

# GOA STATE POLICE COMPLAINTS AUTHORITY

## ANALYSING ACCOUNTABILITY IN ACTION



# CHRI

Commonwealth Human Rights Initiative

working for the **practical realisation** of human rights in the countries of the Commonwealth

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

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## CHAPTER 1

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# INTRODUCTION

The demand for police accountability is tremendously high, as it has always been. Countries are slowly seeking to augment government and internal accountability systems with other external or civilian – meaning non-police – oversight mechanisms. Independent oversight essentially protects citizens against abuse of police powers, including excessive force; exposes misconduct; improves police practice and policy; provides public accountability; encourages discipline within the police; protects against corruption; protects against politicisation of the police; and enhances public trust and confidence in the justice system.

## Background

While all occupations provide some opportunities for misconduct, wrong-doing and criminality, policing has been identified as providing far more opportunities. This occurs because policing is recognised as an occupation different from all others. The powers entrusted to the police to carry arms, to use coercive force in the proper course of their duties, to inquire into personal affairs, to eavesdrop into private conversations, to deprive citizens of their liberty, to enter and search premises, to seize and to initiate proceedings that will require individuals to defend themselves before the courts are very substantial powers – possessed by no other class of employees. In addition to this, police work is seen to have considerable amount of discretion and an equally high degree of secrecy. Police high-handedness, the power that they hold and the secrecy under which they function without any effective or efficient oversight, all contribute to making them largely unaccountable to the law.

In India, on the basis of government statistics alone, it is plain to see the high number of complaints made against police officers, and also, the very serious nature of the complaints. The National Crime Records Bureau (NCRB) reports that 51,767 complaints were made against police officers in 2007. These include complaints of human rights violations as serious as disappearances, illegal detention and arrests, extrajudicial killings, extortion, torture, atrocities on Scheduled Castes and Tribes, and crimes against women.

The demand for police accountability is tremendously high, as it has always been. Countries are slowly seeking to augment government and internal accountability systems with other external or civilian – meaning non-police – oversight mechanisms. Independent oversight essentially protects citizens against abuse of police powers, including excessive force; exposes misconduct; improves police practice and policy; provides public accountability; encourages discipline within the police; protects against corruption; protects against politicisation of the police; and enhances public trust and confidence in the justice system.

As governments increasingly embrace the philosophy of democratic policing, attempts are on to make policing more transparent, involve outsiders, build public confidence, allay fears of bias, assure impartiality of investigation, make the receipt of complaints easier, reduce abuse of power and misconduct, change the internal culture, and ensure ever better performance.

India is also following suit. In September 2006, on a petition brought before it by two former Director Generals of Police (DGPs) asking for police reforms to be implemented across the country, the Supreme Court stated that the two major problems with policing are excessive political interference, and too little accountability within the force. The Court passed seven directives to be implemented by all states and Union Territories to remedy this. As one of the seven directives, the Court ordered all state governments and Union Territories to establish Police Complaints Authorities (PCAs) at the state and district levels, with immediate effect. It was hoped that a new external oversight system would complement existing internal oversight mechanisms and together create a web of accountability from which it would be increasingly difficult for police misconduct to escape without consequences.

Since 2007, the Commonwealth Human Rights Initiative (CHRI) has tracked the establishment and growth of the newly created Police Complaints Authorities across different states of India. In doing so, CHRI discovered that Complaints Authorities are actually functioning only in the states of Goa, Kerala, Assam, Tripura and Uttarakhand. Our aim is to publish a series of reports, profiling the work, functioning and efficacy of Complaints Authorities in each of these states. Goa is the first in the series.

This report presents a broad and holistic analysis of the functioning of the Goa Police Complaints Authority. The period of the analysis comprises complaints received between April 2007 and January 2009. It aims to identify trends in the profiles of complainants, the types of complaints received, the procedures followed and the orders issued by the Complaints Authority. In the pages that follow, we have tried to lay out in as much detail as possible the way complaints were received and processed. We have also tried to provide a statistical analysis of the number of complaints received and the outcomes of those dealt with during the period. Besides observing these general trends, we have also drawn on a few specific complaints as case studies to illustrate both the strengths and weaknesses of the Authority, as well as some of the significant challenges it faces in carrying out its mandate.

## The Goa Police: Strength, Statistics and Misconduct

Year	Population	Police Strength			Ratio of Police to Population
		Male	Female	Total	
2008 As on 1-1-2008	As on 1-10-2007 16,08,000	4355	315	4670	1:344

Goa has a considerably small police force of 4,670 personnel. It serves a population of 16 lakhs. Its police population ratio is 1:344. This ratio fares better than most states.

In 2007, the National Crime Records Bureau (NCRB) Report-Crime in India recorded 35 complaints received against police personnel, including one case of “extortion” by police.<sup>1</sup> In addition, National Human Rights Commission (NHRC) statistics reveal 39 complaints of human rights violations from Goa in 2006-2007, and as of April 2006, seven cases of custodial deaths were being investigated by the Commission (Annexures 3 and 4, Annual Report).

Over the last few years, the police in Goa have often been in the news in connection with a spate of rape and murder cases of foreign tourists. In fact, the police have been severely and consistently criticised for mishandling investigations into the rape cases. In a recent case of a Russian girl being raped and murdered, the Goa police were criticised for initially harassing the victim into not registering the offence.

<sup>1</sup> <http://ncrb.nic.in/cii2007/cii-2007/CHAP16.pdf>



The victim also alleged that the police supported the accused, a local politician, instead of her. They remained mute spectators as the accused threatened her with dire consequences.

In spite of being reported in the national press, the behaviour of the police reflected in these cases do not find mention in the NCRB or NHRC Annual Reports, nor have they come to the attention of the Police Complaints Authority that has recently been set up. This goes to show that there is no comprehensive or accurate picture of *all* instances of police misconduct and malpractice from the state.

## CHAPTER 2

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# COMPLAINTS AUTHORITY IN GOA

The Goa state-level Police Complaints Authority was established through a government order in April 2007. The Supreme Court in its 2006 judgement expressly laid down a composition, selection process and mandate of the state and district level complaints authorities. The Court ordered that the Chairman of the state-level Authority be a retired judge of the High Court/Supreme Court chosen by the state government out of a panel of names proposed by the Chief Justice.

# THE POLICE COMPLAINTS AUTHORITY IN GOA

The Goa state-level Police Complaints Authority was established through a government order in April 2007.

## Composition

The Supreme Court in its 2006 judgement expressly laid down a composition, selection process and mandate of the state and district level complaints authorities. The Court ordered that the Chairman of the state-level Authority be a retired judge of the High Court/Supreme Court chosen by the state government out of a panel of names proposed by the Chief Justice. The other members are to be chosen by the government from a panel prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission. The composition was designed to ensure that members appointed would by and large be independent-minded individuals who would go about their work without fear or favour.

The government order was almost of the nature of an edict. It did not follow the process of appointment of the Chair or any of its members as laid down by the Court. The order named the persons who would be the Chair and members of the Authority without giving any details of the selection and appointment procedure. No district-level Authority has been set up. Goa has two districts however. Since the state is small and the size of the police force itself is not too large it may be reasonably argued that there is no need for a complaints authority at the district level.

The present Authority is headed by Justice Eurico Da Silva, a retired Judge of the Bombay High Court. Justice Da Silva is assisted by three other members, Mr Nobert Moraes, Professor Shantkumar Bhat and Mr M.G. Naik, all of whom are former government servants. All three members and the Chairman were appointed directly by the government.

## Mandate

The Supreme Court laid down a mandate for the Police Complaints Authorities in its judgement. The Court required each state government to set up a Police Complaints Authority at the state and district level. The state-level Authority is empowered to look into allegations of “serious misconduct”, which includes but is not limited to:

- death;
- grievous hurt; and
- rape in police custody.

The district-level Authorities are empowered to look into complaints which include:

- death;
- grievous hurt;

- rape in police custody;
- allegations of extortion;
- land/house grabbing; and
- any incident involving serious abuse of authority.

