

Police reform: An exchange of experiences from South Asia

Roundtable report



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Introduction

Police reform is at a critical juncture in South Asia. South Asian communities have suffered for too long at the hands of police who are brutal and partisan arms of ruling governments. Bangladesh and India have the dubious distinction of being home to the oldest policing laws in the Commonwealth – both date back to 1861. Sri Lanka is not far behind, with an archaic 1865

“The roundtable – the first opportunity for South Asians to sit together and talk about policing – is absolutely key to getting a conversation going on police reform and accountability in the region.”

– Maja Daruwala, Director of CHRI

Police Ordinance. While Pakistan has a relatively new law – it replaced its 1861 Act with a Police Order in 2002 – the Maldives does not have even have legislation to govern policing. The time has come for real change and reform.

All of the countries in Commonwealth South Asia are grappling with issues of police reform. In Bangladesh, the government is embarking on a wholesale overhaul of the police laws and infrastructure. In India, a drafting committee has put together a new Police Act, while the Supreme Court

has required governments to implement accountability. In the Maldives, police laws are on their way, along with independent oversight mechanisms to ensure police accountability. In both Pakistan and Sri Lanka, governments are working towards transforming the police – and in Pakistan, this process is taking place across the criminal justice sector.

The Commonwealth Human Rights Initiative (CHRI) has been working on issues of police reform and accountability in India and across the Commonwealth for over ten years. On 23 and 24 March 2007, CHRI hosted a roundtable for South Asians to come together and exchange experiences of police reform, in recognition of the important role that police reform has in furthering the development of democracy and good governance, the promotion and protection of human rights and the growth of an efficient and effective criminal justice sector in South Asia.

The roundtable brought together lawyers, academics, journalists, police officers, government officials and human rights practitioners from across the five Commonwealth countries of South Asia – Bangladesh, India, the Maldives, Pakistan and Sri Lanka. The roundtable aimed to examine current challenges and debates on police reform in the region and to look at some of the best practices from around the globe. As well as a forum for open discussion and debate around challenges and experiences, the roundtable included a focus on existing and possible mechanisms to create stronger police accountability.

“Each of the countries of Commonwealth South Asia share similar policing backgrounds, and face similar challenges. Talking through these challenges within the context of each different country’s particular situation and looking for ways to support one another and the reform movement in South Asia is a big step towards giving the people of South Asia the police that they want and the police that they need and deserve.”

– Maja Daruwala, Director of CHRI

The roundtable opened with an address by Mr Shivraj Patil, the Minister of Home Affairs in India. Mr Patil emphasised the critical importance of police reform in South Asia and shared his vision for the future of policing in India. On the first day of the roundtable, delegates were given an opportunity to raise their concerns about policing in their own country, while police reform initiatives in each jurisdiction were also considered. Common problems and approaches were identified. The first day also included a session on police-executive relationships in South Asia and a consideration of international good practice on police-executive relationships.

The second day of the roundtable opened with a discussion on police accountability in South Asia, and then moved to a session on international examples of effective civilian oversight of the police. The final session of the conference aimed to take the debates of the roundtable

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from rhetoric to reality; delegates looked at the role of civil society in the police reform process and then break-out groups put together plans for moving the reform process forward in each jurisdiction.

The first section of this report sets out a summary of the debates and discussions from the roundtable. The remainder of the report provides background information – the roundtable agenda, a media release circulated prior to the meet and the concluding statement and recommendations settled by the delegates.

The roundtable was a first step towards building a strong, regional network of informed, active and supported reform advocates. In mid 2007, CHRI will release a report on police accountability in South Asia, to sit with its sibling publications on police accountability in Kenya, Uganda, Tanzania and Ghana. CHRI will continue to work with the friends and partners it made during the roundtable, and will also continue to encourage those friends and partners to work with one another, as reform processes in South Asia go forward and South Asians get closer to the police that they want.



1. Roundtable report

This section sets out a chronological summary of the presentations, discussions and debates during the roundtable. For reference, an agenda is included in section 3. Presentation papers and associated PowerPoint presentations are available on the CHRI website (www.humanrightsinitiative.org).

1.1. Opening session – What ails policing in South Asia?

The opening session of the roundtable focused on the key causes of problems in policing, the main complaints members of the community had regarding the police and the major problems that police face when performing their duties. The aim of the session was to provide an opportunity for participants to table their concerns about policing and to raise awareness about the concept of democratic policing.

The session demonstrated that people have the same concerns about policing across all five countries, despite huge differences in policing structures, police strength, population, geographical area and context. These concerns covered the way the police are perceived, the way the police function and the constraints and challenges that the police face.

The problems of policing

The main complaints identified by participants about police were:

- brutality and misconduct;
- corruption;
- failure to perform basic tasks;
- refusal to register complaints;
- poor investigation skills (leading to low conviction rates);
- excessive use of force;
- complete insensitivity to public grievances and complaints;
- lack of accountability; and
- increasing politicisation of the police.

Discussions on the key causes of problems in policing focused on a lack of investment in proper training, poor service conditions and state unwillingness to provide financial and human resources to the police. Political interference with police functioning - where in many cases officers are used as order enforcers rather than law enforcers - also leads to unsatisfactory and discriminatory policing. Many participants felt that there has been a decrease in the overall quality of governance, and this is reflected within police ranks. Outdated laws and practices, coupled with corruption, and the gap between the community and the police contribute to the rot that has set in across the system. The absence of any efficient and transparent mechanisms of police oversight has created a situation where police feel they are above the law. In Sri Lanka, militarisation of the police has created huge problems of accountability.

