

# SEVEN STEPS TO POLICE REFORM

## 1. Introduction

The need for police reforms in India is long recognised. There has been almost three decades of discussion by government created committees and commissions. Way back in 1979 the National Police Commission (NPC) was set up to report on policing and give recommendations for reform. The Commission produced eight reports, dozens of topic specific recommendations and also a Model Police Act.

None of the major recommendations were adopted by any government. This persuaded two former Director General's of Police (DGPs) in 1996 to file a Public Interest Litigation (PIL) in the Supreme Court asking the Court to direct governments to implement the NPC recommendations. In the course of the 10 year long case, in 1998 the Court set up the Ribeiro Committee which handed in its reports in 1999. This was followed by the Padmanabhaiah Committee report in 2000 and eventually the Police Act Drafting Committee (PADC or Soli Sorabjee Committee) that drafted a new model police bill to replace the colonial 1861 Police Act. Meanwhile very little was ever done on the ground to improve policing or implement recommendations put forth by any of these committees or commissions.

It was only a decade later in 2006 that the Court delivered its verdict. In what is popularly referred to as the Prakash Singh case the Supreme Court ordered that reform must take place. The states and union territories were directed to comply with seven binding directives that would kick start reform. These directives pulled together the various strands of improvement generated since 1979. The Court required immediate implementation of its orders either through executive orders or new police legislation. At first the Court itself monitored compliance of all States and Union Territories. However in 2008 the Court decided to set up a three member Monitoring Committee with a two year mandate to examine compliance state by state and report back to it periodically.

## 2. Chronology: *Prakash Singh and Ors v. Union of India and Ors*<sup>1</sup>

Date	Supreme Court Hearings, Events and deadlines
1996	Two retired DGPs, Prakash Singh & N K Singh, file a PIL in the Supreme Court
22 Sep 2006	Supreme Court delivers judgment requiring state and central government to implement its seven directives. Governments have until 3 <sup>rd</sup> January 2007 to comply
11 Jan 2007	Supreme Court Hearing on compliance. Request for extension by states. Six states file separate review petitions. Supreme Court rejects review petitions and orders immediate compliance of directives 2, 3 & 5 while extending deadline for compliance of directives 1, 4, 6 & 7 by three months.
31 Mar 2007	Extension for implementation of directives 1,4,6 & 7
10 Apr 2007	Deadline to file affidavits of compliance
23 Aug 2007	Prakash Singh files contempt petitions against six states - Gujarat, Punjab, Maharashtra, Karnataka, Tamil Nadu, Uttar Pradesh
23 Aug 2007	Supreme Court dismisses review petitions filed in January
14 Dec 2007	Hearing on contempt petitions filed by Prakash Singh. Court makes no

<sup>1</sup> (2006) 8 SCC 1



	ruling on merits and grants a further extension of six weeks to all states and union territories to file affidavits of compliance.
13 March 2008	Supreme Court hearing and deadline for states to file compliance report
28 Apr 2008	Supreme Court considers establishing a Monitoring Committee (MC)
16 May 2008	Supreme Court passes an order to set up the MC
18 Dec 2008	Supreme Court hearing declines to rule on contempt before MC's report back
21 July 2009	Supreme Court hearing declines to rule on contempt, CJI stating "Not a single state government is willing to cooperate. What can we do?"
27 Nov 2009	Next hearing listed in the Prakash Singh case

### 3. Why the Seven Directives?

The seven directives provide practical mechanisms to kickstart reform. The seven directives of the Court make up a scheme which if implemented holistically will correct the common ills that create poor police performance and unaccountable law enforcement today. The scheme puts in place mechanisms to better ensure that: the police have functional responsibility while remaining under the supervision of the political executive; political control of police by the political executive is conditioned and kept within its legitimate bounds; internal management systems are fair and transparent; policing efficiencies are increased in terms of their core functions and most importantly public complaints are addressed and police accountability enhanced.

