they conformed to the Supreme Court guidelines.

8.3 In terms of compliance no state followed the directives in total. Dilutions were made that hugely violated the spirit of the Court's judgement. Unsatisfied with the level of compliance as well as the attempts of the states to comply - only on paper, the Committee felt the need to look into the ground realities. However,

considering that it would be impossible for it to visit all the states and union territories it decided to visit four states of Maharashtra (West Zone), Uttar Pradesh (North Zone), Karnataka (South Zone) and West Bengal (East Zone) - all of which in the Committee's assessment were defaulters besides being populous.

- 8.4 On visiting the four states the Committee came up with a conclusive assessment that affirmed the states complete non-compliance. Based on the report of the Committee the Apex Court, at its hearing in November 2010, took serious note of the lack of compliance and issued notices to the four errant states asking their Chief Secretaries to appear before the Court to clarify as to why the six directions given in its order of September 2006, have not been complied with – yet again, to no avail.

9. New Police Acts

The Court in its judgement directed that states and the Central Government and Union Territories comply with the directives till the framing of appropriate legislations. This gave an opportunity to states to amend existing police legislations or pass new ones.

- 9.1 Five years following the Court's judgement 13 states - Assam, Bihar, Chhattisgarh, Haryana, Himachal Pradesh, Punjab, Uttarakhand, Tripura, Rajasthan, Meghalaya, Kerala, Gujarat and Sikkim have passed new police acts. Goa and Tamil Nadu have introduced Bills in the state assemblies. Arunachal Pradesh, Andhra Pradesh, Delhi, West Bengal and Karnataka have their drafts in place but have seen little movement. Orissa and Uttar Pradesh are still in the process of setting up committees to draft new legislation for them.

- 9.2.1 Unfortunately most of these new laws are as regressive, if not more so, than the archaic laws which they replace. They give statutory sanction to all the bad practice that earlier existed. The Court's directives in the Prakash Singh case have been severely diluted or watered down or completely disregarded in few instances. They also give additional powers to the police without the requisite accountability. What is most important to note is the complete lack of transparency, community

consultation or civil society input in the process of introducing new legislations by most states. If the intent of these new laws were to replace the 1861 Police Act with a more progressive legislation then we have moved several steps backwards.

	STATE	PASSED/DRAFTING NEW ACT/BILL	YEAR
1	Assam	Police Act	2007
2	Andhra Pradesh	Draft Police Act	*
3	Arunachal Pradesh	Draft Police Act	*
4	Bihar	Police Act	2007
5	Chhatisgarh	Police Act	2007
6	Delhi	Draft Police Act	2010
7	Goa	Police Bill introduced in legislature	2008
8	Gujarat	Bombay Police Act [Gujarat] Amendment Act	2008
9	Haryana	Police Act	2008
10	Himachal Pradesh	Police Act	2007
11	Karnataka	Draft Police Act	2008
12	Kerala	Police Act	2011
13	Meghalaya	Police Act	2010
14	Punjab (Chandigarh (2010))	Police Act	2008
15	Rajasthan	Police Act	2007
16	Sikkim	Police Act	2008
17	Tamil Nadu	Police Act	2008
18	Tripura	Police Act	2009
19	Uttarakhand	Police Act	2008
20	West Bengal	Draft Police Act	2007

**Information not available in the public domain*

Going Forward: The Future of Police Reform

1 Supreme Court Judgement

The Supreme Court judgement aims to hand the day to day functioning back in to the hands of the police. The seven directives given by the Court have been built upon the myriad strands of improvement generated since 1979. These directives aim to tackle political interference, infuse professionalism and provide accountability for performance, misconduct and criminality in the police. Although the judgement provides impetus to the movement for reforms, it keeps the process open ended. It fails to define the roles and powers of the bodies established by the judgement viz. a viz. the existing power structures. The other argument would be that the judiciary must not be burdened with the job of the legislature to provide a framework for these directives. Realistically speaking, in the absence of any political will from the governments or legislatures, it is only natural that the Supreme Court needs to provide better guidance.

1.1 Political Interference

In order to tackle the menace of increasing political interference, the court has directed the establishment of State Security Commissions (SSC). These Commissions are entrusted with the work of curbing unwarranted interference and pressure by the government on the police and laying down broad policy guidelines for policing in a state. It comprises of the chief minister, leader of the opposition and independent members from the civil society among others. This composition ensures bipartisanship and helps to shield policing from changes in political power by keeping the policies more or less constant.

The other directives that goes towards the root of the problem is the appointment of DGP's through a merits based transparent process and a minimum tenure of two years. This would ensure that the DGP's are appointed on the basis of good credentials and not political connections. A fixed tenure of two years for the DGP's would rid the top brass of the police from the constant fear of transfer in case any action is taken against the "friends" of the ruling elite. This process has also been made mandatory for Superintendents of Police and Station House Officers through a separate directive. The underlying idea is to provide day to day operational responsibility to the police.

This concept of operational responsibility is strengthened further by the creation of the Police Establishment Board (PEB). The PEB at the state level would be made up of the DGP and four other senior officers of the police force. The Board would decide all transfers, posting, promotions and other service related matters of DSP's and other officers below that rank. This move gives functional responsibility back into the hands of the police. If the PEB is allowed to function in an independent manner and the top brass of the police don't assume the role of their political counterparts, it will curb the pedalling and patronage of politicians and will certainly address the uncertainty, fear and de motivation in the lower ranks of the police.