The police and the political establishment both resist reform. Participants recognised that officers face serious constraints in performing their functions efficiently and without bias. Indeed many of the causes of bad policing listed by the participants were also considered to be constraints faced by police – examples ranged from political interference and lack of resources to public pressure for immediate arrest and a lack of public trust in the police.

The Union Home Minister of India, the Hon Shivraj Patil, also shared some of these concerns in his inaugural address. "The police should be the protectors, philosophers and friends of people in society," explained Minister Patil, "Do the community see it like that? No." The Minister also listed constraints faced by the police who he considers "are overburdened; the police to population ratio is not satisfactory and needs to be increased... We need to inspire the police to perform their duties in the best possible manner. It is to be examined by the society how they should be rewarded (and how to acknowledge the good things they do) and how to punish them for the wrong things they do."

Tying together the discussion in this session, Maja Daruwala, the Director of CHRI, stressed that evidence of the need to reform is unquestionable; commenting that "We cannot pretend the police today perform, whatever their constraints are. We cannot say that what the police are

doing today is presently satisfactory to the public at large.” Ms Daruwala insisted that the police must not be a force that looks only at law and order; it must be a service that looks to the community. It must be viewed as an essential service and therefore the investment in the police must be of the same kind that the state makes in electrification, in having clean water and in having proper pollution control.

Police officers are the protectors of their constitutions. An officer’s role is more than just preventing crime; it is also to create a security environment that allows members of the community to exercise their democratic rights. The participants looked at how the police can be changed to allow them to fulfil this mandate and identified the creation of checks and balances, the articulation of a vision and mandate, and the insulation of the police from illegitimate political interference with their operational functioning.

This debate led to a discussion of the role of politicians in policing. Maja Daruwala emphasised the importance of defining the powers of politicians and the powers of the police. Politicians have the responsibility to provide good policing and provide the community with a safe environment and to ensure this through good policy. After the policy has been set, the implementation of the policy must be left solely within the domain of the police organisation.

The delegates noted that although there is a wide range of accountability mechanisms in place, they are weak and ineffective, and that this has allowed bad policing to continue. Delegates also noted that parliamentary oversight is also weak.



1.2. Session 2: Police reform initiatives in South Asia

This session looked at the current policing situation in each of the countries in Commonwealth South Asia. A representative from each country made a presentation on the political context surrounding policing, police reform initiatives that are currently underway and obstacles to reform being realised. The aims of this session were to examine where issues are common across all jurisdictions and where there are individual country differences, to explore each country’s political context and the impact that has on the reform process and to provide an overview of police reform initiatives and impediments to the success of the initiatives.

The presentations and discussions during the session highlighted that each country has begun to walk a police reform path in some way over the past few years. In Bangladesh and Pakistan external donor agencies (the United Nations Development Programme and the Asian Development Bank respectively) were instrumental in sparking the reform movement. In India, the Supreme Court has had a lead role in the push for police reform. In the Maldives, international pressure has played a critical role in getting the government to set out a broad reform agenda aimed at securing true and effective democratic governance, which includes police reform plans.

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Participants unanimously declared that lack of political will is a major hurdle to any process of reform. This means that reform recommendations are either subverted or not implemented. For example, in Sri Lanka, a constitutional amendment passed in 2001 (known as the 17th constitutional amendment) put in place excellent oversight mechanisms for the police. One of these mechanisms, the National Police Commission, was set up and was doing good work ensuring that officers worked in an unbiased manner, without undue political pressure. Unfortunately, by 2006, the entire process was subverted by the President, who ensured that the members appointed to the Commission (and other constitutional bodies) were pliant and loyal to the regime in power, rather than to the Commission or the Constitution. This subverts the entire notion of accountability.

Another impediment to reform identified was a lack of financial and human resources to support a reform agenda and process. At times, this was a genuine lack of resources within the state, and at other times this was because of a lack of government commitment to good policing.

Participants recognised that there is no escaping that while the courts and other state bodies are a key part of the accountability web and must monitor police and police reform, public involvement is key to both effective accountability and effective reform. Civil society must be provided the space to engage with reform processes and given the opportunity to monitor implementation of reforms.

Civil society needs more than just space to work effectively, however. Delegates discussed the role of civil society in pushing for reform and considered why civil society involvement with the policing advocacy and reform process has been limited. Participants agreed that civil society is not a homogenous entity; groups may be from a wide range of backgrounds and contexts and may have a particular political stance – not all civil society has a civil liberties perspective. A participant noted that public opinion is a complex issue and where it is ill-informed it becomes a part of the problem rather than the solution. Delegates from Pakistan pointed out that the military regime – and not the democratic governments or public pressure – introduced provisions for public oversight over the police. An interesting observation made was that while democratic governments were resistant to reform, those governments that were not chosen by popular mandate (the “military dictatorship” in Pakistan and the caretaker government in Bangladesh) were more proactive and willing to put in place police and other administrative reforms. It was suggested that this might be an attempt to prove legitimacy.

Northern Ireland – Experience of reform

The Northern Ireland experience teaches that a reform process that brings about sustainable, democratic policing requires:

1. A clear vision for reform and political will;
2. A comprehensive reform agenda, including good law, good training and culture change within the police organisation;
3. A recognition that policing cannot be separated from larger criminal justice reform; and
4. A constant review of the reform process. In Northern Ireland, the Independent Commission on Policing for Northern Ireland (known as the “Patten Commission”) set out a roadmap for change, but it is the inbuilt independent review mechanisms that have kept police reform on the agenda.

