

SEVEN STEPS TO POLICE REFORM

1. Introduction

The need for police reforms in India is long recognised. There has been more than three decades of discussion by government created committees and commissions on how to accomplish this. 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.

No recommendation was adopted by any government however. 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 battle in Court, the Court set up the Ribeiro Committee in 1998 followed by the Padmanabhaiah Committee 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 in 2006. Meanwhile very little was ever done on the ground to improve policing or implement the recommendations put forth by any of these committees or commissions.

A decade later in 2006 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. 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.

Initially, the Court itself monitored compliance of all states and union territories. However, in 2008 it 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*¹

Date	Supreme Court Hearings, Events and Deadlines
1996	Two retired DGPs, Prakash Singh & NK Singh, file a PIL in the Supreme Court
22 Sep 2006	Supreme Court delivers judgment requiring state and central governments to implement its seven directives. Governments have until 3rd January 2007 to comply
11 Jan 2007	Supreme Court Hearing on compliance. States request extension. Six states file separate review petitions. Court rejects review petitions and orders immediate compliance of directives 2, 3 & 5. Extends 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. Court makes no ruling on merits and grants a further extension of six weeks to all states and union territories to file compliance affidavits.
13 March 2008	Court hearing and deadline for states to file compliance report
28 Apr 2008	Court considers establishing a Monitoring Committee (MC)
16 May 2008	Court passes an order to set up the MC
18 Dec 2008	Court declines to rule on contempt before MC's report back
21 July 2009	Court declines to rule on contempt, CJI stating, "Not a single state government is willing to cooperate. What can we do?"

¹ (2006) 8 SCC 1



Feb 2010	Court hearing - Advocate Raju Ramchandran appointed <i>amicus curiae</i> for the MC
Aug 2010	MC sends its final report to the Court
8 November 2010	Court issues notice to four states - Maharashtra, Uttar Pradesh, Karnataka and West Bengal for total non-compliance.
6 December 2010	Court hearing on compliance of the aforementioned states, in presence of Chief Secretaries.
10 January 2011	States raise questions regarding Directive 2 - on fixed tenure of the DGP irrespective of superannuation in the Supreme Court
17 January 2011	States continue to raise objections to Directive 2 in the Court
24 January 2011	Court hearing- Advocate Harish Salve appointed as <i>amicus curiae</i> .
11 April 2011	Court hearing – Solicitor General seeks time for instructions on Directives 2 and 3 regarding tenure, and regarding Directive 4 on separation of investigation from law and order.
	No effective hearings since
11 March 2013	A different bench of Supreme Court takes suo motu notice of police excesses in Punjab and Bihar. Issues notices to Centre and all states asking them to file affidavits of compliance with Prakash Singh directives
1 April 2013	Advocates Harish Salve, U U Lalit and Mr Prakash Singh asked to assist the Court
25 April 2013	Court examines compliance with Directive 1. Issues notices to Andhra Pradesh, Goa, Haryana, Maharashtra, Rajasthan and Uttar Pradesh
6 May 2013	All six states found to be lacking in compliance. States had passed orders setting up SSCs on the eve of the Court hearing.
9 May	Amicus Harish Salve files petition challenging constitutional validity of Police Acts passed by 15 states post SC judgement. Court admits petition, issues notices to all states.
16 July	Andhra Pradesh, Maharashtra, Uttar Pradesh and Tamil Nadu fail to file affidavits. Notices issued to Chief Secretaries of these states to furnish information by the next hearing
31 July	Chief Secretaries of the four states were present in person to furnish the information. Chief Secretary of Maharashtra pointed out that there may be difficulty in implementing one or other directive as they are in conflict with existing law. Court allows seven days time to all states and UTs to point out in writing the difficulty if any faced in the implementation of any particular directive.
13 August	No substantive hearing on compliance taken up.
September and October	Ineffective hearings
November 2013 – March 2014	No hearings have taken place

3. Why the Seven Directives

The seven directives provide practical mechanisms to kick-start reform. They make up a scheme, which if implemented holistically will cure the common ills that create poor police performance and unaccountable law enforcement. The scheme puts in place mechanisms to 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 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 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 guidelines; and
- (iii) Evaluate the performance of the state police

Directive Two

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

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 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 convention in practice that indicates 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 rational 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 taking place at the behest of influential third parties. These are done to punish and reward 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 and allows them to 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, the 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 an FIR against the erring police officer.

