

## **A Brief Note on the Bill proposed for the Model Police Act,2006**

The Ministry of Home Affairs, Government of India, having visualized the long-felt need to replace the 145-year old Police Act 1861, set up a Committee of Experts, under the Chairmanship of Dr. Soli J. Sorabjee, in September 2005 to draft a new Police Act that could meet, inter alia, the growing challenges to policing and to fulfill the democratic aspirations of the people. The Committee comprised six non-official Members and four ex-officio Members, besides a full-time Secretary. The Commonwealth Human Rights Initiative (CHRI), which has been advocating reforms in the police, was invited by the Committee to be a non-official Member. The Committee's time was extended up to October 31, 2006.

2. The PADC held as many as 40 Meetings (starting from 18<sup>th</sup> October, 2005 and the latest having been held on 28<sup>th</sup> October, 2006). It went through the reports of the past Commissions/Committees and also surveyed the legislations on policing abroad. It looked at comparative experience of policing in both developed and developing countries. In order to obtain a wider participation and useful inputs from all sections of society, an advertisement was inserted in leading newspapers all over the country about constitution of the Committee of Experts and suggestions/inputs sought. In this regard, a web page was opened on MHA's web site. The draft Chapters prepared by the PADC were also put on the web, from time to time, in order to maintain transparency in the Committee's deliberations. The web site generated lot of interest among concerned citizens and several inputs were received both on Internet and by post. A number of individuals made their presentations in person. All these inputs have been duly considered by PADC in elaborating various formulations in the proposed Act.

3. Alongside, the Bureau of Police Research & Development (GOI) undertook a survey of opinion of serving police officers from different States of the country and also those of the Central Police Organizations, and made the feedback available to the Committee. The Committee had interactions with eminent personalities and experts from different fields. The Secretary of the Committee also had informal discussions with eminent personalities including the former Member Secretary of the National Police Commission and police functionaries, in the field, at different levels.

4. The proposed Act has 16 chapters, consisting, in all, 221 sections. In drafting the Model Police Act, the Committee was guided by the need to have a professional police 'service' in a democratic society, which is efficient, effective, responsive to the needs of the people and accountable to the Rule of Law. The Act provides for social responsibilities of the police and emphasizes that the police will be governed by the principles of impartiality and human rights norms, with special attention to protection of weaker sections including minorities. It also contains a provision that the composition of the police will reflect social diversity. The other salient features of Model Act include:

***Functional autonomy:*** While recognising that the police is an agency of the State and therefore accountable to the elected political executive, the Committee has specifically outlined the role of Superintendence of the State Government over the police. The Model Police Act creates the following mechanisms and processes which will help the police perform its functions more efficiently as also enhance its credibility in the eyes of the public:

- ***Creation of a State Police Board:*** This body, under the chairmanship of the State Home Minister and comprising the Leader of Opposition in the State Assembly, the Chief Secretary, the Home Secretary and the Director General of Police besides a few independent non-government members, shall lay down the policy guidelines for efficient policing and identify performance indicators to evaluate the functioning of the police service.
- ***Merit-based selection and appointment of the Director General of Police:*** To ensure a leader who can function with professional efficiency and a temporal perspective, without fear or favour, the Model Act mandates selection of the Director General of Police from among three senior-most officers of the state police, empanelled for the rank against prescribed criteria. Recognising that the Head of the Police must enjoy the confidence of the political executive, the Act provides for the State Government to appoint any of the three such officers as the Director General of Police.
- ***Security of tenure:*** Cognisant of the fact that frequent transfers of officers seriously impede professional efficiency in police functioning, the model Act mandates a minimum tenure of two years for the Director General of Police and other key functionaries such as the District Superintendent of Police and the Station House Officer. Indeed, the security of tenure does not preclude the removal of an officer for misconduct or inefficiency; it merely ensures that removal is consequent upon specified grounds laid down in law.
- ***Establishment Committee:*** This is a departmental body comprising the Head of the Police and other senior officers, being created at the state as well as district levels, to consider transfers and postings of police officers at different levels on the basis of collective wisdom and experience, and to look into complaints of police officers against any illegal orders.

***Encouraging professionalism:*** To ensure an efficient, responsive and professional police service, the Model Act introduces the concept of preparing plans that lay down the policing objectives to be achieved in a given period, and provides mechanisms to streamline criminal investigation and the training processes for police officers.

- ***Earmarking dedicated staff for crime investigation:*** To streamline criminal investigations, the Act mandates earmarking of staff in each police station specifically for investigating heinous and other specified offences, who shall be trained in scientific and other methods of investigation.

- *Civil Police Officer:* Keeping in view the fact that the civil police – as against the armed wing of the police – needs better-educated personnel to exercise discretionary powers in dealing with people and investigating cases, the Act stipulates that the rank of constabulary be done away within the Civil Police. Now the primary rank in the civil police is the Civil Police Officer, Grade II. Those recruited to this rank shall be trained for three years as stipendiary cadets, and only upon passing prescribed bachelor's degree examination in Police Studies would they be appointed as Civil Police Officers.

***Accountability paramount*** : Realising that what matters most to the people is accountability of the police, the Act prioritises police accountability, both for their performance and their conduct.

- *Performance evaluation:* The Act provides detailed mechanism comprising the State Police Board, assisted by an Inspectorate of Performance Evaluation, to evaluate the police service at the state, district and police station levels. The police shall be evaluated against identified performance indicators (including operational efficiency, public and victim satisfaction, accountability, optimum utilisation of resources, and observance of human rights standards), the targets let out in the Annual Plan, and the resources available with the police.
- *Accountability Commission and District Authorities:* The Act creates independent civilian oversight agencies chaired by retired judges at the state and district level to inquire into public complaints against the police for serious misconduct and to generally monitor internal departmental inquiries in other cases of misconduct .
- *Offences by the police:* The Act introduces criminal penalties for the common defaults committed by the police including non-registration of FIRs, unlawful arrest, detention, search, or seizure to bring into sharp focus for the police personnel that some of their practices are not only illegal, but also criminal offences under the law of the land.

***Improved service conditions:*** The Act also aims to provide better service conditions to the police personnel including rationalising their working hours, one day off in each week, or compensatory benefits in lieu. It creates a Police Welfare Bureau to take care, *inter alia*, of health care, housing, and legal facilities for police personnel as well as financial security for the next of kin of those dying in service. It further mandates the government to provide insurance cover to all officers, and special allowances to officers posted in special wings commensurate with the risk involved.

***Role in protecting Internal Security in light of new threats:*** As per the terms of reference of the Committee, the Act also deals with police preparedness to manage threats to internal security from activities of terrorists, militants, insurgents and organised crime groups. The police are not granted any special powers in the Act to deal with these threats; rather the Act provides for systematic preparation and meticulous compliance of Internal Security and Standard Operation Procedures.

Schemes to handle the threats as well as creation of Special Security Zones with in a State and where need arises, in contiguous areas of neighbouring states, that facilitate different police structure and command, control and response system, and cooperation between different agencies of the state(s).

The Committee has endeavoured to put forth a comprehensive Act that could ensure effective policing in both urban and rural areas. It is earnestly hoped that legislation of a new Act based on this model Act will help each State Government to provide an efficient, effective and yet people-friendly police.

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