1.3. Session 3: South Asian experience of police-executive relationships

In this session, presenters from each country sought to explore the relationship between the police and executive, both in law and in practice. Presenters also looked at any government or committee reviews of the relationship and the recommendations of any reviews. The aim of the session was to understand the nature of police-executive relationships in South Asia, identify if and how the relationships pose a problem to good policing and to generate debate on how to address any flaws in the relationship.

Participants discussed the serious problem of illegitimate political interference in policing, which all the countries in region are facing. Police are used to oppress political opponents both during

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election periods and at other times. In the Maldives, where there is no Police Act or any law governing the functioning of the police, there has been no debate or discussion around illegitimate political interference and the police work on the instructions of the executive. In the other countries, more than one committee set up by the government has pointed out that the government interferes illegally with the police functioning and that transfers, promotions and disciplinary action are used as tools to bend police officers to the government's will. In Sri Lanka, where the Director of the Criminal Investigation Department (CID) refused to bend to political pressure and failed to arrest the editor of a newspaper, in contravention of direct orders from the government, he and other officers were transferred overnight. The fact that the CID is one of the elite branches of the Sri Lanka police made no difference to the government, as it made a strong statement that if the police fail to toe their line, they are out of their office.

The failure of the law to clearly delineate the roles and responsibilities of the police and the executive continues to cause problems for people who get caught at the wrong end of partisan politics, whether it be communal riots or in a matter as simple as getting a complaint registered. Pakistan is the only country in the region with new legislation that defines the scope of the government's superintendence over the police as limited to ensuring that the police perform their duties efficiently and strictly in accordance with law.

Delegates also discussed processes and mechanisms that can be put in place to improve police-executive relationships and considered the reasons that these mechanisms have not been put in place in South Asian jurisdictions. A lack of political will again emerged as the highest hurdle to reform. Participants stressed that the public has to apply the right pressure and keep flagging police reform as a priority issue for the community. A participant noted that democracy is a game of electoral politics and politicians will not change any system that favours them unless it affects their votes. Delegates agreed that civil society must work hard to create awareness about the police-executive relationship in the public domain and create urgency for politicians to push through reform through public pressure. Delegates also recognised that the media is integral to creating awareness and monitoring the implementation of the reform.

1.4. Session 4: Getting the balance right – international experiences

The fourth session built on the discussion of police-executive relationships by looking to international good practice for guidance. The session aimed to reflect on international experiences and models of healthy police-executive relationships.

Professor Stenning, from the School of Criminology, Education, Sociology and Social Work at Keele University, led the session with a presentation on the ingredients for a healthy police-executive relationship. He ran through three strategies designed to address the relationship between police and governments. The first involved “excluding government ministers from involvement in decisions with respect to the hiring, assignment, deployment and promotion of individual police officers”. Such “decisions with respect to all but the most senior officers of a force...were to be the prerogative of the head of the police service.” Although “such restrictions on governmental interference in internal personnel decisions remain in place in most Commonwealth police services”, participants agreed that South Asia is not part of this happy majority. The second strategy identified by Professor Stenning is designed to more directly insulate the police from the influences of partisan politics. Professor Stenning explained that it “involves the interposition, between the police and elected governments, of more or less “independent” police governing authorities composed of a majority of non-elected, appointed officials. Most commonly called “Police Commissions” or “Boards of Commissioners of Police”, such bodies were granted considerable autonomy from direct governmental supervision in determining policies and making regulations for their police forces, and determining what budgetary and other resources were required for them.” The third and final strategy – or rather the concept to assist exploration of the relationship – is the doctrine of “police independence”. Police independence is not a universally accepted or understood term. In Professor Stenning's view, the broader interpretations are that the “police are not only to enjoy immunity from political (governmental) direction and control with respect to their law enforcement duties, but also immunity from political accountability”. These broad interpretations have been subject to criticism on the basis that while police immunity from government direction and control with

respect to its law enforcement function may be justifiable in a democracy, complete immunity from political (and particularly parliamentary) accountability is not possible. Professor Stenning noted that, from the point of view of democratic principles, the greater the political independence that police are accorded, the greater the need for effective political accountability is.

Democratic policing in undemocratic societies – roles and possibilities

Delegate debate included a discussion of the incongruity of using the models and ingredients suggested in an authoritarian context and understanding the finer nuances of operational responsibility as opposed to operational independence. Participants from the Maldives and Sri Lanka pointed out that the situation in their countries is that authoritarian governments are in power, and these governments misuse their powers for their narrow partisan interests.

A Sri Lankan participant observed that 10 years ago the ingredients suggested by Professor Stenning would have appealed, but he went on to say that today's executive is virtually exempted from any kind of accountability– with no accountability to parliament or to the judiciary. This absolute immunity makes a mockery of the idea of accountability mechanisms. "Communities want good policing irrespective of whether they are live in a democracy or under a dictatorship." Participants looked at the need for a different kind of discourse on police reform and police-executive relationships under authoritarian or undemocratic regimes. Delegates from India noted that the Indian context fell between democracy and autocracy; democratic institutions are in place on paper but they have been so badly perverted that they are no longer democratic.