### 4. What are the Seven Directives?

In passing these directives the Court put on record the deep rooted problems of politicization, lack of accountability mechanisms and systemic weaknesses that have resulted in poor all round performance and fomented present public dissatisfaction with policing. The directives can be broadly divided into two categories: those seeking to achieve functional responsibility for the police and those seeking to enhance police accountability. They are as enumerated below:

#### THE SEVEN DIRECTIVES IN A NUTSHELL

##### *Directive One*

Constitute a State Security Commission (SSC) to:

- (i) Ensure that the state government does not exercise unwarranted influence or pressure on the police
- (ii) Lay down broad policy guideline and
- (iii) Evaluate the performance of the state police

##### *Directive Two*

Ensure that the DGP is appointed through merit based transparent process and secure a minimum tenure of two years

##### *Directive Three*

Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years

##### *Directive Four*

Separate the investigation and law and order functions of the police

##### *Directive Five*

Set up a Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of



Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police

***Directive Six***

Set up a Police Complaints Authority (PCA) at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct

***Directive Seven***

Set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organisations (CPO) with a minimum tenure of two years.

## 5. Salient Features of the Directives

### 5.1. The State Security Commission

***The Problem***

- a) No present established meaning in law or conventions in practice that indicate the limits of political 'supervision' and 'control' over the police. This has led to unfettered and undue interference by politicians in the everyday functioning of the police, disrupted the authority of supervisory cadres within the force and obscured command responsibility;
- b) No rationale system for evaluating police performance against a set of pre-determined criteria.

***The Solution***

The creation of a State Security Commission made up of both the responsible minister, the leader of the opposition, other elected representatives, experts, and credible members of civil society. Its functions are to lay down policing policy, indicate performance criteria and keep police performance, challenges and its needs under review. The Commission is a means of conditioning and defining the powers of the political executive and police and clarifying each one's sphere of responsibility and accountability. Its composition is designed to ensure bipartisanship and shield policing from changes in political power by keeping policies more or less constant. Its functions are designed to ensure that the political executive always has ultimate responsibility for providing the public with efficient, honest, unbiased and accountable policing while retaining authority over the police.

At present, there is no well-established system of performance evaluation. The commonly used parameters for assessing performance on the basis of increase or decrease in crime statistics are inadequate. This means of measuring performance has led to the practice of refusing to register cases and disguising statistics. The new system opens up the possibility of consistent and holistic evaluation of the police on the basis of pre-determined planning, provisioning and rationalised performance parameters which would pave the road to better and better policing year on year.

### 5.2. Selection and Security of Tenure for the DGP

***The Problem***

Arbitrariness in the appointment of the highest ranking police officer, appointments made on considerations of personal preference and posts held at the caprice of the political executive leading to uncertainty of office and tenure.

***The Solution***

The DGP must be selected from amongst the three senior-most officers empanelled by the Union Public Service Commission (UPSC) for the post. The selection will be made on the basis of the candidate's: (i) length of service, (ii) service record, and (iii) range of experience.



Once recommended on the basis of transparent objective criteria the Chief Minister can choose from amongst the best of the candidates. This way the chosen DGP is assumed to enjoy the trust of the political executive, the police service and the public. It would therefore be anomalous to retain the ability of the executive to remove the head of police at will. Hence the Court has provided for a minimum tenure of two years for the DGP. The grounds for removal prior to the two year period must be in accordance with the laid down law.

### **5.3. Security of Tenure for Officers on Operational Duties**

#### *The Problem*

Arbitrary and frequent transfers done at the behest of influential third parties. These are done as means to punish and reward and outside rational administrative necessities related to policing requirements.

#### *The Solution*

The Supreme Court directions provide for a minimum tenure of two years for the Inspector General of Police (in charge of a Zone), the Deputy Inspector General of Police (in charge of a Range), the Superintendent of Police (in charge of a District) and the Station House Officer (in charge of a Police Station). This ensures security of tenure for police officers on operational duties in the field, allows them withstand undue political interference. Further it gives them time to properly understand the needs of their jurisdictions and do justice to their jobs.