The Court laid down that the jurisdiction of the state and district level Authorities are tied to the *ranks* of officers being complained against. The state-level Authority will look into complaints against officers of the rank of Superintendent of Police and above. The district-level Authority will inquire into complaints against officers of the rank of Deputy Superintendent of Police and below. Importantly, in relation to their mandate, the Court ordered that the recommendations of the Complaints Authorities at both the state and district levels “for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority”.

The order setting up the Goa Authority has the mandate to look into complaints of serious misconduct, which would include death, grievous hurt or rape in custody. Allegations of extortion, land/house grabbing and abuse of authority do not fall within the exercisable mandate of the Authority. However, the Chair stated that he has interpreted the government order to empower him to take cognisance of *all* cases of police misconduct.

## Powers

The Authority has the power to either recommend departmental action or criminal proceedings against delinquent police officers. These powers are binding and the state government is obliged to follow the recommendations given by the Authority and take appropriate action.

## Offices and Funding

At its inception, the fledgling Goa Authority was crippled by a lack of resources and funding. As Mr Naik, one of the members, explained, the Authority was treated as an “unwanted child” by the Goa government. When the Authority was first set up, it was given a small flat as an office, three policemen and a secretary as secretarial staff. There were no telephones and no computers. According to the Chair, it took over a year to get the current facilities, which are an improvement. The Authority has moved to better office space, but is still short on basic infrastructure such as sufficient desks.

The clerical and secretarial staff was not paid by the government for the first 7-8 months of functioning. To retain the staff, the Chair paid them from his own pocket. Fortunately, the staff has increased substantially since then. At present, the Authority has six clerks, three peons and one sweeper. Of these, three clerks and two peons are on a contract basis. The Authority also has one secretary and one superintendent who also work on contract. The Authority does not have funds to hire retired investigators from the Crime Investigation Department (CID), Intelligence and Vigilance, as provided in the government order. The Chair feels investigators are necessary to strengthen the Authority.

## Tenure

There is no mention of tenure in the government order. The Chair explained that there is an informal arrangement, in that members' tenures are subject to notice of one month from either side. The Chair also shared that the government did not seek the agreement of members about whether they actually wanted to accept their offers of appointment. They were notified of their appointments through letters, and thereafter expected to start work right away.

## Outreach

The members confirmed that there is insufficient awareness in the public about this body. From the few complaints that the Authority has received, none are complaints from the weaker sections of society. According to the members, this is a clear indication that people are generally not aware of its existence.

## Cooperation from the Police

The Goa police have often refused to cooperate with the Authority. In 2007, initially, the Director General of Police (DGP) at the time was very cooperative. The tide turned in July 2008 when he sent a complaint letter to the Chief Secretary that was leaked to the press. In this letter, he alleged that the Authority was "humiliating, summoning and parading" police officers and thus damaging the morale of his police force. After this, police officers stopped attending the Authority's hearings and said they would conduct their own inquiries on the complaints. The Chair believed that their intention was to reduce the Authority to powerlessness. He in turn wrote to the High Court discussing this state of affairs. The High Court, in October 2008, took *suo motu* action and issued one civil and two criminal contempt proceedings against the DGP. As a result, the police issued an apology and policemen began appearing again before the Authority.

In our last discussion, held in June 2009, Justice Da Silva informed us that the police come regularly and are cooperative. Given their chequered history with the Authority, however, one can only hope that the Goa police do not revert to their obstructionist ways.

## CHAPTER 3

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# THE WORKING OF THE AUTHORITY

This section presents an analysis of the orders given by the Authority, with a focus on identifying the trends in complainant profiles, types of complaints received and procedures used. It ends with a summary analysis of the orders given by the Complaints Authority. Select case studies are also provided.

# THE WORKING OF THE AUTHORITY: AN ANALYSIS

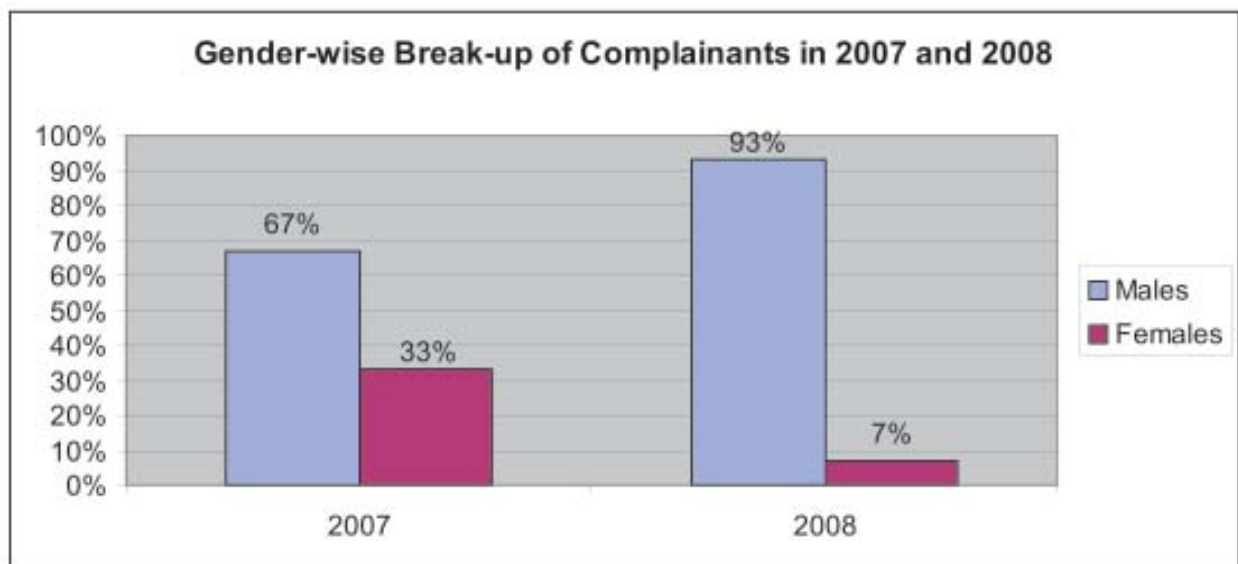
A Right to Information (RTI) request reveals that the Authority has received and disposed of over a hundred complaints in the two years that it has functioned. Through another RTI request, we were able to procure hard copies of orders passed by the Authority since its inception in 2007. This section presents an analysis of the orders, with a focus on identifying the trends in complainant profiles, types of complaints received and procedures used. It ends with a summary analysis of the orders given by the Complaints Authority. Select case studies are also provided.

A total of 100 complaints were received during this period. Of these, 47 were dismissed on grounds of lack of substance in the complaint. In one case, disciplinary proceedings were initiated. In none of these cases was the registration of an FIR recommended.