This led to a broader discussion about the place of democratic policing within the context of non-democratic governance. Professor Stenning pointed out that "the bottomline is that my proposals are for democratic policing in a democratic society. Obviously, you cannot have democratic policing in a society which is not a democracy." He pointed out that certain authors (including David Bailey and Mercedes Hinton) have raised interesting questions in recent work that reflect the classical chicken and egg situation. "They observe that whilst it may be true that you cannot have a democratic police in an undemocratic society, it may also be true that you cannot have a democratic society without a democratic police and that it is a conundrum that I don't think anyone has found a clear answer to."

There is no simple answer to the transformation of a dictatorship to a democracy. However, there are examples in the Commonwealth where relatively democratic policing has been achieved in formerly undemocratic jurisdictions, including Northern Ireland and South Africa. Both these countries achieved reform at a given historical moment where the need for change was immense and inevitable – in South Africa during the transition from an apartheid state to a democracy in 1994 and in Northern Ireland as a result of the peace process negotiated by the Irish and British governments, which provided an opportunity to rethink democracy and democratic policing in Northern Ireland. Maggie Bierne from Northern Ireland mentioned that political change in Northern Ireland was intimately linked with the pressure for policing change.

Delegates reviewed the importance of buffer bodies that sit between the police and the executive. Maggie Bierne drew on her experience in Northern Ireland and felt that these bodies – that have both political and civil society representation – have worked well to balance the relationship between the government and the police. Professor Stenning took a more sceptical approach. While he accepted that these buffer bodies are considered good models to balance police-executive relationships, he was still of the view that "the cost you pay for these bodies in terms of insulating the police from undue political influence is some times outweighed by the cost you pay for effective police accountability. The trouble is if you put in an independent authority in between the process how do you hold the independent authority accountable. So you have simply shifted the problem up a level and that's because you still have the problem of how do you hold the police commissioner or the state security commission and others accountable under democracy. Of course the way you do it is through the ministers. So the question becomes the relationship between the minister and the body as opposed to the minister and the police."

The discussions around the relationship between the police and the executive highlighted the difficulties of police reform in the South Asian context of authoritarian governance. This means that basic foundation assumptions have to be rethought and recast. It also means that even where a problem has been identified and a solution found, overwhelming resistance can either kill or subvert reform. Discussion focused heavily on the role that civil society and the media can play to pressure governments to institutionalise and implement reforms.

1.5. Session 5: Who polices the police? A discussion on accountability

Session 5 looked at police accountability mechanisms in South Asia. The session began with a focused discussion around current police accountability systems and a consideration of the difference between the role of the mechanisms on paper and the impact of the mechanisms in practice. This was followed by presentations from Indian and Sri Lankan delegates on the role and effectiveness of civilian oversight agencies in place in their jurisdiction (the National Police Commission in Sri Lanka and the Human Rights Commission in India). The aims of the session were to examine current police accountability systems in South Asia, debate the reasons for the gap between intent and practice and explore the role and effectiveness of specific police oversight bodies through case studies.

Discussions around police accountability – key issues

Professor Stenning outlined three key issues that need to be considered in any discussion around police accountability.

1. There is a trend worldwide to view accountability as plural rather than as singular. This means that true accountability is accountability to more than one body and different kinds of accountability to different kinds of bodies. States need to put in place a suite of accountability mechanisms that deal with different kinds of problems ranging from political accountability and legal and judicial accountability to administrative accountability. In addition, special purpose bodies (including police complaints commissions and coroners inquests) should be put in place as required. Direct public accountability is key and can be assured using effective freedom of information legislation.
2. Different accountability needs should be served by different accountability mechanisms. For example, systemic organisational failings within a police service should be dealt with by a different mechanism than a complaint of misconduct made against an individual officer.
3. Accountability is no longer thought of in purely punitive terms. Accountability does not mean identifying a person and punishing them; it is a more holistic approach that involves mapping the dimensions of a problem and seeking an effective remedy for it for the future.

Participants agreed that, despite the plethora of oversight and accountability bodies in place in South Asia, there is an absolute failure of accountability. The existing mechanisms and provisions have failed to hold the police to account and do not enjoy public faith.

Internal discipline

The countries share similar closed or opaque internal disciplinary mechanisms that have no credibility among officers, let alone the community.

The court system

The courts are a case of justice delayed and even where grave misconduct is found, the judicial response is to award financial compensation rather than punish the offender. Provisions in the criminal procedure code of most of the countries bar the courts from dealing with any criminal offence without prior permission of the government. This means an effective immunity granted to all public servants and allows officers to behave engage in gross misconduct without fear of punishment.

External oversight bodies

Where external mechanisms are in place, they have failed to garner public confidence. Examples discussed included the National Human Rights Commission in India and the National Police Commission in Sri Lanka. These institutions enjoyed an initial stage of operating effectively, but found themselves undermined by the ruling regimes, through the appointment of pliant members, insufficient funding or

place, they have failed to garner public confidence. Examples discussed included the National Human Rights Commission in India and the National Police Commission in Sri Lanka. These institutions enjoyed an initial stage of operating effectively, but found themselves undermined by the ruling regimes, through the appointment of pliant members, insufficient funding or

ignored recommendations. Participants agreed that there must be a process in place to investigating complaints against the police by people who are not a part of the police. Examples from the UK, Northern Ireland and a recent initiative from Pakistan, where external civilian bodies have been created to supervise police department handling of complaints and investigate police handling of complaints, were discussed at length. Again, the issue of a lack of political will to make mechanisms effective was debated. Participants concluded that unless there is active public participation in oversight, coupled with moves to create more formal roles for more community involvement in oversight, independent oversight will not improve markedly.