### **5.4. Separation of Investigation and Law and Order Police**

#### *The Problem*

Investigations are poorly mounted, slow, done by inadequately trained and unspecialized staff and frequently subject to manpower deflection into other pressing law and order duties.

#### *The Solution*

Both investigation and law and order are vital and specific police functions. In order to encourage specialization and upgrade overall performance, the Court has ordered a gradual separation of investigative and law and order wings, starting with towns and urban areas with a population of one million or more. It is felt that this will streamline policing, ensure speedier and more expert investigation and improve rapport with the people. The Court has not said how this separation is to take place in practice but clearly indicates that there must be full coordination between the two wings of the police.

### **5.5. Police Establishment Board**

#### *The Problem*

Subjective appointments, transfers and promotions within the police force that lead to influence peddling and patronage on the one hand and uncertainty fear and de-motivation on the other.

#### *The Solution*

The Court has directed the setting up of a Police Establishment Board within each police force. The Police Establishment Board, made up of the DGP and four other senior officers of the department will serve the functions of (i) deciding all transfers, postings, promotions and other service related matters for police officers of and below the rank of Deputy Superintendent of Police; (ii) making recommendations to the state government on postings and transfers of officers above the rank of Deputy Superintendent of Police; (iii) being a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above and (iv) generally, reviewing the functioning of the police in the state.

In effect, the Board is intended to bring these crucial service related matters largely under police control. Notably, government's role lies in appointing and managing the senior police leadership, but service related matters of other ranks should be internal matters. Experience in India shows that this statutory demarcation is absolutely required in order to decrease



corruption and undue patronage, given the prevailing illegitimate political interference in decisions regarding police appointments, transfers and promotions.

## 5.6. Police Complaints Authority

### *The Problem*

There is an embedded public perception that there is too much wrong doing by the police and too little accountability, remedy or recompense for victims of abuse of power and criminal behaviour. Internal inquiries are lengthy, opaque and do not in general command public confidence.

### *The Solution*

The Court has directed the creation of a new mechanism - a Police Complaints Authority to be established at both state and the district levels. Their mandate is to look into public complaints against police officers in cases of serious misconduct.

The state level Authority will inquire into cases of serious misconduct including incidents involving (i) death, (ii) grievous hurt, or (iii) rape in police custody by police officers of and above the rank of Superintendent of Police.

The district level Authority will inquire into cases of serious misconduct including incidents involving: (i) death; (ii) grievous hurt; (iii) rape in police custody; (iv) extortion; (v) land/house grabbing; and (vi) any incident involving serious abuse of authority by police officers of and up to the rank of Deputy Superintendent of Police.

Membership in the authorities must be a full time occupation; the members should be provided suitable remuneration; the Authority can use the assistance of regular staff to conduct field inquiries; and the recommendations of the Authority for any action, both disciplinary and criminal, shall be binding. In practice, this implies that the inquiry conducted by the Authority replaces the internal disciplinary inquiry. Once the inquiry is completed, the Authority can recommend a suitable disciplinary punishment to the appointing authority, which will be bound by it. The Authority can also recommend the registration of a FIR against the erring police officer.

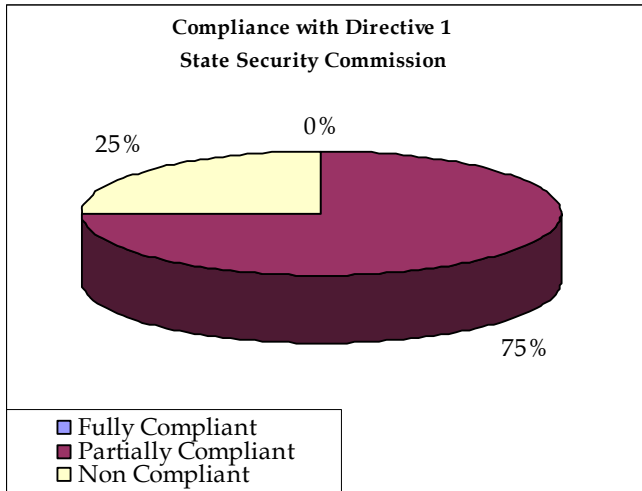
## 6. State Compliance: National Overview

This overview of compliance is based on affidavits submitted by states to the Court and thereafter to the Monitoring Committee and on executive orders passed by states that have been put up on state and police websites. It does not take account of the actual situation on the ground which is often very different from what governments have averred on paper.

