

Needed, appropriate political direction from govt

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In December 2005, the Guwahati High Court withdrew the most recent recruits to the post of police constables in 13 districts of Assam, citing irregularities, favouritism and excessive political interference during final selections. A month earlier, in November, a unit of Bihar Police officials was sent to Delhi to arrest absconding UPA minister Jay Prakash Yadav. A non-bailable warrant was issued against the minister on charges of exerting undue influence on police officials to secure the release of his younger brother, who himself was booked for various non-bailable offences. The problem of illegitimate political interference in policing – in recruitment, crime control and investigation, internal police administrative matters - looms large in India and often spells hardship not just for police officers but for citizens and members of the public. The task to draft a new Police Act, set by the Ministry of Home Affairs to the newly formed Police Act Drafting Committee, presents an opportunity to arm the law to combat and prevent this very serious problem. Policing must evolve into a responsible public service for the people of India rather than remain mired in corruption and inefficiency.

In practice, across the Commonwealth, police leaders tend to answer directly to elected public representatives in the Executive branch of government, whether at a local, state or national level – and often operate in very close proximity to political leaders. In India, state governments exercise “superintendence” or control over state police forces. But, a key weakness of the Police Act of 1861 is that it vests control of the police *directly* in the hands of the executive, without placing any limits on the exercise of executive authority or directing accountability of the police to any other source. Moreover, the 1861 Act does not define the “controlling” role of the executive. In practice, this kind of unfettered control often leads to the use of the police by the existing political elite as a tool to marginalise political opponents or stifle legitimate dissent. Over the years, illegitimate political interference has eroded accountability systems to such an extent that state police chiefs can be removed at any time by chief ministers, without assigning any reasons. A promotion no longer hinges on objective criteria such as seniority or merit, but on personal equations between police and political leaders. Officers who resist illegitimate interference in their duties are subject to constant transfers and in extreme cases, departmental inquiries and even false legal proceedings.

Like any other agency of state, as well as to the people the police are accountable to government. Government has a legitimate and very central role to play in setting the strategic direction and broad policy priorities for the police, on behalf of the people they represent. The distinction between *appropriate political direction* from a government to the police, and *inappropriate political interference* in operational policing matters is an immensely significant one, both in terms of the way it is expressed in law and policy, as well as in practice. In the framework of democratic policing, the prime responsibility of the government remains confined to providing a well-resourced, well-led, well-trained police organisation, and to imposing suitable checks on the powers of the police to ensure that they discharge their functions in accordance with law. In India’s context, one important step in establishing truly appropriate political direction to the police is to define, in law, the parameters of government’s role in relation to the police. A clear delineation of roles, responsibilities and relationships between the police and the executive that are laid down in law helps to pinpoint accountability – and any new Police Act must reflect this framework. It minimises the possibility of unfettered interference seeping into policing matters and influencing its functioning. Importantly, executive control must be kept out of police operational matters to protect the police’s operational autonomy, and

the law must reflect this distinction. Requiring public participation in framing policy also inhibits partisan impositions on policing. While governments have a legitimate and central part to play in holding the police to account, their ability to interfere in policing and introduce inappropriate political direction is made much easier when other mechanisms of accountability and oversight are absent.

Modern Police Acts frame a policy-directing role for government in a variety of interesting ways. In this context, “policy” for the police broadly includes preparing policing plans, setting standards and performance measuring indicators, and establishing strong accountability mechanisms. Some of the best legislative formulations of government’s role come from the United Kingdom. For example, the system of control and accountability that governs the 43 forces of England and Wales is often called ‘the tripartite structure of police accountability’ which rests on a separation of power. This complex system, laid down in the *Police Reform Act 2002*, distributes governance and policy setting responsibilities over the police between the Home Office, the local police authority, and the chief constable of the force – precisely to create buffers between the police services and the state. It provides accountability to Parliament through the Home Secretary and to local communities through the local Police Authorities, which are local public bodies. In fact, Section 1 of the *Police Reform Act 2002* ¹, entitled Powers of the Secretary of State, establishes the very specific responsibilities of the Home Secretary, and thereby the executive branch, in relation to the police. The law makes it the *duty* of the Home Secretary to frame a National Policing Plan every year – a policing policy plan in other words – by formalising centrally-imposed “key priorities” within a national plan. Using this device, the Home Secretary determines universal policing objectives, directs police authorities to establish performance targets, and determines cash grants for police authorities. Similarly, the *Police (Northern Ireland) Act 2000* carefully apportions responsibility for policing between the Executive (through the Secretary of State), police leadership (represented by the Chief Constable) and the Policing Board (an independent public body). The law explicitly assigns the duty to develop long-term objectives and principles to the Secretary of State, for medium-term objectives and priorities to the Policing Board, and for shorter-term tactical and operational plans to the Chief Constable.²

The importance of establishing a policy-directing role for government is crucial to set objective criteria and policy priorities for policing, which above all reflect the safety needs and crime concerns of the public. Setting criteria and establishing clear strategic direction, through policing plans for instance, is integral for government to effectively monitor police performance, be attune to the most pressing crime concerns, build local partnerships, and measure police use of public funds. Most importantly, any measures to direct government’s role in relation to the police must be put in place with a view to preventing undue interventions into any aspect of policing, and guard against the creation of covert arrangements or mutual dependencies that can shut out public scrutiny.

¹ This becomes Section 36(A) of the Police Act 1996

² Sections 25-26, *Police (Northern Ireland) Act 2000*