



## **NATIONAL RECOMMENDATIONS**

Guild for Service

Commonwealth Human Rights Initiative

**Policing in the 21<sup>st</sup> century: Accountable Ethical & Effective**

### **Actionable Measures**

It is the State's duty to provide the public with an efficient, responsive and law-abiding police service. As such, the government must ensure that each police officer and the police as a service go about their functions and duties in a manner that respects human rights and the rule of law, builds confidence and cooperation with the community and is accountable for:

- (i) all wrong-doing, including the failure to follow procedure; and
- (ii) providing efficient, responsive and unbiased every day policing that is regularly evaluated and can demonstrate year on year improvement and public satisfaction.

To achieve this, the State must ensure that the police are equipped with sufficient manpower, management, infrastructure, equipment and training to do its job.

The agenda for better policing, then, requires that the police function:

- As a *service and not as a force*
- As an *upholder* of the law and not merely as an enforcer concerned with maintaining law and order. This means it must do all its work in accordance with the constitutionally mandated human rights framework and within the bounds of law as well as ensure that no one breaks it and if they do, then they are brought to justice. This means that the police must not only protect life and property but also protect the constitutional rights of each individual.

As citizens in uniform entrusted with special powers and duties and not an alien privileged force isolated from the public. Modern policing relies on enjoying the support and confidence of society and especially of local communities. Each individual police person must therefore act lawfully, professionally, ethically, and with integrity and be accountable to the law as much if not more than any ordinary person.

### **ACTIONABLE MEASURES FOR BETTER POLICING**

It must not be forgotten that comprehensive provisions to ensure an efficient, responsive and law-abiding police service already exist in the form of police manuals. Were these manuals followed, better policing would by and large already have been realised. The

reality is that these standards are routinely ignored without any repercussions. This breakdown in supervision within the police chain of command is at the crux of the problems plaguing policing today.

While the following actionable measures will go some way to realising better policing, including through accountability measures, much of their success will depend on the police's ability to enforce compliance with the procedures that are implemented and standards that are laid down, including through ensuring that consequences flow from wrongdoing such as disciplinary action.

## **1. Revamp Police Stations**

- Re-claim police stations as spaces of public utility and design them such that they are accessible to the public. The services that the public is entitled to should be listed and put up on notice boards inside every police station. Police stations could have an open visitors' book where any member of the public can record their arrival time, name and signature.
- Ensure that police stations comply with proactive disclosure requirements under section 4(1)(b) of the Right to Information Act 2005. The RTI Act requires all public authorities to publish *suo moto*, or proactively, a wide range of information on their own, even if no one has specifically requested it. Presently this is not the case.
- Upgrade all police stations so that facilities are available for the public, staff, records, accused, investigators and as far as possible standardized. Police stations in Kerala are required by law to have such facilities. One model is the ISO certified model in Rajasthan. Adequate budgets must be available for this.
- Equip police stations and lockups with CCTV cameras linked to police headquarters in order to prevent malpractice.
- Make rude, impolite and inconsiderate behavior by police personnel to members of the public a serious act of indiscipline.
- Embed the beat system into local policing, with permanent, specially trained beat officers to ensure constant contact with the local community,
- Fill all vacancies in a time-bound manner.
- Raise the manpower strength of every police station in proportion to the crime and population of that area. This deployment shall be annually reviewed.
- Have adequate numbers of women in all police stations to fulfill duties under the laws relating to women and children. All police stations must have a Women and Child Protection Desk, staffed as far as possible by women police personnel to record complaints of crimes against women and children.
- Take swift action against any police officer who refuses to register an FIR, as directed by the Supreme Court.

## **2. Develop Policing Plans**

- Ensure that every police station has a clear action plan in relation to improving safety and security of the area. This plan must be made in consultation with the local community at large through regular, well-publicised public meetings.
- In addition to the police station level, ensure that policing plans (both annual and short-term) are made at the district and state levels. These shall be formulated in consultation with the local population through regular, well-publicised public meetings.
- Review meetings to assess progress and public satisfaction must be held quarterly.

### 3. Separate Investigation and Law and Order Duties

- Separate investigations from other law and order duties (Supreme Court Directive, *Prakash Singh*, 2006). A specially trained investigation unit must be available at every police station in proportion to the crimes registered on the basis of complaints to the police. This must have adequate support, and Investigating Officers must have reasonable workloads that optimize success in the detection of crime.

### 4. Insulate the Police from Political Interference

- Strengthen State Security Commissions (Supreme Court Directive, *Prakash Singh*, 2006), which were set up to ensure state governments do not exercise unwarranted influence or pressure on the police. Presently, their mandates are weak, their compositions ensure a lack of independence and they do not effectively function as policy-making bodies or performance review mechanisms. They must be reformed to ensure their composition is bi-partisan (including the Leader of the Opposition as a member) and diverse, with genuinely independent members. They must meet regularly in order to function as the Supreme Court intended.
- Define and delineate through central and state Police Acts the relationship and specific roles of the political executive and the police chief. Legislation must entrench the police's operational autonomy and responsibility as well as the legitimate oversight duties of the political executive. With respect to individual cases of law enforcement, the police must have the sole responsibility to make decisions on whom to investigate, search, question, detain, arrest and prosecute. (See the attached formulation)
- Include the following provision, recommended by the Administrative Reforms Commission, into central and state Police Acts: *"no government functionary shall issue any instructions to any police functionary which are illegal and malafide"*.
- Return the power to manage the police – including tenure, transfers, promotions, deployment - to the supervisory ranks, as set out in police manuals. This will put an end to arbitrary and frequent transfers. **Minimum tenure of two years for the senior level police functionaries**
- Select and appoint the Chief of Police on merit and for a period as laid down by the Supreme Court (Supreme Court Directive, *Prakash Singh*, 2006).