## Profile of the Complainants

### Gender Profile

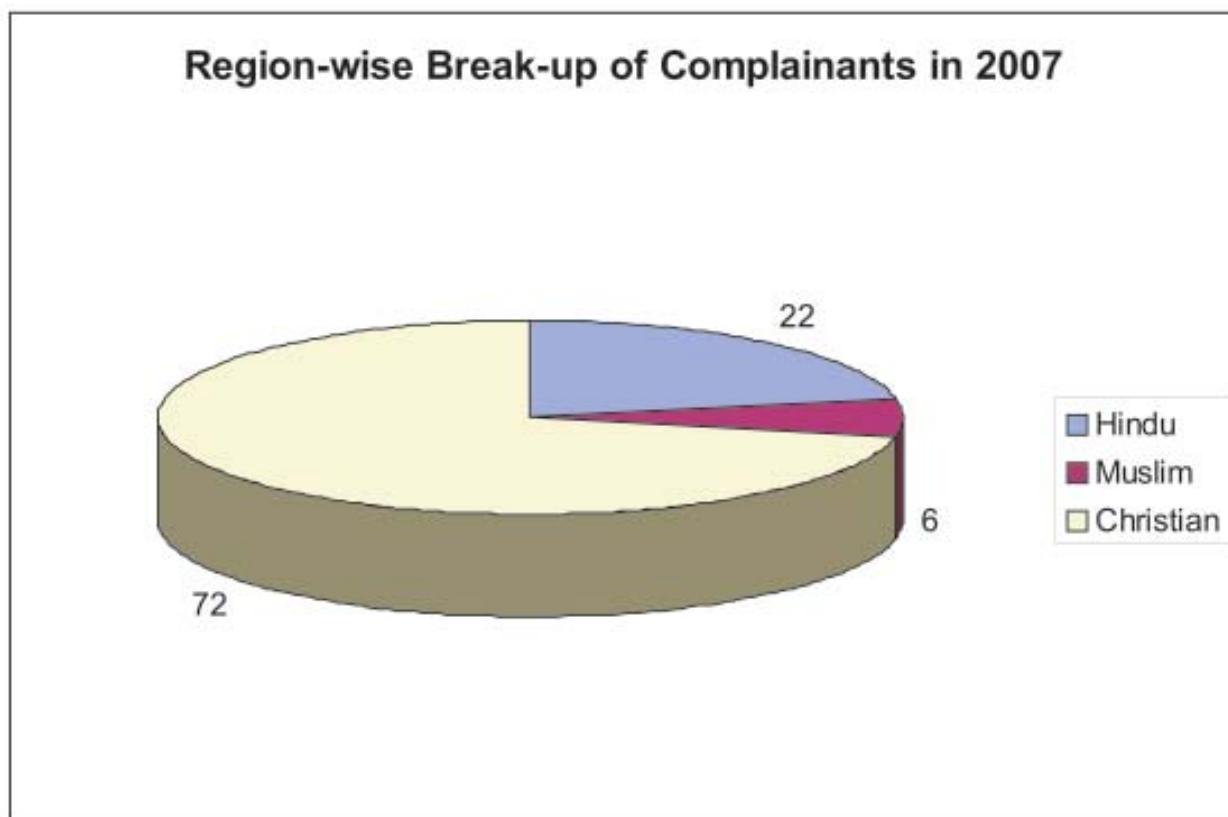
From the orders issued, it becomes clear that complainants thus far have been overwhelmingly male. In 2007, males constituted 12 out of 18 complainants (67 per cent), whilst in 2008, the disparity was even more revealing, with males constituting 26 out of 28 complainants (93 per cent). So far, three out of the four complaints disposed in 2009 have involved a male complainant. Such a vast disparity over two years cannot be attributed to mere chance. It is likely that there are certain institutional barriers that inhibit women from approaching the Authority. Having at least one woman member in the Authority may make women feel more comfortable in bringing their complaints to it. In the opinion of Mr Nibert Morares, one of the Authority's members, there were no serious complaints from the weaker sections of society as they lack awareness about the existence of such an Authority and are discouraged from complaining by the police, who often threatened them with "death by encounter".



## Religious Profile

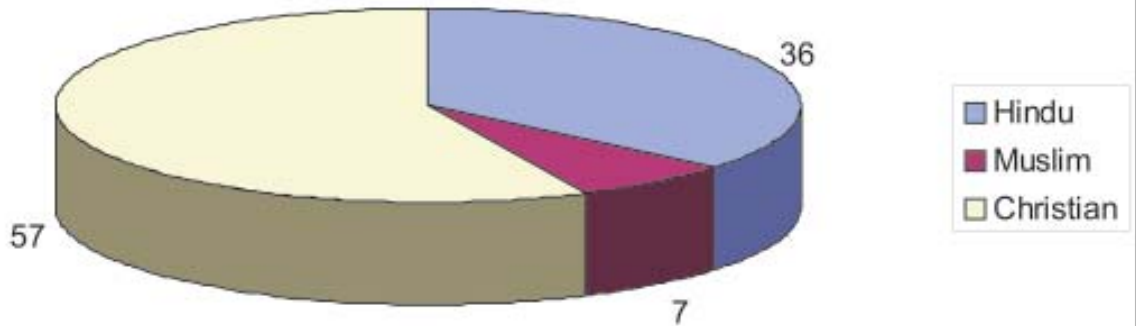
The religious breakdown of complainants is quite revealing. According to the 2001 Census, Goa's population was 65.9 per cent Hindu, 26.7 per cent Christian and 6.8 per cent Muslim. Since the Authority's inception, however, a vast majority of complainants have been Christian. In 2007 and 2008, they constituted 72 per cent and 57 per cent respectively of all complainants. Hindus constituted only 22 per cent and 36 per cent of complainants for 2007 and 2008 respectively. There have been only three Muslim complainants in 2007 and two in 2008. Though it is difficult to draw inferences solely based on these statistics, a lack of awareness among some communities, or the propensity of certain communities to be targets of police misconduct, may be some reasons for these disparities. There is, however, no discernible pattern between the religious profile of the complainant and the type of complaints they lodged.

A common problem CHRI noticed while monitoring Police Complaints Authorities across India has been a lack of awareness of the Authority's existence outside major cities of the state, and in some cases, outside the state capital. A positive aspect in the profiles of the Goan complainants is the fact that they hail from all parts of Goa and are not concentrated in the major cities. In 2007, 53 per cent of complaints originated from the four major cities of Panjim, Margao, Vasco and Mapusa, whilst the remaining 43 per cent came from outlying areas. In 2008, 54 per cent of complaints came from the outlying areas as opposed to 46 per cent from the major cities. In 2009, all four complaints disposed so far have come from the outlying areas. This indicates that awareness of the Authority's existence has spread amongst the Goan population outside the major cities, though perhaps not yet, to its villages.





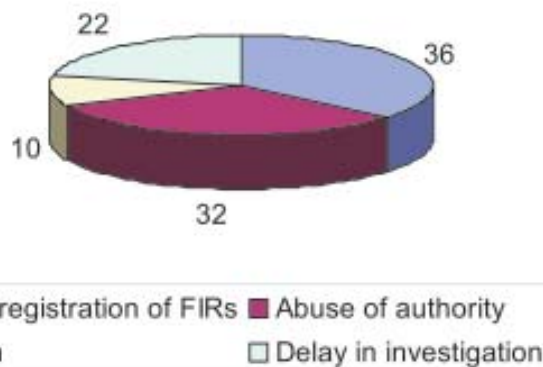
## Region-wise Break-up of Complainants in 2008



## Profile of Complaints Received

The overwhelming majority of complaints received by the Authority fall into one of four categories - the failure of the police to register a First Information Report or FIR and the failure of the police to conduct a proper and thorough investigation, either due to sheer incompetence or by design, abuse of authority and illegal arrest and detention. To date, there have been no complaints regarding the more heinous forms of misconduct, namely death and grievous hurt or rape in police custody.

## Profile of Complaints Received



## ■ Non-Registration of FIRs

Delayed or non-registration of a First Information Report (FIR) constitute the majority of complaints disposed by the Authority over 2007-2009. In 2007, they comprised 11 per cent of the total complaints. This number has increased steadily to 30 per cent in 2008 and 75 per cent in 2009. Examples include failure to register a complaint against individuals who assaulted the complainant (Case # SPCA/25/2008), refusal to register a complaint of theft (Case # SPCA/29/2008) and delay in registration of a complaint (Case # SPCA/ 27/2008). This trend is worrisome, particularly when observers note that in none of these cases, disciplinary or criminal proceedings were initiated by the Authority against the errant police officer.

In several such cases, the Authority concluded after initial submissions that there was a *prima facie* case against the police officers involved, but then failed to pass a final order recommending action against them because the complainants stopped attending the hearings. In Complaint # SPCA/29/2007, the Authority found on 18 December 2007 that “on the basis of the material placed on record, we are satisfied that there is a *prima facie* case of lack of professional duty amounting to misconduct on the part of both the police officers...which merits further action against them.” However, on 19 December 2008, the Authority disposed the case, arguing that the petitioner’s failure to attend three hearings was “obvious non-cooperation on his part” which gave the Authority “no reason to proceed any more with this matter”.