Given below is a graphic representation of the compliance status of all states based on the information in their affidavits and submissions.

### 6.1. Compliance with Directive 1: State Security Commission





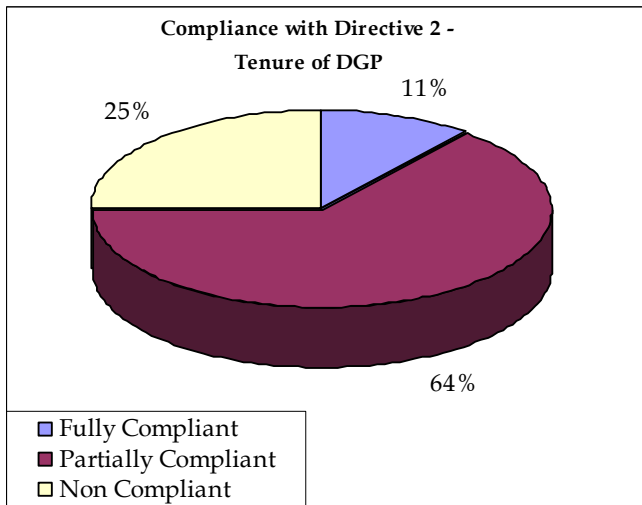
**Fully Compliant**  
 Set up, composition, functions & powers of the SSC as prescribed by the SC

**Partially Compliant**  
 Only some criteria of set up of SSC fulfilled

**Non Compliant**  
 Directive not implemented

No state has managed to fulfil all the criteria prescribed by the Supreme Court with regards to the State Security Commission. Most states have set up SSCs that do not reflect the Court's criteria with regard to composition, function and powers. States of Andhra Pradesh, Jammu and Kashmir, Madhya Pradesh, Orissa, Tamil Nadu and West Bengal are in complete non-compliance with this directive.

### 6.2. Compliance with Directive 2: Tenure and Selection of the DGP



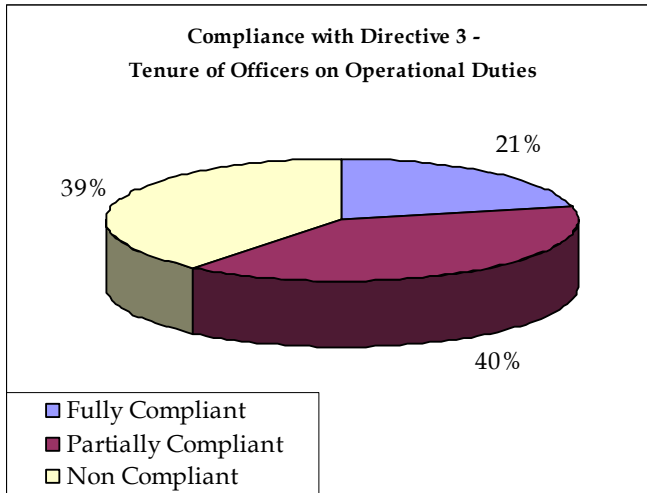
**Fully Compliant**  
 Selection, tenure and removal of DGP as prescribed by the SC

**Partially Compliant**  
 Only some criteria fulfilled

**Non Compliant**  
 Directive not implemented

Arunachal Pradesh, Mizoram and Nagaland are the only states that have adopted the Supreme Court's prescribed criteria with regard to selection, tenure and removal of the DGP. The majority of states have only partially incorporated these criteria, whilst a quarter of all states - Karnataka, Jharkhand, Kerala, Maharashtra, Punjab, Sikkim and Tamil Nadu are in non-compliance with the entirety of this directive.