### 5. Address the Needs of the Constabulary

- Adopt an eight hour duty norm in the civil police.
- Provide every officer who joins as a constable in a police station with the opportunity to be promoted at least three times in his career, as Head Constable, Assistant Sub Inspector and Sub Inspector. This will enhance motivation and ensure greater morale.
- Provide every police officer tasked with civil police duties with health insurance and insurance for job related risks.

#### **6. End the Misuse of Police Personnel for Non-Policing Work**

- Abolish the use of police personnel as orderlies for any domestic or private personal purpose (cooks, drivers, attendants, etc) by police officers of all ranks (Recommendation of the Parliamentary Standing Committee on Home Affairs, 169<sup>th</sup> report).
- Abolish the use of police personnel as personal security guards (Recommendation of the Parliamentary Standing Committee on Home Affairs, 169<sup>th</sup> report).
- Make any such use of police personnel by seniors an infraction of the code of conduct, punishable with disciplinary penalties.

#### **7. Strengthen Recruitment and Training**

- Adopt a transparent recruitment process, which involves independent police recruitment boards with transparent procedures.
- Review recruitment practices so as to eliminate any possibility of corruption and favouritism and modify physical standards to accommodate women.
- Prioritise the recruitment of women and minorities. This will increase the diversity in the police service.
- Make psychological testing compulsory at the recruitment stage and at every stage of promotion to examine suitability for the post. Appropriate gender-sensitivity must be a core criterion when recruiting.
- Set aside a specified percentage of the police budget of every state for training of police personnel.
- Review all training curricula to emphasise that policing is done through strict adherence to the law. Emphasis should also be placed on forensic and other scientific forms of crime investigation and ways of preventing and detecting crime. Interacting with the public in a friendly manner and learning to elicit public cooperation in ensuring compliance with the law must also be inculcated and taught as vital professional skills.
- Ensure that training is ongoing, suited to imparting skills necessary to each function and compulsory prior to each promotion.
- Develop standardized human rights training modules within police training academies.
- Vest training academies with permanent faculty.

#### **8. Prohibit Ill-Treatment and Custodial Torture**

- Establish fully-resourced Police Complaints Authorities that have binding recommendations and a composition which guarantees independence in order for

them to be effective police oversight bodies (Supreme Court Directive, *Prakash Singh*, 2006).

- Strictly enforce the legal prohibition of torture by:
  - Supporting the passage of a national Torture Prevention Act which complies with international and domestic standards.
  - Ensuring swift registration of FIRs on all complaints of torture.
  - Entrusting investigation of such cases to either the CID or an Investigating Officer from another district.
  - Ensuring that all such investigations are supervised by a Superintendent of Police-rank officer.
  - Ensuring there is no delay or obstacle to the prosecution of police officers on charges of torture and abolishing section 197 of the CrPC in all cases of offences against the body (Law Commission, 152<sup>nd</sup> Report, 1994).
  - Compelling the police to follow the National Human Rights Commission (NHRC) guideline to report any custodial death or rape within 24-hours of occurrence to the NHRC. In custodial death cases, post-mortems must be video-graphed and the Case Diary sent to the NHRC.

#### 9. Improve the Police Response to Crimes Against Women

- Increase the presence of police personnel, including women police, on the streets and increase the visibility of women police officers in police stations (see above regarding a Women and Child Protection Desk)
- Immediately comply with all:
  - Ministry of Home Affairs (MHA) advisories and Standing Orders on Crimes Against Women; and
  - Accountability provisions effected through the Criminal Law (Amendment) Act, 2013.
- Develop and make public specific operational protocols on the police response to, and investigation of, crimes against women, namely rape, domestic violence, molestation and sexual harassment, where needed.
- Conduct specialised training on crimes against women for Investigating Officers.
- **Abandonment of the lecture system for sensitization. Need to create small groups with partnership of the NGO's who can from time to time visit the police station.**

#### 10. Appraise the Performance of the Police

- Ensure the State Security Commission measures police performance at the State level regularly and openly after devising objective indicators, such as service delivery, response time, registration of complaints, and other similar indicators which should be both quantitative and qualitative. This will put an end to the present method of measuring police performance through the number of crimes registered and cases 'solved'.
- Ensure that police station inspections

## **11. Put Policing Under Planned/Development Expenditure**

- The concept that expenditure on police is non-developmental must be discarded. In States where policing is not already part of the planned expenditure budget head, policing should be made the subject of planned/and development expenditure as opposed to unplanned expenditure.