6. State Compliance: National Overview

It has been seven years since the Court passed its directives. However there is not a single state that has fully complied with the directives. The Court is still hearing the matter. The Monitoring Committee has long since handed in its final comprehensive report to the Court. Clearly there is little political will to bring in the much-needed reform.

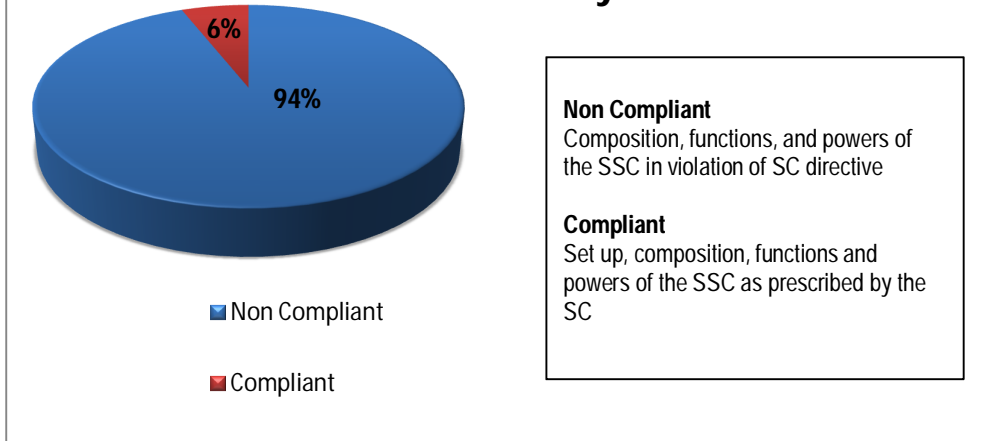
This overview of compliance is based on affidavits submitted by states to the Court and thereafter to the Monitoring Committee and on executive orders or legislation passed by states that have been put up on state and police websites. It does not take account of the actual situation on the ground, which is very different from what governments have averred on paper. It was disappointing to note that on the eve of the Monitoring Committee's visits to the states, government orders and notifications were being issued at the eleventh hour in order to comply with the directives. Similarly, the same last-minute hurried response plays out each time the Court issues notice to a particular state. Every reform attempt was clearly to avoid the scrutiny of the Court or the Monitoring Committee.