Key factors for successful reform – the Northern Ireland lessons

Maggie Beirne outlined her experiences of the Northern Ireland police transformation. She identified key factors that ensured the success of the process.

- Broad terms of reference given to the Patten Commission (the original commission charged with reviewing policing in the Northern Ireland and setting out a reform agenda)
- High quality of appointments to the Patten Commission
- The Patten Commission sufficiently resourced to allow it to approach its work independently and effectively
- The Patten Commission focused on outreach to the community. It sought and used input from non-government organisations and civil society, and undertook a wide range of public meetings
- The Patten Commission's recommendations encompassed a broad agenda of change, but with a sufficient level of detail that the reform agenda to be pursued by a wide range of people over many years. A crucial success factor was the Patten Commission's proposal that a mechanism be put in place to monitor the implementation of its recommendations into the future.

Like all government committees, the Patten Commission had to submit its report to government and the government then chose how it would go forward with specific legislation and policy. This meant that there was a lobbying process around new laws implementing the recommendations; again political will and community engagement are key to the success of the process. The recent policing review in New Zealand was highlighted as a good practice example of public consultation.



1.6. Session 6: Civilian oversight of police – international experiences

Session 6 looked to the international experience of civilian police oversight to help inform the debate around oversight and accountability in South Asia. The session included a discussion of Northern Ireland experience of civilian police oversight bodies and effective civil society intervention in police reform. This was followed by interactive discussion around the roles, functions and effectiveness of the police ombudsman in Northern Ireland, as well as the role of civil society in the entire process of reform. The aims of the session were to reflect on the Northern Ireland experience of civilian police oversight bodies and learn about international examples of effective civil society intervention in police reform.

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The session was led by Maggie Beirne, from a Northern Irish non-government organisation, the Committee on the Administration of Justice (CAJ), that has worked on policing issues throughout the Northern Irish reform process. Ms Beirne stressed that whatever small role CAJ played in the reform process must be understood in the context of a high profile debate on political reform taking place within the community, particularly focusing on policing. The police had played a major role in repressing political activities and civil liberties in Northern Ireland and the community was extremely keen to engage in a transformation process.

Ms Beirne emphasised that a good report from a well-advised and resourced review body will not be enough; civil society groups must closely monitor the minute detail of the law drafting process. In Northern Ireland, the government recognised that they had made over 100 substantive amendments to the proposed legislation over the course of the parliamentary process. For Ms Beirne, this was the result of the efforts of civil society – including the CAJ – to constantly brief parliamentarians and to ensure engagement with the drafting process. After the law is drafted, implementation must be monitored.

Ms Beirne emphasised the importance of public participation any reform process and reflected that although the policing aspects of the Northern Ireland reform process were heavily subscribed by the community, the broader criminal justice review suffered from a lack of community involvement. Members of the community saw the criminal justice reform as more legal in nature and did not see the immediate impact that the reform could have on their lives. This meant that the criminal justice work became much more of an internal review process than the policing work.

Ms Beirne identified the major issues that CAJ felt needed to be addressed during the Northern Ireland process after a review of international experiences. Ms Beirne cautioned against a one size fits all approach but emphasised the importance of taking on board international experiences.

The importance of sharing good practice across borders

CAJ found that acquiring information about international good practice was extremely useful in influencing the reform process. Policing is always a highly politicised debate and CAJ found it useful to see the same issues and problems arising in jurisdictions with very different contexts and backgrounds and to learn how those issues were dealt with.

It is critical that civil society groups build their own capacity – both in terms of skills and technical knowledge – in order to engage with the government and the reform. Constant engagement with all the players is important – during the Northern Irish transformation process, CAJ commented extensively on all the materials and papers issued by the Commission, lobbied the government to draft and pass legislation once the Commission's report was submitted and continue to monitor the implementation of the recommendations of the Commission.

Issues that must be dealt with by a reform process – lessons from Northern Ireland

- Police accountability
- Police powers – Police powers must be clearly articulated and overseen to ensure that police conduct fits within set boundaries
- Training - Training directly influences organisational culture. Human rights must be at the core of the police training syllabus.
- Recruitment and retention – A police organisation must be representative of the people (this includes gender, religious and class representation, depending on the jurisdiction) it serves to ensure trust and confidence from across the whole community.
- Human rights standards – One of the key messages of the Patten Commission was the centrality of human rights to good policing. Despite an early resistance, officers often come to recognise that conforming with human rights standards can actually assist, rather than interfere with, effective policing.

- Police and Criminal Evidence Act – This Act has essentially ensured that police interrogation standards and witness protection has been built into the law. It has been a powerful tool both ensuring compliance with human rights standards, and also to show police that these standards and protections actually assist effective policing.
- Community policing – The other key message coming out of the Patten Commission dealt with the importance of community policing. The Commission recognised the key role the community plays in assisting its own policing. The police must work closely with the public – not just with few to gather information for them, but to actually work in partnership to ensure public safety. This recommendation has not been operationalised in Northern Ireland.

1.7. Session 7: Police reform – treading the path from rhetoric to reality

The penultimate session looked at how to make talk around policing and reform a reality in South Asian jurisdictions. It began with a presentation on the role of civil society in the police reform process and was followed by a discussion (in break-out country groups – with India and Pakistan joining together as one group owing to the small number of participants from Pakistan) to map strategies to catalyse and track police. The groups also discussed where resistance might be faced and how to deal with this resistance. Key deliberations are set out below.