Similarly, in the case of Complaint # SPCA/30/2007, on 5 December 2007, the Authority ordered that “there appears to be some substance, which justifies a *prima facie* inference of some sort of negligence on the part of the Police Inspector to perform professionally and efficiently his duties while carrying out the investigation of the present case. This fact, by itself, merits further action against the concerned...” After points of determination were drafted, however, as in the earlier case, the petitioner stopped attending hearings. On 26 June 2008, an exasperated Authority declared that, as “no justification was even attempted by him (the complainant) for this continuous absence...we see no purpose in proceeding with the case, which is therefore directed to be closed.”

While we agree with the Authority that it cannot deliver an order recommending punishment if one party to the case stops attending hearings, the repeated pattern observed in these cases of complainants backing out in the middle of the proceedings, particularly after a favourable interim order is passed, is cause for concern. It is not uncommon for witnesses to turn hostile when they are complaining against a powerful police officer. There may be several reasons for witnesses to do so. They may be under pressure, threat or inducement. Another reason could be a protracted hearing. If the working of the Authority is slow, or if several hearings are fixed for examination of the complainant, it is highly likely that the complainant gets frustrated of being summoned repeatedly. The Authority should make efforts to understand why this trend is occurring. If it is found that the complainants are being threatened to withdraw their complaints by the police, the Authority should ensure that strict action is taken against those concerned. It could pull up the police for failing to protect witnesses while at the same time, report the matter to the police chief. Allowing the police to get away with such action will ensure that people lose faith in the effectiveness of such an Authority and ultimately lead to its collapse.

## ■ Delay in Investigation/Arrest/Prosecution of the Accused

The second most prevalent type of complaint received by the Authority relates to delay in investigation, problems with the efficiency and quality of investigation, and delay or reluctance to arrest and prosecute the accused to the full extent of the law. These complaints include a failure to investigate a complaint of theft worth Rs 15,000 (Complaint # SPCA/29/2008), “total inertia of the police in respect of complaints (of) gambling and all sorts of nuisance created in the vicinity of the complainant’s house by the visitors of a bar” (Complaint # SPCA/15/2008), and an alleged failure of the police to act on a complaint filed under the Domestic Violence Act (Complaint # SPCA/21/2008).

On examining these cases, a clear pattern emerges that highlights the approach taken by the Authority whilst dealing with these complaints. In most cases, the Authority has shown itself to be extremely reluctant to take any action against officers for poor, shoddy or delayed investigation. The Authority’s philosophy on this matter is revealed through a perusal of its orders. In SPCA/15/2008, the Authority declared:

“We are quite clear in our mind that it is *not open* for the Authority to pre-judge the efficiency and professionalism of the police officers’ performance in the discharge of their statutory duties. This is the *sole responsibility* of their hierarchical superiors and, to some extent, of the already existent State Security Commission. In this respect, the Police Complaints Authority has *no role to play*, although, this should not be misconstrued to mean that a merely cosmetic and routine action taken by the police, but strongly pointing out to conduct of an investigation, may not amount to a gross misconduct or escape the scrutiny of the Authority. Till then, we are firm in our view that the Authority should not interfere...”

The Authority’s stand that complaints relating to poor investigation lie almost always in the domain of the police’s internal disciplinary mechanisms is reiterated in several orders. In Case # SPCA/2/2009, the Authority stated that “it is never too much to remind that *there is absolutely no scope* for the Authority to interfere in any investigation or to play a role in the statutory exercise by the Investigation Officer of his right to carry on the investigation, in strict compliance of the legal procedures.” Similarly, in Case # SPCA/7/2009, the Authority observed that “the scope of the Authority’s powers cannot be enlarged so as to permit the Authority to go into the *merits* of the investigation conducted by the police officers, unless it is shown *ex facie* that the investigation is obviously perverse or displaying moral turpitude. This role is the *sole prerogative* to be exercised normally by their superiors.”

CHRI fully understands and appreciates the Authority’s desire not to overstep its jurisdiction and mandate, which at present is limited to investigating complaints of serious misconduct. However, we also believe that the Authority should not remain a mute spectator in light of the high rate of complaints relating to poor/improper investigation by the police, particularly as this indicates that supervising officers do not hold investigating officers to account for improper investigation, or take steps to address the endemic problems of delay and inefficiency in investigation. The Authority is in a prime position to fill this empty gap and create pressure on the Goa Police to improve investigation. To do this, the Authority will not have to interfere in any individual case, as it can collect objective data and establish trends from its own

inquiries into complaints. In turn, this will allow the Authority to make detailed recommendations for possible remedial measures for the overall problems in investigation.

We recommend that the Authority apprise the district Superintendents of Police, the Director General of Police, Goa and the Home Department about the negative trends in investigation, and urge that remedial measures be taken to improve police performance with regard to investigation.

## The Procedure Followed by the Authority

The Authority is established by an executive resolution. Beyond constitution of the body, the government resolution does not lay down any procedure for the Authority to perform its mandated duties. Presently, there is no legally binding instrument that lays down procedures of how a complaint can be made to the Authority, how it will be investigated or inquired into, how frequently it will meet to look into the complaints received and what procedures will be followed to arrive at a final decision on each complaint. In the absence of such lawfully laid down procedures the working of the Authority will be largely determined by the personality of the Chair and performance will be hostage to the incumbent's whims. This creates a high degree of arbitrariness in the working of the Authority, making the outcomes of complaints highly unpredictable. Such a state of affairs appears to be designed to prevent the Authority from establishing itself as a body working to sound norms and binding procedures.

Nevertheless, due to the interest and active involvement of the current Chair there does appear to be a fairly settled informal procedure that the Authority follows when it receives a complaint. However this procedure is nowhere listed. Should the Chair or members change in the future, procedures may be altered. From a perusal of the orders we procured, the Authority's work begins when a petitioner delivers a written complaint to it. The first step the Authority takes is to invite the respondents named in the complaint to make their submissions on the case. At this point, the Authority makes a determination whether to proceed further or close the matter. Where the Authority believes that there is a prima facie case of police misconduct which demands further action, it issues an order directing further proceedings. In other cases, it concludes that the complainant's claims are unfounded and issues an order to end the matter there.

Where further action is initiated, the Authority drafts points of determination listing the conflicting claims of both parties to the dispute. The Authority then holds hearings, bringing the complainant face to face with the respondents. Either side can be represented by a lawyer, although our perusal of the orders indicates that this is extremely rare. Both parties have the right to make submissions and are subject to cross-examination by the other. The Authority may also decide to admit witnesses, who can make oral and written submissions and are also subject to cross-examination.

On completion of this process, the Authority summons both parties for the delivery of the final order. It either disposes the complaint or recommends disciplinary/criminal proceedings.

At present, the Authority's involvement in the matter ends with the passage of the final order. In an informal discussion with CHRI, Justice Da Silva stated that he was not aware that the Authority could monitor the status of disciplinary proceedings that it had ordered, request reports from the