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

6.1. Compliance with Directive 1: State Security Commission



Compliance with Directive 1 State Security Commission



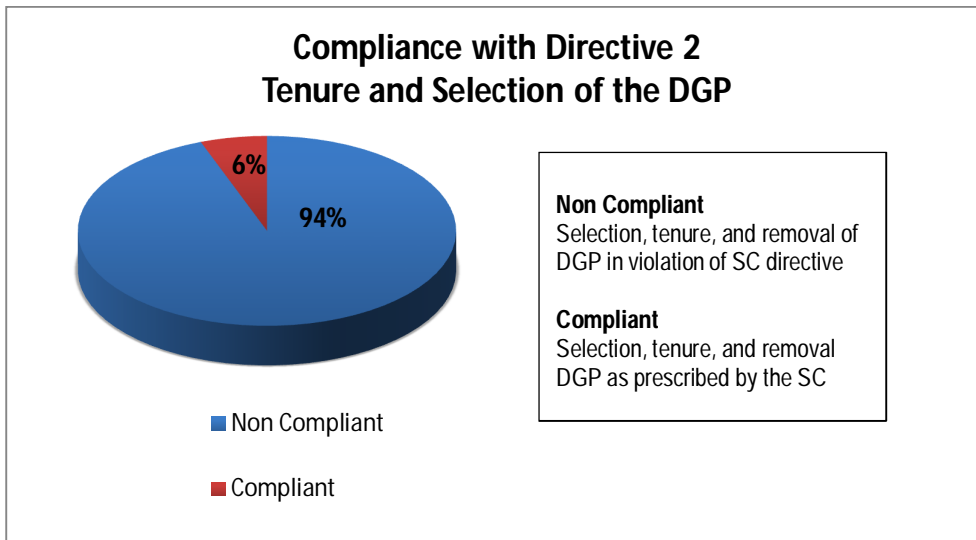
Twenty-five states have constituted State Security Commissions. Only three states - Manipur, Rajasthan² and Sikkim have established Commissions in conformity with the Court's orders. Commissions set up in most other states do not reflect the Court's criteria with regard to composition, function and powers. Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Meghalaya, Punjab, Tamil Nadu, Tripura, and Uttarakhand each are missing at least two of the following: i.) language indicating that the recommendations of the SSCs will be binding on the state; ii.) independent members and/or an independent selection process; iii.) member of the opposition on the SSC. However two of these have only recommendatory powers. Karnataka is the only state where recommendations of the Commission are binding. Kerala had made the recommendations binding on the state police but not on the government. States such as Andhra Pradesh, Jammu & Kashmir and Orissa are in complete non-compliance with this directive.

Over the last few years, after being summoned by the Supreme Court, some states have set up State Security Commissions via government orders or executive orders. Uttar Pradesh constituted a State Security Commission by government order, but as of date it continues to exist on paper. Madhya Pradesh, responding in haste to a contempt petition, overnight set up a State Security Commission via executive order. West Bengal, which had also come in for criticism by the Court for including the Health Minister of the State as the Chairman of the Commission, replaced the former with the Chief Minister.

² The Security Commission set up under the Rajasthan Police Act generally complies with the guidance provided by the Court. The slight but important deviation is in the composition of the selection committee that is created to select the independent members of the Commission. Two of the members of this Committee are members of the Security Commission itself. This by no means can be termed an 'independent committee'.

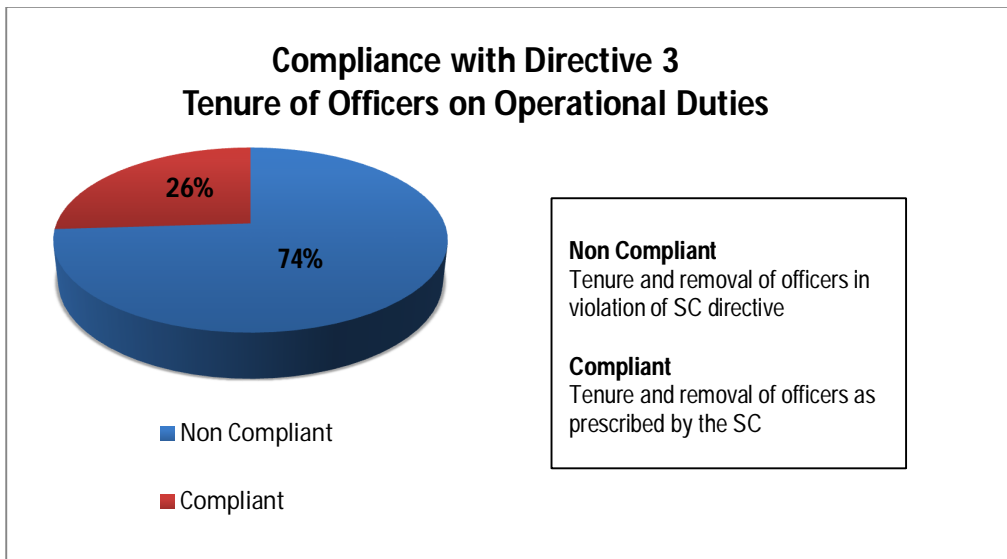


6.2. Compliance with Directive 2: Tenure and Selection of the DGP



Arunachal Pradesh 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. Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Delhi, Goa, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, and Puducherry are in total violation of the directive. Whilst Chandigarh, Chattisgarh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Manipur, Punjab, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand, and West Bengal have extended two year tenure for DGPs as prescribed by the Supreme Court, none of these states have selection criteria or mechanisms in place for empanelment by the UPSC.