1.2 Professionalism

The State Security Commissions that have been established to curb political interference in policing have an additional job – the task of evaluating the performance of the state police. The police in India till this very day have a very old and archaic manner of police evaluation. The success and failure of a police jurisdiction is judged based on crime statistics – equivalent to the number of First Information Reports (FIRs) that have been registered. Lower the numbers of FIR's better the crime prevention record of the police. This not only leads to the non registration of FIR's by the police to bolster their record but also presents an erroneous picture of crime in the state. No other indicators are considered in the evaluation process. If the Security Commissions are able to conduct evaluations in a proper manner, the level of policing can go up exponentially. Ironically, not a single state has established such a Commission on the ground level which is functioning the way the Court envisioned in its judgment. A similar situation exists at the centre or Union Territories.

Another move to infuse professionalism in the police has been through a directive that requires states to separate the investigation and law and order function of the police, The situation in India is quite dismal - investigations are poorly mounted, slow, done by inadequately trained and unspecialized staff. The final blow is the severe manpower deflection into other pressing law and order duties. If the directive is implemented, there is hope that specialised police officers will streamline policing, ensure speedier and more expert investigation and improve the rapport of the police with people. The states have been quite reluctant to comply with this directive and have blamed this lethargy on the lack of funds and inadequacy of specialized police personnel.

1.3 Accountability

Operational responsibility must in turn be balanced with accountability. The police must be accountable as an organization and officers must be accountable as individuals for their actions. Performance evaluation must be built in to the policing laws to ensure organizational accountability, while independent civilian oversight has proven to be the most effective accountability mechanism for individual officers in reforming jurisdictions around the world.

In a democratic setup accountability for the actions of public institutions is of immense importance, The Police Complaints Authority envisioned by the Supreme Court in the Prakash Singh Case is such a body that acts as a police watchdog at the district and state level. The oversight mechanism comes into action once a complaint is filed against the police. Although the recommendations by the Authority are given on a case by case basis, the cumulative effect of these investigations and recommendations affects the general conduct and nature of policing.

Nineteen Complaints Authorities have been set up by various states across the country. Eight of these PCA's have functional offices and have started receiving complaints. Despite their differences in geographic locations, almost all the functioning Authorities suffer from similar problems ranging from poor design in terms of composition and powers to lack of funding and resources as well as non cooperation of the police.

2. The Model Police Act 2006

A Template for Reform or a Retrograde Vision of Policing

The Supreme Court's directives and the Draft Model Police Act (MPA) that followed its spirit were intended to be implemented holistically as a package that would deliver good policing in future. The MPA complements the Supreme Court judgement in that it provides the detailed nuts and bolts through which the directions of the Supreme Court could be most effectively implemented.

The MPA is no doubt considered a template for reform. But despite its urgent need to be implemented it suffers from some serious gaps that need to be addressed and opened up

for debate. In some ways the Model has exceeded the remit of police legislation. Chapter IX of the MPA talks about 'Public Order,' and 'Internal Security Challenges. The Act gives extraordinary powers to the police without providing adequate safeguards. Most of the provisions in this chapter are in the nature of emergency or security laws and therefore do not belong in the police act.

The common usage of words and phrases like terrorist activity, militant activities, insurgency and organised crime have been a constant feature throughout the MPA with concomitant police duties as well as powers of the state to declare areas as Special Security Zones. This coupled with the idea of Special Police Officers (recently denounced in a Supreme Court judgement) adds to the authoritative nature of the police Act.

3. Complete Absence of Political Will

The effort made by Soli Sorabjee committee met the same fate as the endeavours of the previous expert bodies. The Model Act was put on the website of the Ministry of Home Affairs and circulated to the state governments. It has not been used to bring out an updated Police Act applicable to Delhi and other union territories. A similar response of the central government was noticed three decades ago when the NPC had drafted a model Police Bill, which incorporated their recommendations made in eight reports. The central government always had the option of implementing the important recommendations of the NPC by introducing that model Police Bill in the Union Territories. If it had done so, it would have acquired the moral authority to ask the state governments to follow suit. It never did that and thus failed to convince the state governments about its genuineness in implementing the NPC's recommendations. The Central government could have also taken a lead in complying with the Supreme Court's directives in those territories which are within its jurisdiction, but it has failed to do so even on this account.

At the state government level there are no drivers for reform. Whilst isolated attempts at reform continue to happen in the form of tardy police acts no government is willing to display the unprecedented political will to introduce radical reform. No government is willing to give up their stranglehold over the police or make them accountable to the law of the land. And till that happens reform will never become a reality.

CHRI Programmes

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

Strategic Initiatives: CHRI monitors member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN, and the African Commission for Human and Peoples' Rights. Ongoing strategic initiatives include: Advocating for and monitoring the Commonwealth's reform; Reviewing Commonwealth countries' human rights promises at the UN Human Rights Council and engaging with its Universal Periodic Review; Advocating for the protection of human rights defenders and civil society space; and Monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

Access to Information: CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. It works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy-makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

Access to Justice

Police Reforms: In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interferences.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. CHRI believes that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

The debate has raged for almost four decades. “The necessity for accountability of the police organisation is not far to seek” - the National Police Commission said in the late 70's. 25 years on, the Supreme Court in the Prakash Singh Case implored, “States should rise to the occasion and enact a new Police Act... securing the rights of the citizens under the Constitution for the Rule of Law.” Such profound reflection, such detailed guidelines but unfortunately such unenthusiastic implementation.

Till date public perceives the police as a body that exists in order to protect the system and as an instrument of the state rather than the people. They consider the force to be inefficient, slow and secretive - made up of individuals lacking necessary education and training. Clearly reform has not moved beyond the rhetoric.

Through this booklet CHRI analyses the recommendations made in the last three decades and puts them in context for today's India.



Commonwealth Human Rights Initiative

B-117, IInd Floor, Sarvodaya Enclave, New Delhi - 110 017
Tel.: +91-11-4318 0200, 4318 0225-299 Fax: +91-11-2686 4688
info@humanrightsinitiative.org www.humanrightsinitiative.org