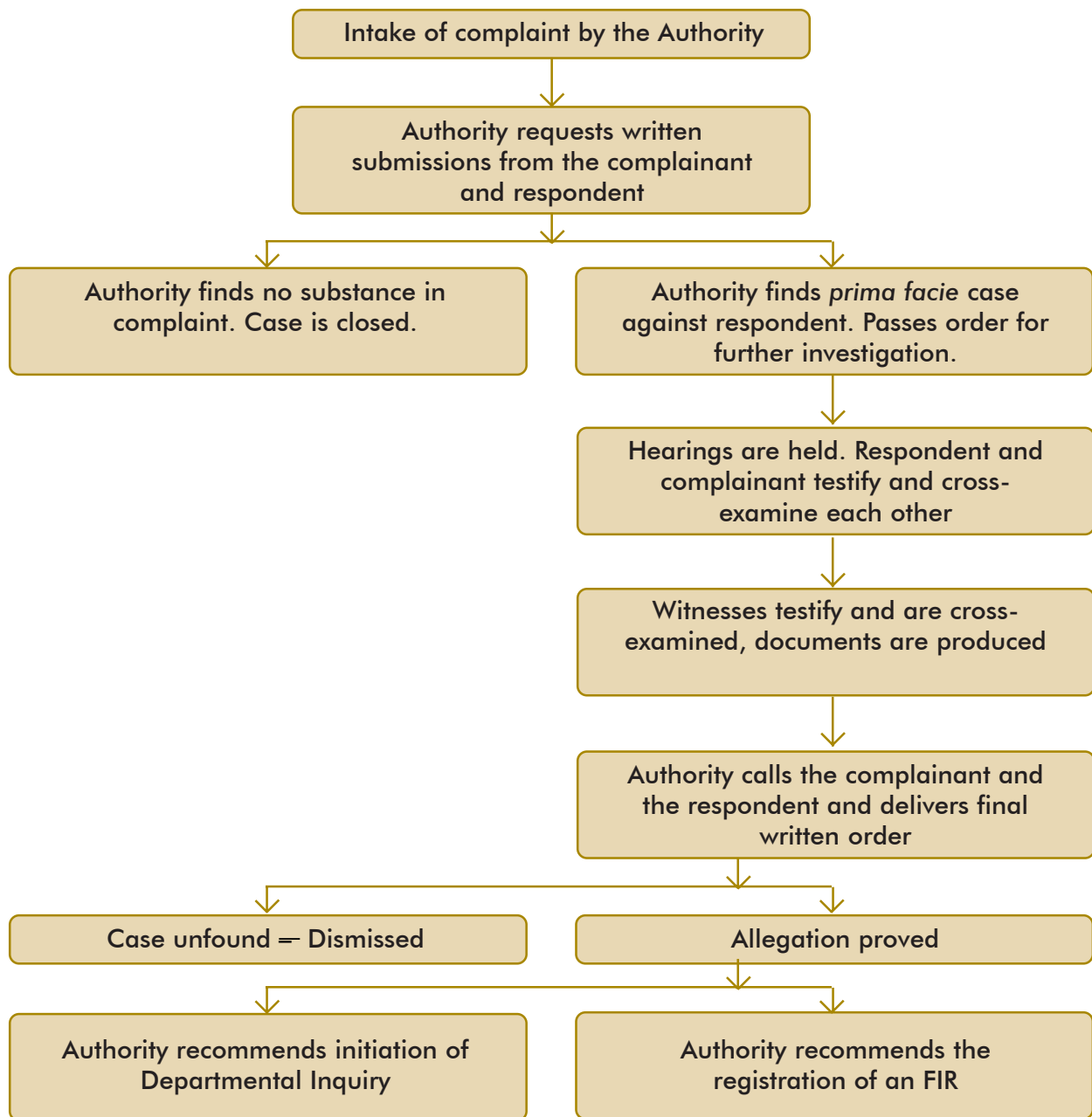
Chief of Police on the same, and even reopen cases if the complainant felt that he had not been able to gain adequate redress from the disciplinary mechanism. We emphasised that this was followed in Kerala and was also provided for in other jurisdictions. Justice Da Silva was quite impressed by this and stated that he would consider this possibility in his future rulings, despite the fact that no explicit provision for the same was provided in the government order that set up the Authority in Goa.

## **JUSTICE DELAYED**

One of the reasons Complaints Authorities were constituted was to provide a mechanism to obtain speedy redress for victims of police misconduct. A random examination of the Authority's orders, highlight, however, that the time between the filing of the complaint and the final order often takes close to, or over a year. Complaint # SPCA/02/07, filed in September 2007, was disposed in November 2008. Similarly, Complaint # SPCA/01/2008, filed in February 2008, was disposed in January 2009. Reasons for the slow pace of progress include the constant failure of one or both parties to attend hearings. At the initial stages, lack of proper office facilities also greatly hampered proceedings. The Authority's slow progress possibly accounts for complainants losing interest in taking the matter to its logical conclusion and no longer coming for hearings, a trend observed in several cases. It is perhaps an indication of the improved facilities that we now see cases being disposed more quickly. The high profile 'Madrasa Case' (explained in the next chapter of the report), for instance, was opened on 23 December 2008 and disposed on 18 March 2009, meaning that the entire process was completed in less than three months.

Other mechanisms and the courts in India have been plagued with high rates of pendency that discourage citizens from accessing them. It is hoped that the Goa Authority guards itself against this malaise and continues disposing complaints within a reasonable time frame.

## Complaints Authority: Procedure for Resolving Complaints





## CHAPTER 4

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# THE AUTHORITY'S ORDERS

This section presents an analysis of the orders, with a focus on identifying the trends in complainant profiles, types of complaints received, procedures used, and with a summary analysis of the orders given by the Complaints Authority. Select case studies are also provided.



## THE AUTHORITY'S ORDERS: A BRIEF SUMMARY

As reported to CHRI, to date, the Authority has recommended disciplinary proceedings only in two cases, and it has not yet recommended the registration of an FIR in any case. This is the picture of the complaints which have fully been inquired into by the Authority.

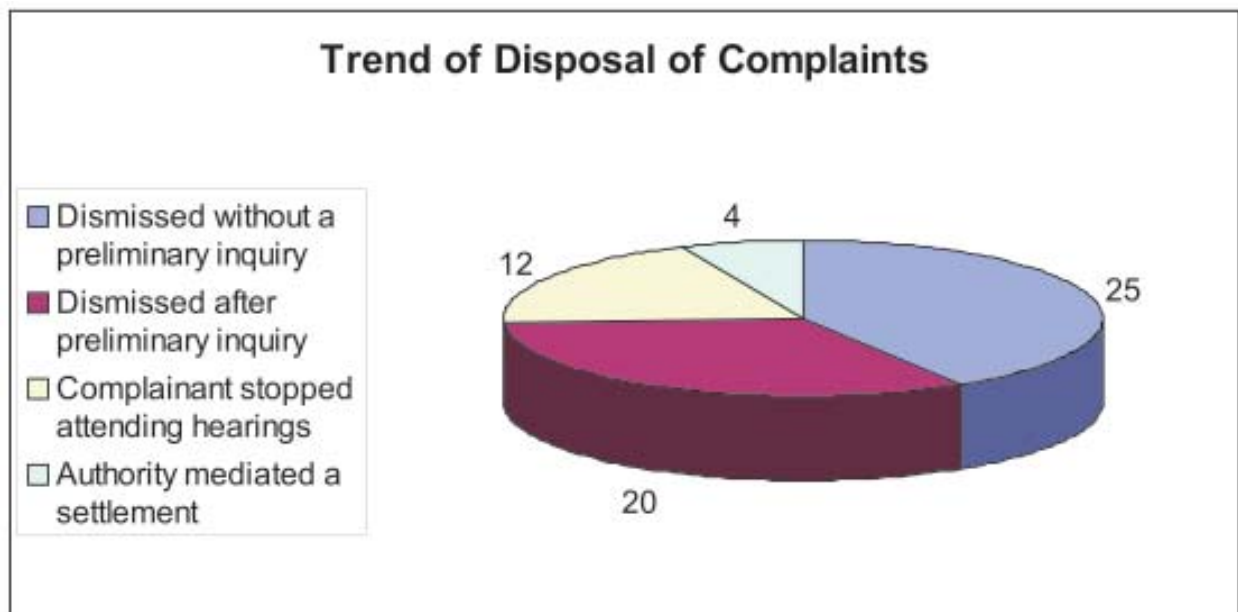
### Trend of Disposal of Complaints

On the other hand, a large number of complaints have been dismissed by the Authority for several reasons.

Twenty five cases, or the majority were dismissed at the first stage itself, before any further inquiry. In other words, in these cases, the Authority found the complainant's allegations unfounded.

Twenty cases were dismissed after further inquiry by the Authority. This was due to the fact that the Authority failed to find any substance in the allegations.

Twelve cases were dismissed because the complainant stopped attending Authority hearings or proceedings. As stated above, while we understand the Authority's frustration in such cases it has not examined why this trend is occurring. It is particularly important to find out whether complainants are being intimidated, threatened, or bought off by the police. It is highly suspicious that complainants drop out at an advanced stage of the proceedings, after having committed themselves to most of the process. If there is evidence of intimidation or settlements, the Authority must contemplate arranging for protection of complainants. This is also to be brought to the attention of the police chief who has the prime responsibility of ensuring that his officers are disciplined and not involved in criminality.