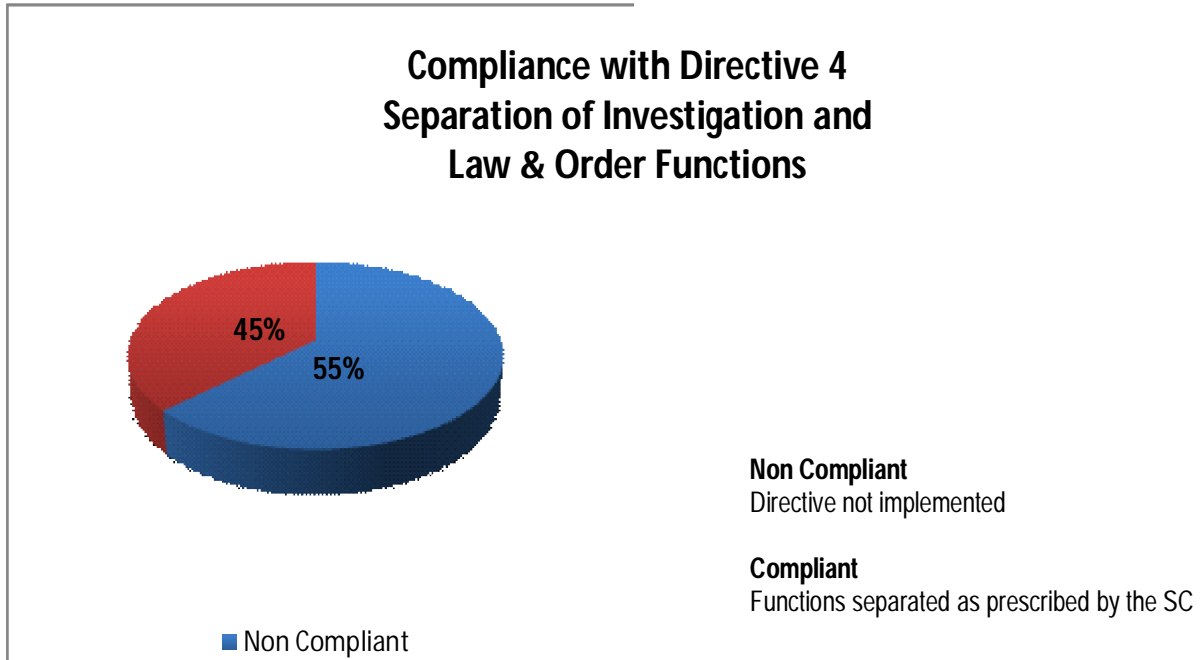
6.3. Compliance with Directive 3: Tenure of Officers on Operational Duties



Andhra Pradesh, Arunachal Pradesh, Gujarat, Karnataka, Kerala, Manipur, Meghalaya, Mizoram, and Nagaland are in full compliance with this directive. Assam, Haryana, and Punjab have partially satisfied the criteria set by the Supreme Court by giving one year tenure to certain officers, though the removal grounds for these officers are far wider and more vague than listed in the directive. Bihar, Chandigarh, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Sikkim, Tamil Nadu, Uttarakhand, and West Bengal have also provided removal grounds which are too broad to conform to the Supreme Court directive. Daman and Diu, Delhi, Goa, and Uttar Pradesh are in total non-compliance with this directive.