1.7.1. Bangladesh

- There has been resistance to the reform process demonstrated by the Ministry of Home Affairs. The reform process has been delayed as a result. Resistance is also anticipated from the civilian and military bureaucracies and political parties.
- Continuous engagement with civil society and stakeholders must be prioritised. Transparency is key.
- Political party reform is an important aspect of the broader reform process. This includes sensitisation of political parties on police reform issues.
- Experience and knowledge gleaned from regional and international friends and partners should inform the reform process.

1.7.2. Maldives

- The new Police Act is now at preparation stage and is being discussed by the Parliamentary Committee. The Act should be circulated for public debate and discussion – and even international involvement must be sought, if needed. Police and NHRI institution representatives welcomed public and international participation in the drafting of new police legislation. Civil society representatives noted their concern that the current political climate would not allow this intervention.
- Police must become more media friendly to increase knowledge of issues of police reform and should not discriminate between newspapers and other forms of media.
- Internally and externally, there should be organisations that hold the government responsible to the international conventions that have been signed or acceded to by the Maldives.

1.7.3. India and Pakistan

- Resistance to reform is experienced from the bureaucracy, the political leadership and the police, in that order, and other vested interests who do not want an efficient, effective and honest police.
- Resistance will be countered by increased public awareness and building a reform movement of advocates for good policing. Vulnerable, poor and deprived groups must be targeted to support and be involved in a future reform process. The community must be mobilised to advocate for reform across large geographic areas.
- There must be engagement between political parties, the ruling class and the community. This engagement can be on a personal level and also as a larger public campaign. Resistance from politicians will be broken down through engagement and education. Politicians will be sensitised to the need for police accountability and functional autonomy.
- Avenues of advocacy will be widened through debate in the community and within circles of civil society and reform advocates.

1.7.4. Sri Lanka

- The failure of the Sri Lanka policing system is due to inefficiency and the failure of police leadership.
- The media and the establishment do not allow public discussion of policing issues.
- The majority of the community support police reform. The important role the community plays in the reform process must be recognised.
- Civil society and supporters of reform must find a new approach to advocating for the reform process.
- Democratisation of policing will only take place within the context of improved relationships between members of the community.

1.8. Session 8: Collective action

The final session of the conference took the form of a call to collective action. The participants drafted and agreed a concluding statement and set of recommendations (see part 5 of this report) which was followed by a valedictory address by Mr IK Gujral, a former Prime Minister of India, who emphasised the cultural affinity between the countries in the region and the need for comprehensive police reforms. The conference ended with a vote of thanks by Maja Daruwala, Director of CHRI.





Agenda

POLICE REFORM: AN EXCHANGE OF EXPERIENCES FROM SOUTH ASIA

23-24 March 2007

Qutab Hotel, Shaheed Jeet Singh Marg, Qutab Institutional Area, New Delhi
A Roundtable facilitated by Commonwealth Human Rights Initiative

AGENDA

The objectives of the roundtable are to provide a forum for:

- the exchange of experiences of police reform;
- examining current challenges and debates in the region;
- analysing existing mechanisms for police accountability and
- creating a plan to catalyse and track police reform processes in the participating countries of South Asia

Day 1 Friday 23 March 2007

9.00 – 9.30 Registration

Opening session: The discourse on policing

Session objectives:

1. Provide an opportunity for participants to table their key concerns about what needs fixing in policing.
2. Raise awareness about the concept of democratic policing

Session Moderator: Ms. Maja Daruwala

9.30 – 9.45 Welcome remarks

Mr. BG Verghese (Chair, Commonwealth Human Rights Initiative)

Mr. Verghese will speak about the work of CHRI and set the context for this conference.

9.45 – 10.05 Inaugural address

Mr. Shivraj Patil (Minister, Home Affairs, India)

Mr. Patil will welcome international guests to India and raise the significance of police reform to good governance in democratic nations.

10.05 – 10.45 Introductory exercise by participants on ‘What ails policing in the countries of South Asia?’

Facilitator instructs participants to introduce themselves to their neighbour and talk to them about either (1) the key causes of problems in policing, or (2) their three main complaints about the police, or (3) the main constraints police face in doing their job. All three aspects will be discussed by sections of participants. Participants’ observations will be shared with the whole group, with the facilitator scribing responses and drawing out themes and commonalities.

10.45 – 11.00 Hallmarks of democratic policing

Ms. Maja Daruwala (Director, Commonwealth Human Rights Initiative)

Ms Daruwala will speak on the concept of democratic policing, and her vision for the police we have and the police we deserve.

11.00 – 11.15 Morning tea break

Session 2: Police reform initiatives in South Asia

Session objectives:

1. Examine the commonalities in policing concerns among South Asian countries, whilst acknowledging the individual differences.
2. Understand the political context and its impact on current police reform processes
3. Get an overview of police reform initiatives in the region and impediments to their success

Session Moderator: Ms. Maja Daruwala

11.15 – 12.40 What is happening in South Asia?