Finally, in four cases, the Authority has allowed and brokered a settlement between the parties to the complaint. While we understand that individual cases may come with certain specific circumstances which necessitate a creative approach, an over-reliance on this method begs the question whether this is the ideal course, considering that the Authority is also to effect institutional change and invigorate police accountability for malpractice.

## The Authority's Inquiries: Softening the Blow

***"My job is not to punish officers but to instil a sense of professionalism in the force."***

*- Justice Eurico Da Silva, Chairman, State Police Complaints Authority, Goa*

Justice Da Silva has clearly indicated his preference to get police officers to confess and apologise for their misconduct in front of the complainant, rather than recommend disciplinary proceedings. His reasoning was that if he recommended disciplinary or criminal proceedings, he had no way of following up on the same. Thus, he preferred his approach that prioritised "truth and reconciliation" over punishment.

The influence of this philosophy is evident from an analysis of the orders passed by the Authority. In Case # SPCA/25/2008, for instance, the Authority passed a preliminary order holding that a *prima facie* case of misconduct on the part of four police officers was established and that the matter be investigated. The case related to the failure of the respondents to register a proper complaint against those who assaulted the complainant in a Gram Sabha meeting. As the case dragged on, after a delay of seven months, the police finally filed a charge sheet against all the accused. The complainant made a submission that he "was satisfied that, although belatedly, his goal was already achieved and for this reason he had decided not to proceed any further with the matter, considering the ground realities". The Authority concurred, stating that "the very fact that the concerned officers have now realised the seriousness of their misconduct and chose to file a charge sheet against the accused, shows that the petitioner's move has produced the results which, ultimately, he had sought for and aimed to achieve, by approaching the Authority for redress".

It can be argued that the Authority, by putting the police officers under scrutiny and "naming and shaming" them, can manage, in many cases, to pressure them to do their job. It is hoped that the fear of further scrutiny by the Authority may also have a powerful deterrent effect, at least on the particular officers concerned. The fact that the petitioner left the Authority satisfied lends some credibility to the Authority's philosophy that it can be effective when it prioritises establishing truth and "righting" the wrong done rather than recommending disciplinary action against the officers concerned. In this case, the Authority reveals its deep commitment to restorative justice, stating that "we are holding the view that the Authority was constituted not to get delinquent police officers actually punished, but, instead, to discipline them and instil in their mind a sense of duty and professionalism towards the aggrieved citizens in search of redress".

Another example of this attitude is illustrated by Case # SPCA/3/2007, a very serious complaint alleging that a Sub Inspector deliberately caused a murder investigation to be slowed down by avoiding immediate arrest of all the accused involved. The Authority found a *prima facie* case against the officer suggesting serious misconduct. Subsequently, the proceedings progressed to an advanced level, with the petitioner examined and his cross-examination conducted by the respondents. During this period, as in Case/25/2008 discussed earlier, the respondents took action and filed a chargesheet against all the accused involved. The petitioner immediately “filed an application stating that...the grievances raised by him before this Authority should be deemed as having been sorted out to his entire satisfaction on account of timely intervention of the Authority”. The Authority gladly acquiesced to this, arguing that “no purpose remains to be achieved” if the matter proceeded further. Once again, the Authority seemed to be of the opinion that the best form of redress it can offer to complainants is to conduct a detailed process of scrutiny and examination and get the police officers to admit and rectify their wrongdoing, rather than slap them with any punitive action.

The Authority also operates from a clear belief that delinquent police officers can listen to reason and can be reformed. For this purpose, it behaves in a benevolent manner whilst dealing with them and eschews the confrontational approach wherever possible. This is highlighted by Complaint # SPCA/24/2008, relating to a false complaint mistakenly filed against the petitioner by a rookie policeman. In the final order, the Authority sympathetically concluded that “irrespective of the fact that his fault appears to be *documentarily established* and was also otherwise candidly admitted by him, we are still inclined to *condone* the apparent misconduct which cannot be considered a serious one, bearing in mind that the young police constable is a fresh recruit...” As such, no further action was taken against the constable after he admitted his mistake before the complainant and the Authority.

## POLITICAL COMPULSIONS: QUEERING THE PITCH?

Faced with an Authority that is slowly asserting itself and building credibility, the Goa government has decided to nip it in the bud by introducing a new Police Bill in the assembly that transfers the power of the Authority to the Lokayukta (ombudsman). But what remains even more intriguing is that at present Goa continues to lack any statutory and autonomous mechanism to deal with growing corruption in public places, i.e. no Lokayukta exists in Goa. The Lokayukta Bill is still hanging fire at the Centre, where it was sent for presidential assent in 2007.

Thus this move appears to be a convenient way for the government to undermine the Supreme Court’s orders and do away with the Police Complaints Authority as an institution altogether. If the Bill is passed as is, the hard-earned efforts of the Authority in bringing a small modicum of accountability and discipline within the Goa police will be reversed.

One must view the Authority’s somewhat sympathetic stand towards police officers and its reluctance to impose punitive measures in light of these political compulsions. Though it has been nearly a year since the bill was introduced, it continues to hang over the Authority like a sword of Damocles.

Should the Authority impose tough punishments against errant officers, it is highly likely that the police lobby will put pressure on the government to enact the current Bill and thus dismantle the Authority. The Authority thus has to walk a fine line between being faithful to its mandate and avoiding actions that would jeopardise its very existence.

Ultimately, Police Complaints Authorities have been constituted to provide a service for the public. If the complainants are content with the remedy rendered by the Authority, that is an important achievement in itself. Indeed, in many cases involving poor investigation or non-registration of FIRs, the Authority has chosen to put the respondents under scrutiny and thus pressure them into doing their job, without recommending disciplinary action against these infractions. In our view, it is positive that this approach has at least resulted in righting procedural violations in individual cases, but without the sting of disciplinary action. This approach may not produce the much desired institutional changes for which the Authority was set up.

In more serious cases of abuse of authority and police brutality, cases that the Authority has rarely been confronted with so far, it must consistently take a hard-line approach. Such cases will determine whether the Authority can make the transition from mediating to dispensing justice. There will surely one day be a victim of serious misconduct who approaches the Authority looking for punitive action against the police officer responsible for the same. In such a case, a slap on the wrist and an apology will simply not be enough. The Authority must, at those times, be true to its mandate and take the decisive action required to send a strong signal to the police that such abuse of power will not be tolerated. The “Madrassa Case” discussed below is a good example of a case that tested the Authority’s ability to function under pressure.



## CHAPTER 5

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# THE MADRASSA CASE

Of all the hundred or so cases handled by the Goa Authority, none was more controversial in nature than Complaint # SPCA/53 of 2008, hereafter referred as the “Madrassa Case”. When 84, mostly minor Muslim girls studying at a Madrassa, were verbally harassed, bundled into police vehicles and interrogated in a police station on the pretext of “Madrassa verification”, the Goa Authority was presented with a communally explosive situation.

# THE MADRASSA CASE: A MODEL FOR RECONCILIATION OR JUSTICE DENIED?

Of all the hundred or so cases handled by the Goa Authority, none was more controversial in nature than Complaint # SPCA/53 of 2008, hereafter referred as the “Madrassa Case”. When 84, mostly minor Muslim girls studying at a Madrassa, were verbally harassed, bundled into police vehicles and interrogated in a police station on the pretext of “Madrassa verification”, the Goa Authority was presented with a communally explosive situation. The Authority’s handling of the complaint against two police officers would go a long way in determining its credibility as a redressal mechanism for victims of police misconduct. The Authority’s ultimate disposal of the complaint won widespread praise by several sections of Goan society, but left many others disappointed at the nature of the remedy provided. A summary of the facts of the case, the way the case proceeded and the final order of the Authority highlights the strengths and weaknesses in the approach of the Goa Authority in the face of extraordinary public scrutiny.