### 6.3. Compliance with Directive 3: Tenure of Officers on Operational Duties



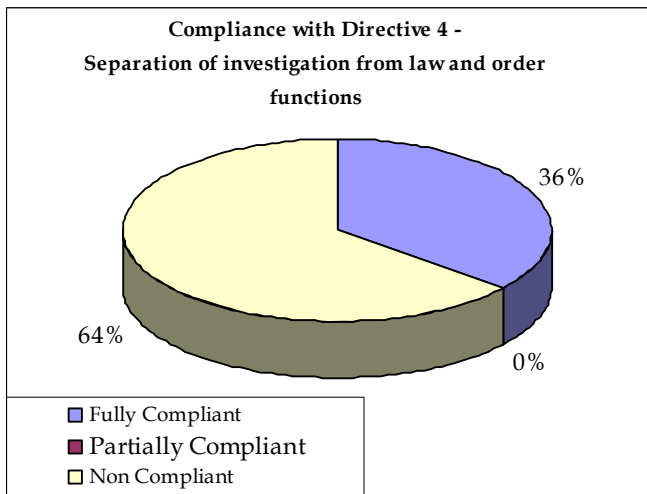
**Fully Compliant**  
Tenure and removal of officers as prescribed by the SC

**Partially Compliant**  
Only some criteria fulfilled

**Non Compliant**  
Directive not implemented

Madhya Pradesh and the north-eastern states of Arunachal Pradesh, Meghalaya, Manipur, Mizoram and Nagaland are in full compliance with this directive which provides for a fixed tenure for officers on operational duties. While eleven states have partially satisfied the criteria set by the Supreme Court, it is notable that an equal number of states have not made any attempt to comply this directive.

#### 6.4. Compliance with Directive 4: Separation of Investigation and Law & Order Functions



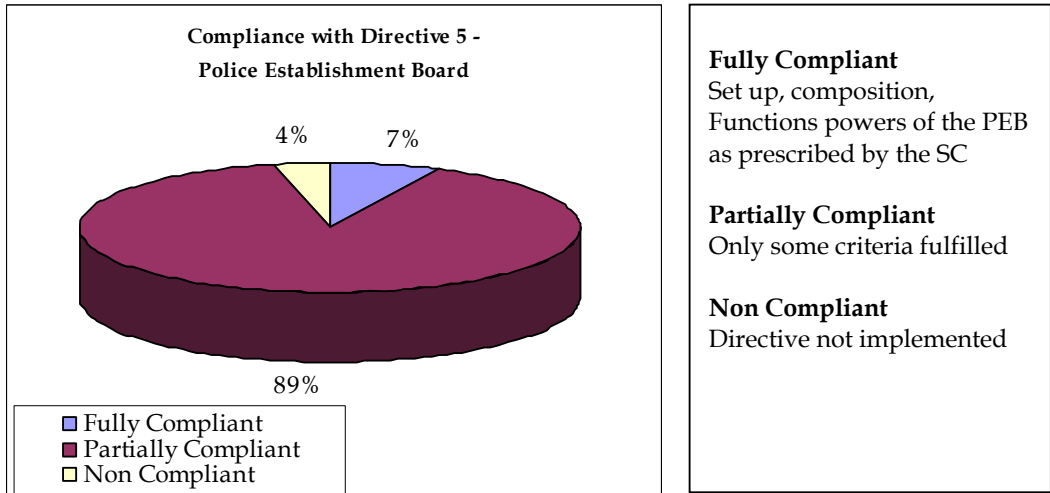
**Fully Compliant**  
Functions separated as prescribed by the SC

**Non Compliant**  
Directive not implemented

Slightly more than one third of all states - Assam, Arunachal Pradesh, Bihar, Jharkhand, Nagaland, Orissa, Punjab, Sikkim, Tamil Nadu and Tripura have complied with the Supreme Court's directive to separate the law and order police with the investigation police. However a majority of states have not implemented this directive.