In this session, representatives from each participating country will make a 15-minute presentation on:

- the political context in their country vis a vis policing concerns
- police reform initiatives currently underway
- blocks hindering the reform measures from being realised

Bangladesh: [Mr. N. B. K. Tripura, \(Addl. Inspector General, Bangladesh Police\)](#)

India: Mr. Prakash Singh (Indian Police Service, Retired), Ms. Swati Mehta (CHRI)

Maldives: Ms Aminath Najeeb (Human Rights Association of Maldives, registration denied since July 2004)

12.00 – 12.10 Q & A

Pakistan: Mr. Mukhtar Ahmad Ali (Executive Director, Centre for Peace and Development Initiatives)

Sri Lanka: Basil Fernando (Director, Asia Human Rights Commission)

12.40 – 1.30 Open Floor Discussion

Ms. Daruwala will then moderate an open floor discussion on the challenges facing policing and police reform in the participating countries vis a vis their specific political contexts.

1.30 – 2.30 Lunch

Session 3: South Asian experiences of police-executive relationships

Session objectives:

1. Understand the nature of police-executive relationships in countries of South Asia
2. Identify if and how this poses problems in police functioning
3. Generate discussion on reform measures to address these problems

Session Moderator: Ms. Maja Daruwala

2.30 – 4.00 Police-executive relationships in the countries of South Asia panel

Each panelist will make a 15-minute presentation on:

- How the police-executive relationship is defined in law;
- What happens in practice?
- Whether there have been any government commissions or committees to review relationship;
- If so what suggestions have they made? Have any of them been implemented?

Bangladesh: Prof. Ishrat Shamim (President, Centre for Women and Children Studies)

India: Mr. Kamal Kumar (Indian Police Service, Retired)

Maldives: Mr. Mohamed Jinah (Police Officer, Maldives)

3.15 – 3.30 Q & A

Pakistan: Dr. M. Shoaib Suddle (Director General, National Police Bureau)
Sri Lanka: Mr. J. Thangavelu (Deputy Inspector General, Sri Lanka Police)

4.00 – 4.30 Open discussion [**Tea served at the table**]

Session 4: Getting the balance right – International experiences

Session objective:

Reflect on international experiences and models of healthy police-executive relationships

Session Moderator: Ms. Maja Daruwala

4.30 – 5.00 Ingredients for a healthy police-executive relationship

Prof. Philip Stenning, School of Criminology, Education, Sociology & Social Work, Keele University, Staffordshire, UK.

Prof. Stenning will make a 30-minute presentation on the ingredients required for a healthy police-executive relationship, with reference to international good practices.

5.00 – 5.30 Interactive Discussion

5.30 Close of Day 1 Proceedings

Day 2 Saturday 24 March 2007

9.00 – 9.15 Review of proceedings

Session 5: Who polices the police? A discussion on police accountability

Session objectives:

1. Examine current police accountability systems in South Asia
2. Debate the reasons for the gap between intent and practice and ways to narrow the gap
3. Explore through case studies, the role/effectiveness of specific police oversight bodies.

Session Moderator: Ms. Maja Daruwala

9.15 – 10.30 Focussed discussion based on session objectives.

10.30 – 10.45 Morning tea

10.45 – 11.15 Have police oversight bodies in South Asia been successful in holding the police to account?

Each presenter will detail in a 15-minute presentation:

- the structure and mandate of the oversight body
- the extent to which the body has satisfied its mandate
- challenges faced in fulfilling its mandate

National Police Commission: Sri Lanka
Ms. Kishali Pinto Jaywardane (Senior lawyer)

Human Rights Commission: India
Mr. Chaman Lal (Former police officer and special rapporteur, National Human Rights Commission)

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11.15 – 11.30 Questions and discussion

Session 6: Civilian oversight of police – International experiences

Session objectives:

1. Reflect on the Northern Ireland experience of civilian police oversight bodies
2. Learn about international examples of effective civil society intervention in police reform

11.30 – 12.00

Ms. Maggie Beirne, Director, the Committee on the Administration of Justice, Northern Ireland.

Ms. Beirne will make a 30-minute presentation on the Police Ombudsman of Northern Ireland and share reflections on the role played by the Committee on the Administration of Justice in the police reform process.

12.00 – 12.30 Interactive discussion

12.30 – 1.30 Lunch

Session 7: Police reform... Treading the path from rhetoric to reality

Session objectives:

1. Identify the value of civil society input in police reform processes
2. Map strategies to catalyse and track police reform in participating countries

1.30 – 1.45 Civil society – Integral or marginal to police reform?

Ms. Patricia Mukhim (Journalist)

1.45 – 1.50 Allocation of breakout groups and focus questions

Ms. Maja Daruwala (Director, Commonwealth Human Rights Initiative)

1.50 – 2.45 Breakout groups

The participants will be divided into 6 small groups – one per country, with the Indian participants being split into two groups, one for police officers and government members and one for civil society. CHRI staff and the International Guest Speakers, Phillip and Maggie will be assigned to each of the small groups as facilitators. The focus questions the small groups will deliberate on are:

- From which quarters have we encountered resistance to police reform or are likely to do so?
- How should this resistance be addressed?
- How do we progress police reform, both within our country and in solidarity?