## The Facts of the Case

The two Madrassas concerned, Jamia Ahle-Sunnat Asharafiya and Ashrafal Banat are registered organisations involved in providing the service of educating girls from the lower economic strata of the Muslim community. The Association cooperated regularly with the police authorities with regard to providing information about the number of students and the teaching faculty. On one such routine verification, the police had sent “Stranger Roll” forms to be collected on 15 December 2008, which were duly prepared and kept on file. On the next day, however, the respondents – the Deputy Superintendent of Police, and the Police Inspector entered the Madrassa and used abusive language, indicating that the institution was “a breeding ground for terrorists”. The police forced all the 84 girls, the youngest of whom was barely a ten-year-old child, to come out of the Madrassa and board police vehicles which took them to the Vasco Police Station. Neither a search warrant nor an arrest warrant was produced. After holding and interrogating the girls for over three hours, they were sent back to the Madrassa.

The President of the Association of All Goa Muslim Jamaats lodged a complaint with the Complaints Authority on behalf of the girls. In his written complaint, he indicated that “the action on the part of the police was uncalled for and has instilled fear among the students”. He demanded that “an inquiry be conducted to find out why such harassment was meted out to the little girl students...and also why they were bundled away to the police station like hard core criminals, this despite the long history of co-operation with the authorities”. Condemning this action, he demanded immediate suspension of both police officers involved in the affair.

The respondents, in their replies maintained that their verification drive was part of an ongoing process designed to combat terrorism and was applied to persons “irrespective of caste, colour, creed or religion”. They denied that they used abusive language and stated that their actions were correct, legal and performed by them in the interests of national security.

## Proceedings Before the Authority

After the case was filed on 23 December, the first hearing occurred on 19 January 2009. Both the complainant and respondents were present and made their submissions. Even as the hearings were ongoing, both respondents were transferred to another police station in Vasco. At the hearing on February 10, 2009, Justice Da Silva observed:

*“In view of the special circumstances under which the unfortunate incident allegedly occurred and the sensitivity of the issue which had raised so much heat in the press and in public opinion at large, the Authority became apprehensive that any further open follow up of the proceedings could provoke some sort of communal outrage, likely to disturb peace and tranquility in the area.”*

At this point, the Authority changed track and started to play the role of *mediator* rather than adjudicating and making a determination based on the facts. Justice Da Silva held a meeting with both parties “in order to assess the situation and make an attempt to arrive at a common platform”. After the meeting, the Authority observed that it was satisfied at the “genuine willingness of both sides, to work out a honourable solution and forget the misunderstandings cropped up.” From then on, the Authority chose to act only as a facilitator in order to guide and help the parties achieve a settlement.

## The Settlement

On 5 February, both parties formally agreed on a written settlement. Both respondents withdrew their earlier submissions that denied their high-handed conduct. In addition, they tendered both verbal and written apologies to the complainant for their conduct, which were accepted in a spirit of reconciliation. In particular, the Deputy Superintendent stated that he “truly regretted his actions and feels ashamed of his behaviour”. The Authority ratified the settlement.

In his final submission before the Authority after the settlement was ratified, Sheik Ahmed stated the following:

The acceptance of an apology in this instance should not be seen either as an act of weakness or fear on the part of the Muslim community. Further acts such as these on the part of the police should be dealt with a high degree of severity so that the punishment serves as deterrence. Having stated the above, we wish to express our deep appreciation to you, Honourable Chairman of the State Police Complaints Authority for your kind understanding of our situation. *Such attitudes among people of your eminence gives us hope that the ideal of a secular India is still possible.*

## An Analysis of the Order

It is clear that the Authority’s actions in the Madrassa Case were largely influenced by extraneous factors, i.e. the press highlighting the case and the fear that a verdict either way would create a communal



backlash against the “losing” side. In this sense, the Authority prioritised peace and reconciliation over justice, and abandoned its mandate to examine the facts and give a reasoned judgement.

True to his ideology and philosophy, Justice Da Silva facilitated almost unprecedented public apologies by police officers in front of the victims. This, it can be argued, is a form of restorative justice along the lines of services provided by Truth and Reconciliation Commissions around the world. Certainly, it pleased the petitioners and provided some sort of closure to the sordid affair.

Yet, other observers we met in our consultations in Goa were far from happy with the outcome. It was felt in some quarters, that the Complaints Authority succumbed to the pressure of the case being in the public spotlight and the fact that the dispute was framed as a communal issue between Hindu policemen and Muslim victims. The Supreme Court stated clearly in the 2006 *Prakash Singh* case that “where on account of acts of omission and commission of police, the rule of law becomes a casualty, the guilty police officers (should be) brought to book and appropriate action (should be) taken without any delay.” If the alleged misconduct did take place, as *prima facie* evidence clearly indicates, then one is left to question whether it befits the Authority to let the police officers off the hook with just an apology. The “special circumstances” surrounding this case are by themselves insufficient for the Authority to abandon attempts to adjudicate, and decide to mediate instead. Whether its final order would potentially lead to unrest should not be grounds for the Authority to go beyond its mandate. Nowhere in the government order or the *Prakash Singh* judgement is it permitted for the Authority to broker settlements or act as a mediator. If every court in India capitulated in fear that its judgement in sensitive cases would lead to communal riots, victims would lose faith in the courts’ ability to dispense justice without fear or favour. It is the duty of the police and security forces to maintain communal harmony and law and order. The Complaints Authority as an institution should not worry about the consequences of its orders. Where misconduct has been proven, it must recommend disciplinary action. Similarly, where it has grounds to believe that a police officer has committed an offence, the Authority must recommend criminal prosecution of the same.

The Madrassa Case is illustrative of both the strengths and weaknesses of the Goa Complaints Authority. The immense respect commanded by Justice Da Silva by all sections of Goan society ensured that the case was disposed in a way that pleased the petitioners without unduly punishing the respondents. Da Silva’s preference for mediation over punitive action ensured that reconciliation was achieved and peace was maintained. The victims, in their own words, got redress from the Authority and expressed satisfaction in the order. The precedent set by this case, however, is worrying. Considering that Complaints Authorities in India are nascent institutions, there is every chance that police officers may end up seeing the Authority’s decision as a sign of weakness and continue to behave in a high-handed manner that does not benefit them. Complaints Authorities must be unafraid to take the tough decisions that need to be made to effectively confront the well-entrenched culture of impunity in the Indian police.

## CHAPTER 6

# WHERE TO FROM HERE?

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This section presents an analysis of the orders, with a focus on identifying the trends in complainant profiles, types of complaints received, procedures used, and ends with a summary analysis of the orders given by the complaints authority. Select case studies are also provided.

## Conclusion

Complaints Authorities do not exist for their own ends but rather are a tool for governments to achieve a safe and just society. They exist to ensure and maintain public confidence in the police. Worldwide, where they exist, Authorities do this by inquiring and investigating public complaints against police of alleged misconduct or neglect of duty and assessing police compliance with relevant policies, procedures and practices.

Independent oversight is crucial to a state like Goa where the police are seen as highly corrupt and hand in glove with the mafia. If properly implemented, independent oversight can provide the assurance that questions of misconduct and neglect of duty will be properly dealt with.

In terms of a larger national picture, the mere fact that the Goa Police Complaints Authority is set up on the ground, and is inquiring into complaints, is a significant achievement, as Goa is one of only five states which have operationalised Complaints Authorities. CHRI commends the Authority, particularly the Chair, for persevering through the lack of resources, and especially for challenging the brief non-cooperation of the Goa Police. This was a strong and positive precedent set to compel police cooperation with Complaints Authorities.

Moreover on an objective analysis of the Goa Authority's working, CHRI wishes to call attention to several weaknesses in the Authority's performance so far. CHRI is deeply concerned that the Authority is not recommending disciplinary or criminal proceedings, even when the Authority itself concludes that there is a *prima facie* case against the officers involved. We have pointed out to the Authority that other states have legislated and found ways for Complaints Authorities to monitor the status of disciplinary proceedings after issuing their final order. CHRI strongly recommends that the Goa Authority no longer uses this as a reason not to order punitive action. To reiterate, CHRI also recommends that the Authority takes steps to determine why complainants stop appearing at hearings and proceedings, and also suggests that the Authority advocates and discusses with the police administration and state Home Department to take practical steps to improve police investigation.