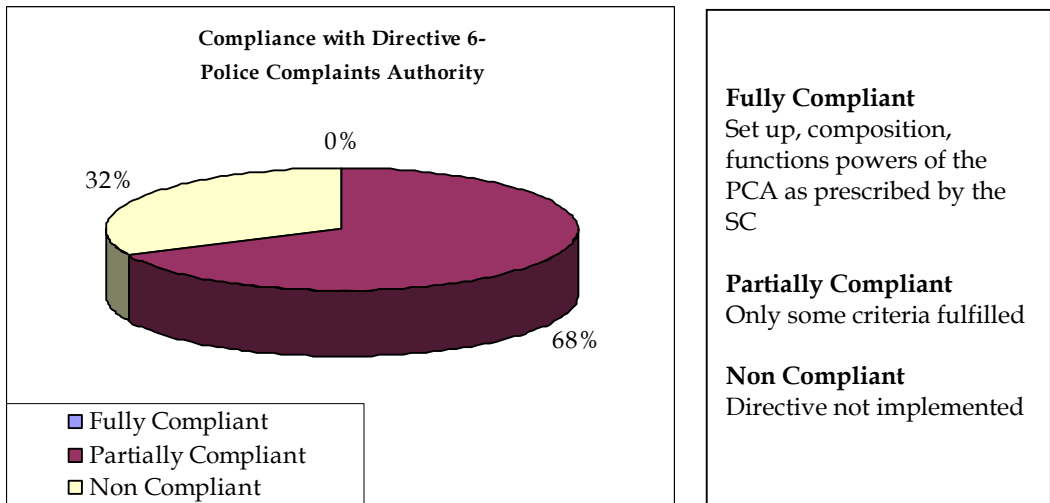
#### 6.5. Compliance with Directive 5: Police Establishment Board





Most states have established a Police Establishment Board, but only Arunachal Pradesh and Meghalaya are in full compliance with all the Court's stipulated criteria in this regard. In contrast Bihar is the only state which has taken no steps towards complying with this directive.

### 6.6. Compliance with Directive 6: Police Complaints Authority



No state government has established Police Complaints Authorities at both district and state level that fully comply with the Supreme Court's orders. The vast majority of states have established Authorities which only partially comply with the Court's directive in terms of composition, mandate and powers. A significant minority of states - Andhra Pradesh, Jammu and Kashmir, Karnataka, Madhya Pradesh, Mizoram, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal have completely ignored this directive.

## 7. Reform Initiatives

Though no state has achieved complete compliance with the directives, small steps capable of having larger impact must be appreciated and recognised as efforts towards reform.

*Meghalaya* set up a four member Police Reform Committee in 2005, well before the Supreme Court's directives were issued. Equipped with broad terms of reference the committee travelled all over the state to examine problems that needed addressing. Input from members of public as well was sought in finalising their recommendations thus being relevant



and necessary. In the context of the directives, Meghalaya has issued notifications to comply with all directives.

*Arunachal Pradesh* has already consulted Superintendents of Police on their policing challenges and drafted a Strategic Policing Plan for the state with detailed performance targets, milestones and timelines for achievement.

*Himachal Pradesh* has released a Five Year Strategic Policing Plan (2007-2011). The DGP in the forward to the plan mentions that it has been formulated after extensive consultation with a cross-section of people, members of the community, leaders, opinion makers and police officers.

*Tripura* has gone beyond the recommended mandate of the Supreme Court and explicitly inserted "human rights violations" within the jurisdiction of the State Level Police Complaints Authority.