2.45 – 3.45 Spokespersons from each group to present deliberations to large group

3.45 – 4.00 Tea break

Session 8: Collective action

Session objective:

Collectively draft a conference statement for release to the media and to form the basis of communiqués issued in participating countries

4.00 – 5.00 Working as a group on the adoption of a Conference Statement

5.00 – 5.20 Valedictory address

Mr. I.K. Gujaral (former Prime Minister, India)

5.20 – 5.30 Vote of thanks

Ms. Maja Daruwala (Director, CHRI)

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2. Press release

Spotlight thrown on policing in South Asia South Asians share experiences of policing and plan for reform

Media release from the Commonwealth Human Rights Initiative Friday 23 March 2007

Fifty delegates from around South Asia will come together in New Delhi, India, over the next two days to share experiences of policing in South Asia and plan for police reform and accountability in the region, at a roundtable facilitated by the Commonwealth Human Rights Initiative (CHRI). Delegates hail from Bangladesh, India, the Maldives, Pakistan and Sri Lanka, and from across police organisations, government, human rights institutions, media and civil society. The roundtable is the first time that the key players in policing from across South Asia will have the opportunity meet and discuss and debate the challenges, commonalities and future of policing in a South Asian context.

The roundtable will be opened by Mr Shivraj Patil, the Hon. Minister for Home Affairs in India. Mr Patil is expected to emphasise the critical importance of police reform in South Asia and to share his vision for the future of policing in India.

“This roundtable – the first opportunity for South Asians to sit together and talk about policing – is absolutely key to getting a conversation going on police reform and accountability in the region,” said Ms Daruwala, Director of CHRI, “Each of the countries of Commonwealth South Asia share similar policing backgrounds, and face similar challenges. Talking through these challenges within the context of each different country’s particular situation and looking for ways to support one another and the reform movement in South Asia is a big step towards giving the people of South Asia the police that they want and the police that they need and deserve.”

The roundtable begins today by looking at the state of policing in each of the countries of Commonwealth South Asia. Today’s speakers include Mr N.B.K. Tripura, Additional Inspector General of the Bangladesh Police, Mr Prakash Singh, a retired police officer from India, Ms Aminath Najeeb, editor of the Minivan Daily in the Maldives, Mr Mukhtar Ahmad Ali, Executive Director of the Centre for Peace and Development Initiatives in Pakistan and Basil Fernando, the Director of the Asia Human Rights Commission, who will look at the situation in Bangladesh.

Ms Daruwala celebrated the opportunities for a new united and informed push towards reform that the roundtable had given the people of South Asia this morning. “The people of South Asia have suffered for too long under brutal, regime style policing. The time has come for real change and a move toward reform – and we can see governments and police starting to take steps towards that change. In Bangladesh the government is embarking on a wholesale overhaul of the police laws and infrastructure. In India a drafting committee has put together a new Police Act, while the Supreme Court has required governments to implement accountability. In the Maldives, new laws are on their way, along with independent oversight mechanisms to ensure police accountability. In both Pakistan and Sri Lanka, the governments are working towards transforming the police – and in Pakistan, this process is taking place across the criminal justice sector.”

“We have the impetus for reform, we have the desire for reform, and we have the means for reform,” finished Ms Daruwala, “Now what we need is demonstrations of serious political will to come from government and police leadership.”

For more information, contact Swati Mehta (swati@humanrightsinitiative.org) or visit the CHRI website at www.humanrightsinitiative.org.

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international NGO working for the practical realisation of human rights in the countries of the Commonwealth.

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3. Concluding statement and recommendations

The state of policing in South Asia evokes serious concern. Widespread public dissatisfaction and disillusionment with the state of policing exists. Urgent action is needed.

Police reform was the subject of discussion by prominent civil society groups, police and government officers, academics, journalists and lawyers from Bangladesh, India, the Maldives, Pakistan and Sri Lanka, who met at a roundtable in New Delhi on 23 and 24 March 2007.

Participants noted the following:

Across South Asia there is evidence of increasing fear of crime and threats to public order. It is clear that the present performance of the police is unable to deal with everyday policing concerns, and still less with extraordinary situations of lawlessness and violence.

We recognise that police work under difficult circumstances and with severely restricted resources. However, we believe this does not justify either the underperformance of police or their frequent use of illegal and brutal methods.

The public of our countries are increasingly disenchanted. Often the most vulnerable have negligible access to good policing and justice.

Governments of the region have been resistant or slow to respond to the need for effective police reform.

It is the duty of all South Asian governments to provide their populations with safety and security in accordance with the rule of law and human rights. Present policing in the region does not ensure this.

We condemn the illegitimate use of force, torture, extra-judicial killings, disappearances and persecution of individuals and groups. We demand prompt action on financial and political corruption within policing. The pervasive culture of impunity that prevails in South Asia must be transformed into a culture of accountability.

The police must be an essential service and not a force.

Meaningful improvement in police functioning cannot happen without prior consultation with the public across our countries. Equally, no laws or policing arrangements will be effective, unless the public are involved in reform efforts and future monitoring.

Police and governments in South Asia must conform to their international obligations.

Participants demand that:

- Governments make a clear public commitment to vastly improved policing that upholds human rights and democratic norms and values
- Governments immediately initiate a serious process of systemic police reform
- Any process to change current policing must be transparent and participatory
- The public and civil society must be encouraged and equipped to engage fully in the change process
- Reform must include:
 - strengthened accountability mechanisms;
 - better performance evaluation and monitoring;
 - training and constant retraining of police personnel at all levels; and
 - credible selection, transfer and promotion arrangements for police
- Command responsibility be strictly enforced
- Operational responsibilities of police are insulated against illegitimate political interference
- Complaints against police are investigated by an independent civilian body, promptly and in a manner that creates confidence within the public
- Protection of human rights defenders and those who file complaints against the police is assured

Reform is only as good as its implementation and should therefore be periodically monitored.