Considering that the Complaints Authority is a nascent institution, there is considerable risk that police officers will see the Authority's mild decisions as a sign of weakness. Taking into account the police's tremendous insulation from effective accountability, a perceived "soft" Complaints Authority will be unable to prevent police officers from continuing to behave in a high-handed manner that does not befit them, or aid them in delivering the kind of policing the public wants and deserves. Complaints Authorities must be unafraid to take the tough decisions needed to effectively confront the well-entrenched culture of impunity in the police. The Goa Police Complaints Authority is vested with the power to hold the police accountable. It is a matter of using it properly and effectively.

## Recommendations

If the Authority is to achieve its mandate of enhancing and ensuring public confidence in the police, it needs to enhance its performance as indicated above. CHRI suggests the following:

### Independence and Accountability of the Authority

The Authority must demonstrate that it is independent in its day-to-day operations. It cannot be told how to handle an investigation, or what the outcome of any investigation should be. Further, the Authority can also assert its independence by making policy interventions toward police reform, for instance, recommendations on strengthening police investigation, for complainant/witness protection, or to combat police corruption.

The Authority is taxpayer-funded and it must account to the responsible minister and to the state assembly for its use of those funds. This accountability can be provided through an annual report to the state legislature, which sets out the Authority's budget and performance measures against which its operations can be judged and finally reporting and analysis by the Authority on how it has performed against its budget and performance measures. These reports must be easily available to the public and where public interest demands the Authority must make proactive efforts to do the same.

### Publicity

There is still little awareness of the existence of the Authority and its mandate. If the public is not aware that these bodies exist, and they do not have the proper information concerning their mandates, the Authorities will continue to be under-worked and run foul of their mandates.

The Authority needs to make renewed efforts to raise public awareness of its presence, role, functions and activities. This can be done by information pamphlets, community public meetings and reports of the same.

### Action on Complaints

The Authority currently relies on the police even for preliminary inquiries. It has no facilities for an independent investigation by itself. In view of this, it is crucial that when a complaint is referred to the police for investigation, the Authority should take steps to ensure that the investigation is carried out properly. This may include directing or actively overseeing the police investigation, reviewing or auditing once it is completed, and calling for regular action taken reports from the police. Particularly in cases where the Authority recommends departmental action, it should call for a periodic report from the chief of police on the progress and outcomes of all departmental action.

## Independent Investigators

It is the Authority's responsibility to promote strong public confidence in the services provided by the police. As one of the few organisations outside police with the responsibility for inquiring into police misconduct and establishing whether the actions, procedures and policies of the police are appropriate, it is critical that the Authority's work is, and is seen to be, independent of police influence.

At present, because the Authority lacks adequate resources of its own, it is largely reliant on the police to undertake complaint investigations on its behalf. Involvement of the police in the authority's processes has the potential to be seen by the public as a conflict of interest, and thus diminish the perceived independence of the Authority.

The Authority should take every opportunity to exercise its independence transparently by undertaking its own investigations of all serious incidents. The Authority should possess the ability to carry out its own investigations, to independently oversee police investigations and to conduct its own reviews – all without undue reliance or assistance from the police.

Availability of independent investigators will ensure that the Authority's investigation are seen as impartial and fair. The fundamental importance of both actual independence and perceived impartiality of the Authority cannot be over-emphasised.

## Speedy Disposal of Complaints

It should be a paramount obligation of the Authority to place strong emphasis on the need to eliminate the legacy of a complaints backlog and put in place initiatives to enable speedier and more effective methods of disposal of complaints. These initiatives need to be supported by a proactive communications strategy, and specific means for raising public awareness of the Authority's work.

In the interests of both the complainant and the officers concerned, the Authority needs to be conscious that inquiries are completed as quickly as practicable and without unnecessary delays. Consideration needs to be given to setting fixed inquiry completion deadlines, by limiting avoidable delays and ensuring that correct resources are available. The Authority could also report on average completion times in annual reports to help assess how standards are being maintained.

## Witness Protection

From an analysis of the Authority's orders it was observed that a large number of complainants stopped attending the hearings of the Authority midway. This could not be attributed to mere coincidence.

The role of a witness is paramount in the complaints process. The Authority should make every effort to discover why complainants back out. This should also be brought to the notice of the chief of police. If found necessary, all efforts should be made to secure protection for the complainants.

To protect the integrity of Authority, it is imperative that complainants be protected against retaliation when reporting allegations of misconduct to the Authority. The Authority must affirm that retaliation will not be tolerated and requires the most stringent discipline. Going forward, the Authority may recommend that police officers proven to have retaliated against someone for bringing an allegation of misconduct to it be terminated from employment.

## **Rule-Making Powers**

Experience shows that in the absence of rules/guidelines for effective functioning, the Goa Authority may be rendered useless. The Authority need not depend on the government to draft and frame rules. Considering that an informal procedure for resolving complaints was devised by the Authority CHRI recommends that these be elaborated into formal rules and handed over to the government to be notified at the earliest. This will ensure the smooth functioning of the Authority.

## **Working Relationship with the Police**

It is necessary for the Authority to have regard for the internal disciplinary and reform processes implemented by the police. It is both compatible with the principle of independence and in the public interest for the Authority and the police to work constructively together to ensure the success of police reforms. Developing a formal protocol that defines the working relationship between the police and the Complaints Authority will allow independent inquiry and oversight by the Authority, whilst recognising that the police have the primary responsibility for the investigation of crime.

# ANNEXURE

## GOA GOVERNMENT ORDER

◆◆◆  
Department of Home

Home-General Division

### Order

No. 2/51/2006-HD(G)

In pursuance of the directions issued by the Hon'ble Supreme Court of India in its judgment delivered on 22-9-2006, in Writ Petition (Civil) No. 310/of 1996, in the matter of Prakash Singh & Ors. versus Union of India and Ors., the Government of Goa hereby constitutes a State Level Police Complaints Authority consisting of the following, with immediate effect:-

- 1) Retired Justice Dr. Eurico Santana da Silva - Chairman
- 2) Shri Nober Moraes - Member
- 3) Professor Sant Kumar B. Bhat - Member
- 4) Mr. M. G. Naik - Member

The State Level Police Complaints Authority may utilize the services of retired investigators from the CID, Intelligence, Vigilance or any other organisation for conducting field inquiries.

The State Level Police Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody.

The recommendations of the State Level Police Complaints Authority, for any action, departmental or criminal, against a delinquent Police Officer shall be binding on the concerned authority.

By order and in the name of the Governor of Goa.

Dr. Dilraj Kaur, Special Secretary (Home).

Porvorim, 3rd April, 2007.









# 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. Accordingly, in addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

## HUMAN RIGHTS ADVOCACY

CHRI makes regular submissions to official Commonwealth bodies and member governments. CHRI conducts fact-finding missions periodically. Since 1995, it has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit ensures that human rights issues are in the public consciousness.

## 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. CHRI 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 interference.

**Prison Reforms:** CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pretrial 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. We believe 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.

In April 2007, the government of Goa announced the setting up of a Police Complaints Authority at the state level. It has little resemblance to what the Supreme Court had directed in terms of its composition or mandate. The Court had envisioned an agency that would be independent of the police and the government with people on it selected carefully through a procedure that was open and transparent and not one that had government nominees. In the Goa Authority this is at a discount.

If the Authority had the diversity of skills, life experience and professions on board it could bring new perspectives into looking at how the police handled complaints to the public. If these safeguards were put in place the Complaints Authority could go on to repair the systemic weaknesses in the police, slowly improve police behaviour and most importantly gradually shed the distrust in the public of the police.

The present report gives a broad and holistic analysis of the functioning of the Goa Police Complaints Authority. The report ends with a set of recommendations for the government as well as the Authority that will help towards the strengthening of the Authority. We do hope that the Goa government and the Authority takes these recommendations seriously because a weak Police Complaints Authority will do more harm than good not only to its image but to the possibility and pace of change for the better.



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