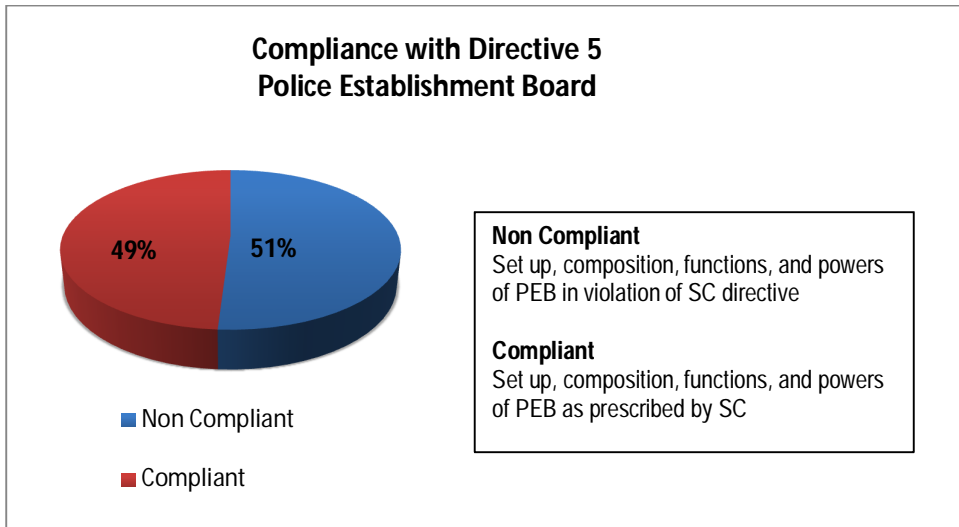


6.4. Compliance with Directive 4: Separation of Investigation and Law & Order Functions



A number of states – Arunachal Pradesh, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, and Uttar Pradesh have complied with the Supreme Court’s directive to separate the law and order police from the investigation police. Bihar, Maharashtra, and Meghalaya are in partial compliance by creating special investigation wings within their Criminal Investigation Departments. Unfortunately, to date, over half the states have not fully implemented this directive.

6.5. Compliance with Directive 5: Police Establishment Board

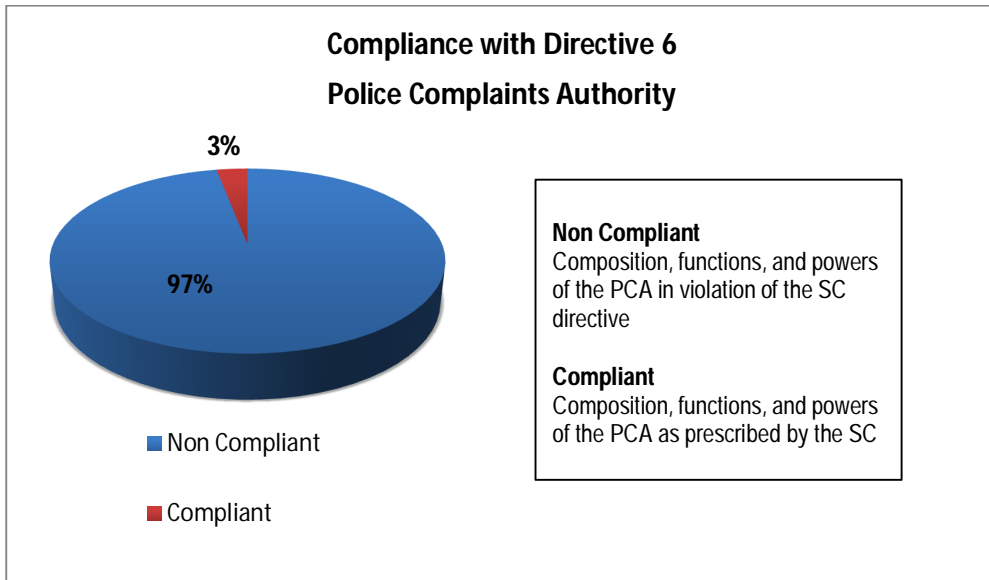


The states of Andhra Pradesh, Assam, Chhattisgarh, Goa, Himachal Pradesh, Jharkhand, Madhya Pradesh, Nagaland, Orissa, Punjab, Sikkim, Tripura, and Uttar Pradesh have established a Police Establishment Board, however they do not conform to the Court’s guidance. Arunachal Pradesh, Goa, Karnataka, Meghalaya, Mizoram and Tamil Nadu have conformed to all the Court’s stipulated criteria.



