



Commonwealth Human Rights Initiative

NGO in Special Consultative Status with the Economic & Social Council of the United Nations

B-117, First Floor, Sarvodaya Enclave, New Delhi – 110 017
Tel: 91-11-2686 4678, 2685 0523, 26528152 Fax: 91-11-2686 4688
E-mail: chriall@nda.vsnl.net.in

Executive Committee

B.G. Verghese
Chairperson &
Treasurer

Compliance status of Supreme Court Judgment on Police Reform: An Update on the *Prakash Singh* Case on the anniversary of the judgment

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Maja Daruwala
Director

As you may be aware, it has been a year since the Supreme Court handed its historic judgment in the *Prakash Singh* case on 22 September 2006. This judgment ordered the central and state governments to comply immediately with 7 directives until the framing of appropriate legislation.

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R. V Pillai
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K. S. Dhillon
B. K. Chandrashekar
Mool Chand Sharma
Harivansh
Bhagwan Das
Poonam Muttreja
Sanjoy Hazarika
Nitin Desai
Ruma Pal

The central and state governments were directed to comply with this judgment by 31 December 2006 and a hearing was held in January 2007, at which the Court issued a further order. The Order of 11 January 2007 noted that except Sikkim, no state had complied with all the directives and directed all government to file affidavits of compliance by 10 April 2007. Despite a series of deadlines set by the Court, many states filed for an extension of time to implement the directives or tabled their strong objections to the directives. Then on 23 August 2007, the Court dismissed the review petitions filed by Tamil Nadu, Gujarat, Punjab, Maharashtra, Uttar Pradesh and Karnataka as having no merit.

Compliance by Government of India

Despite the fact that the 7 directives handed down in the 22 September 2006 judgment were drafted by the Court in consultation with Mr Prashant Bhushan, counsel for Prakash Singh and Mr G.E. Vahanvati, Solicitor General for the Union of India, the union government still applied to the Court for a modification of its orders! In three successive affidavits to the Court, the Union of India states that the Ministry of Home Affairs has already considered the Model Police Act submitted by the Soli Sorabjee Committee and is now examining it with a view to enacting it in the current year. Three months remain of the current year. No information is available on whether the central government proposes to enact the Model Police Act, which would then replace the archaic Police Act of 1861 and apply to all the union territories.

Compliance by State Governments

New Laws have been enacted or Ordinances promulgated in the following 8 states since the September 22 2006 judgment: Bihar, Tripura, Chhattisgarh, Gujarat, Haryana, Kerala, Himachal Pradesh and Assam. There has been no public input in this process.

New Police Legislation is being drafted in the following 13 states: Rajasthan, Karnataka, Tamil Nadu, Madhya Pradesh, West Bengal, Andhra Pradesh, Sikkim, Jammu & Kashmir, Orissa, Punjab, Arunachal Pradesh, Jharkhand and Manipur. Despite the fact that the greatest impact of poor policing is experienced by the public, there is no public input being sought on drafting in these states.

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No information is available on whether new legislation is being drafted in the remaining states of Meghalaya Nagaland, Mizoram, Uttarakhand, Maharashtra, Uttar Pradesh and Goa.

Whilst states have been quick to legislate, CHRI's analysis of the laws, ordinances and draft bills have revealed an almost universal dilution of the Supreme Court directives and very little reflection of the good features of the Model Police Act. In the main, state government control over the police has been retained and accountability paid lip service. It is now palpably evident that the Court's conviction in the good intention of the central and state governments is misplaced.

Another hearing on contempt petitions against Gujarat, Jammu & Kashmir, Maharashtra, Rajasthan, Tamil Nadu and Uttar Pradesh will be held on 7 December 2007, **and it is in this context that CHRI:**

- Calls on the union government to make public the current status of the Model Police Act;
- Urges the state governments that have enacted new laws to widely publicize these laws and invite civil society input in monitoring their implementation;
- Recommends that state governments that are currently drafting new laws make the drafting process transparent and invite public submissions and comment on any draft bills. Widespread public consultation must occur prior to finalization of any new police law for the state; and
- Insists that those states about which there is no information, take immediate steps to make public their activities on implementation of the directives and drafting of new legislation.

CHRI believes unless these concerns are addressed, the police reforms may not eventuate either in letter or spirit.

For more information, contact:

Shobha Sharma, Access to Justice Team on 9871528562 or shobha@humanrightsinitiative.org

Aditi Datta on 9818216242 or aditi@humanrightsinitiative.org

Additional information on the Supreme Court judgment can be found at:

http://www.humanrightinitiative.org/programs/aj/police/india/initiatives/writ_petition.htm

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