*Rajasthan* police in a collaborative project with Massachusetts Institute of Technology (MIT) undertook the first ever rigorously evaluated police reforms project in the world with specific emphasis on modernising the police. In this project, a team from the MIT J-Poverty Lab collaborated with the Rajasthan Police from 2005-2008 with the objectives of enhancing police performance, improving public perception of the police and gathering objective information about the same. The following four reform initiatives were evaluated in 150 police stations in over 11 districts:

- (i) *In-service training program*: The program attempted to increase professionalism and competency of investigation officers and encourage use of scientific techniques while improving public relations with inputs on 'soft skills.'
- (ii) *Community Observers*: 3 hour visits to police stations by local volunteers to keenly observe all activities were planned. Public awareness and encouragement to make these visits was raised through an outreach program.
- (iii) *Weekly day off and duty roster system*: All staff in selected police stations (except the SHO) received a weekly off. In addition, each person was given the opportunity to perform all the duties at the police station on a roster basis. The goal was to create a transparent and fair system of work allocation that would lead to lower stress and higher overall productivity.
- (iv) *Freezing of transfers*: All administrative transfers in the police stations were prohibited for a period of one and half years since frequent transfers had adverse effects on professional and family lives of police personnel.

## 8. New Police Legislation

It is widely accepted that it is untenable to continue to police the citizens of India under the Police Act of 1861, which was drafted by the colonial authorities close on the heels of the first War of Indian Independence in 1857.

The National Police Commission in its 8<sup>th</sup> and concluding report of 1981, submitted a new Police Bill for India. Thereafter in 2005 the Ministry of Home Affairs constituted the Police Act Drafting Committee (PADC) to draft a Model Police Bill for India. Very shortly after the Supreme Court delivered its judgment, the PADC submitted its draft Model Police Bill, 2006 to the Home Ministry. This draft bill was also circulated among all state governments. The Model Police Bill complements the Supreme Court judgment in that it provides the detailed nuts and bolts through which the directions of the Supreme Court can be most effectively implemented. The Union Home Minister had stated that the Union Government would enact the new law for police in union territories in the 2007 budget session of Parliament. It was hoped that state governments would enact their own police legislation whilst drawing on the best elements from the PADC's Model Police Bill, the NPC's Model Police Bill and the Supreme Court directives on police reform. This however never happened and almost three years after the Supreme Court judgment as well as the Model Police Bill being submitted to the union government and union territories still have no new Police Act.



## 9. Public Input into Legislative Reform

As of today 12 states have already passed new police legislations.<sup>2</sup> Four states have completed the drafting of new police legislations or tabled bills in the assembly.<sup>3</sup> Nine of the states are currently in the process of drafting.<sup>4</sup> Important to note is the complete lack of transparency, community consultation or civil society input in this process by most states. Except for the Karnataka and Kerala police who have put up their draft legislations on their websites all other states have kept the public completely unaware of legislative reforms underway in their states. Communities are the main beneficiaries of good policing and the main victims of bad policing - community and civil society participation in the process is essential if the police is going to be efficient, effective and accountable.

State governments therefore need to publicise their initiative to redraft police legislation. This will ensure that the legislation adequately reflects the needs and aspirations of the people in relation to the police service they want. This can be done by various means including:

- Inviting public and civil society participation in drafting committees
- Inviting public submissions on the type of police service communities would want
- Inviting input from police at all levels about the type of service they want to be part of.
- Ensuring that draft that go before the state assemblies and Parliament is in the public domain and made available for comment under proactive disclosure provisions in section 4(1)(c) of the Right to Information Act.

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<sup>2</sup> States of Assam, Bihar, Chattisgarh, Haryana, Himachal Pradesh, Punjab, Rajasthan, Sikkim, Tripura, & Uttarakhand have passed new police legislations. Kerala and Gujarat have passed Amendment Acts.

<sup>3</sup>Goa and Tamil Nadu have tabled their drafts in the assembly. Karnataka and Kerala have their drafts ready and could be tabled in the next session.

<sup>4</sup> Andhra Pradesh, Arunachal Pradesh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Manipur Orissa, Uttar Pradesh and West Bengal have set up committees for drafting new legislations.