Maharashtra, in its 2014 Ordinance, has set up Boards, but these are hugely diluted from the Court's model and ultimately the state government has retained almost all power over transfers and postings. Chandigarh and Rajasthan are not in full compliance with the directive because they have limited their Police Establishment Boards' authority over the transfer and posting of certain ranks stipulated by the Supreme Court. Gujarat, Meghalaya, and Uttarakhand's Police Establishment Boards remain too vulnerable to Government influence to be in compliance with the directive, while Haryana and Kerala make Police Establishment Boards optional. Bihar is the only state that has not taken any steps towards complying with this directive.

6.6. Compliance with Directive 6: Police Complaints Authority



Except for Arunachal Pradesh³, no state government has established Police Complaints Authorities at both district and state levels that fully comply with the Supreme Court's orders. In fact, Kerala is the only state to have operational district level Authorities. However in terms of composition these do not match the Court's design. The vast majority of states have established Authorities that only partially comply with the Court's directive in terms of composition, mandate and powers. A significant minority of states – Uttar Pradesh, Madhya Pradesh, Jammu & Kashmir, and Andhra Pradesh have completely ignored this directive.

There are presently eleven Authorities operational on the ground level in states and union territories.⁴ They are in Assam, Andaman and Nicobar, Chandigarh, Daman and Diu, Dadra and Nagar Haveli⁵, Delhi, Goa, Haryana, Karnataka, Kerala, Tripura, and Uttarakhand.

7. Union Territories Compliance

In March 2010, four years after the Apex Court judgment, the Union Government took some steps toward implementing the Supreme Court's directives. The Ministry of Home Affairs (MHA) issued two memoranda, the first setting up a single Security Commission to cover all the Union Territories (UTs), and the second setting up Police Complaints Authorities (PCAs).

The proposed model for the Security Commission suggested that there would be one SSC for all the UTs. The composition was not along the lines suggested by the Court, powers not binding and no credible process for the selection of its members has been laid out. In fact, the model was weak, defeating the entire purpose of setting it up. In January 2011, after much criticism, this order was amended and a separate Commission constituted for Delhi. This Commission has the Administrator of Delhi, the Chief Minister and the leader of opposition in the state assembly along with five independent

³ It should be noted that Arunachal Pradesh is compliant on paper only, as they have not set up anything on the ground that reflects the Supreme Court's directive.

⁴ Please note that at present (March 2014), both the Chandigarh and Haryana Police Complaints Authorities are not operating.

⁵ There is a single Police Complaints Authority for Daman & Diu and Dadra and Nagar Haveli.



members. However the order does not follow the selection process for independent members as laid down by the Court. The independent members are to be selected by the Administrator from a panel of names prepared by a *Search Committee*. What is objectionable is that this Search Committee is also constituted by the Administrator himself making the entire selection process of independent members questionable.

For the remaining Union Territories a single Commission has been constituted, completely disregarding the fact that the policing needs of each UT may differ widely depending on the population size, the size of the police force and the crime profile.

Regarding the Complaints Authority, originally, single Authorities were envisioned for looking into complaints from multiple UTs, except Delhi. One body with jurisdiction over Daman & Diu, Dadra & Nagar Haveli and Lakshadweep; another to handle Andaman & Nicobar Islands, Chandigarh and Puducherry; and a third Authority set up at the state level would look into complaints in Delhi. The actual developments on the ground have been different as individual UTs have established Authorities for themselves, indicating perhaps a lack of communication between the MHA and the UTs. Nevertheless, this is positive as it is best each jurisdiction has its own Complaints Authority. Since 2010, Authorities have been constituted in Chandigarh, Daman & Diu and Dadra & Nagar Haveli and Puducherry. However their composition and mandates are severely compromised.

As for Delhi, the Delhi government in February 2011 issued a resolution designating the existing Public Grievance Commission in Delhi as the Complaints Authority for the NCT of Delhi. This action taken with the prior approval of the MHA is in complete violation of the Court's directive.

8. Compliance Watchdog: The Monitoring Committee

In May 2008 the Supreme Court set up the three-member Monitoring Committee to look at the implementation of the Court's directives by the Governments. The committee was headed by Justice K.T. Thomas - a retired judge of the Supreme Court, Mr. Kamal Kumar - a retired IPS officer and Mr. Dharmendra Sharma- Joint Secretary - Police Modernisation.

After examining all the available documents, including the affidavits filed by the central and state governments before the Supreme Court, the Monitoring Committee submitted its final comprehensive report to the Court in August 2010. The Monitoring Committee's findings were glaring. In its report it categorically said...*"Insofar as the implementation of the six specific Directives of the Supreme Court is concerned, the Committee has no hesitation in concluding that practically no State has fully complied with those Directives, in letter and spirit, despite the lapse of almost four years...In the States, where new police legislations have not been enacted, the directions are purported to have been complied with by issuing executive orders but the contents of such executive orders clearly reflect dilution, in varying degrees, of the spirit, if not the letter, of the Court directives."*

9. The Model Police Act

In 2005 the Ministry of Home Affairs constituted the Police Act Drafting Committee (PADC) better known as the Soli Sorabjee Committee to draft a Model Police Bill for India. Very shortly after the Supreme Court delivered its judgement, 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 the Bill will see the same fate, as have other recommendations on reform over the last three decades.

10. The New Police Acts: Reform or Retrogression

Till date, sixteen states have enacted new Police Acts to replace the old legislation and two states have amended their earlier police law to accommodate the new directives of the Court.⁴ Chandigarh has chosen to adopt the Punjab Police Act. Maharashtra in February 2014 has passed an Ordinance in purported compliance with the directives, but this Ordinance is in total violation of the directives.

A cursory look at the provisions and trends in these new Police Acts are cause for grave concern. States that have legislated pretend to obey the Supreme Court's orders in *Prakash Singh* but in reality are



subverting and diluting them so that they have little corrective value. This is one scenario in which the lack of implementation of new laws is stalling, for now, the disastrous consequences which will flow once they are properly enforced.

Most important to note is the complete lack of transparency, community consultation or civil society input into the legislative process. New laws are being drafted in complete secrecy by a small lobby of police officials and bureaucrats without involving the public or stakeholders. As a result, the laws in no way reflect the needs and aspirations of the people in relation to the police service they want, nor do they take into consideration views of the rank and file about the type of service they want to be part of.

11. Breathing Life into Police Reform: A Second Opportunity

Under two chief justices, the Supreme Court has been inclined to over kindness toward arrant disobedience and subversion of its orders. Despite the Monitoring Committee's report damning the level of state compliance, the Court failed to haul up states for contempt.

In March 2013 a different bench of the Supreme Court took suo motu notice of two incidents of police brutality and excessive use of force in Taran Taran, Punjab where the police beat up a woman in public and in Patna, Bihar where the police lathi charged protesting contractual teachers.

During the course of its hearings the Court issued notices to the Government of India as well as all state governments requiring them to file affidavits on the issue of implementation of the Prakash Singh directives. In April 2013, the reconstituted Bench took up the compliance of Directive 1. It was pointed out that states had set up Commissions that did not conform to any of the prescribed models and their powers had been diluted. No state could be termed as fully compliant. Expressing its discontent the Court made it clear that there will have to be full compliance of the Supreme Court's directions and the states will not have the discretion to mix features of different models.

Notices have also been issued to six states - Andhra Pradesh, Goa, Haryana, Maharashtra, Rajasthan and Uttar Pradesh - wherein the Court is expected to examine compliance. At subsequent hearings several states have been pulled for non compliance or complete disobedience. In response states have issued fresh government orders or notifications in compliance but unfortunately these continue to remain on paper.

It is hoped that this time the Court is more serious and strict action is taken against erring states.

⁴ As of March 2014, the States of Assam, Bihar, Chattisgarh, Haryana, Himachal Pradesh, Kerala, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand, have passed new



police legislations. Gujarat and Karnataka have passed Amendment Acts.

