

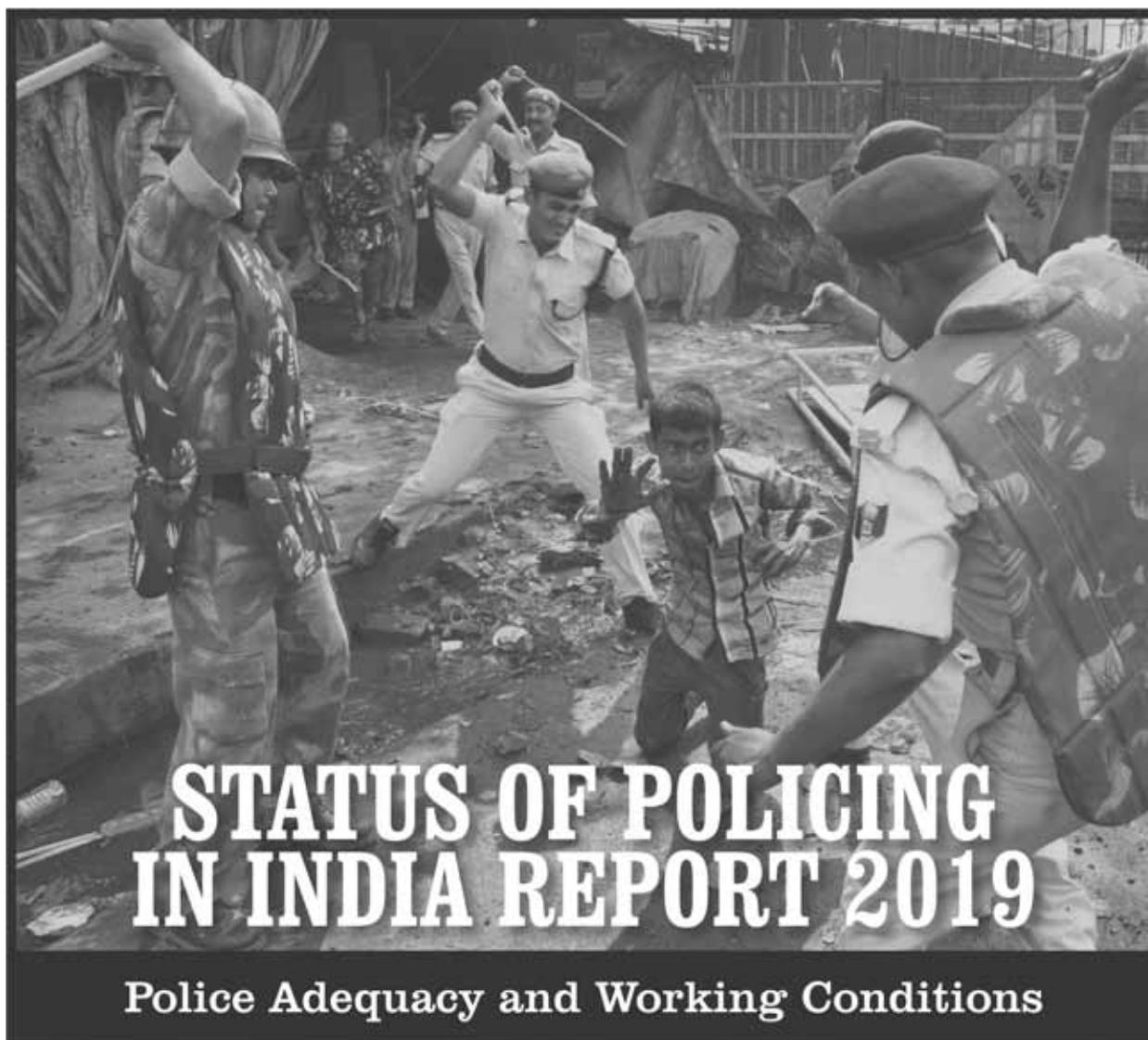
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## STATUS OF POLICING IN INDIA REPORT 2019

**Police Adequacy and Working Conditions**

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Please email us at [commoncauseindia@gmail.com](mailto:commoncauseindia@gmail.com) if you want a soft copy of the report.



# STATUS OF POLICING IN INDIA REPORT 2019

POLICE ADEQUACY AND  
WORKING CONDITIONS

**COMMON  
CAUSE**

**CSDS**  
Centre for the  
study of developing  
societies

**डीक-नीति**  
Institute for Corporate Services

**TATA TRUSTS**

**LAL FAMILY  
FOUNDATION**

Jointly prepared by Common Cause and its academic partner, CSDS, the report is a study of the trying working conditions of police personnel, their meagre resources and infrastructure, crime investigation, diversity, people-police contact and police violence. We interviewed about 12000 police personnel inside police stations or at their residences in 21 states as well as around another 11000 of their family members.

The SPIR 2019 studies the experiences of the police personnel and their attitudes towards incidents of crime, use of violence and torture, marginalised communities, juvenile delinquency and incidents of mob lynching.

Please email us at [commoncauseindia@gmail.com](mailto:commoncauseindia@gmail.com) if you want a soft copy of the report. A PDF can also be downloaded from [commoncause.in](http://commoncause.in)

**Cover Photo:** *Police personnel lathi charge protestors during a demonstration against the state government in Patna.*

*Cover Photo Credit: Santosh Kumar, Hindustan Times*

Designed at GENESIS [genesisadvtd@hotmail.com](mailto:genesisadvtd@hotmail.com) 9810033682

## Letter from the Editor

# AN AGENDA FOR POLICE REFORMS

Dear readers,

As many of you would know, Common Cause launched its second Status of Policing in India Report (SPIR) 2019 recently at the India International Centre in New Delhi. A brief presentation of the report was followed by a panel discussion on “Indian Police and the Rule of Law in Practice” with social activist Aruna Roy, former DGP Prakash Singh and human rights lawyer Vrinda Grover as the main speakers. The event was chaired by the retired Supreme Court judge, Justice Jasti Chelameswar who delivered the keynote address.

This issue of your journal is prepared especially for those of you who have interest in police reforms but who could not be present at the launch event. We summarise the findings of the SPIR 2019 and provide edited excerpts of the rich and animated discussion accompanying the launch. We hope the issue will be useful for Common Cause members and well-wishers across India whose support has been vital for the organisation’s police reforms programme continuing since the mid-nineties. In the past, Common Cause has engaged with governments and taken the lead in drafting the Model Police Act for the states of Delhi and Uttar Pradesh. It has also suggested ways to reform and modernise the force and to measure the impact of policing on the ground.

The SPIR series of studies is a continuation of that commitment. Both the SPIR 2018 and 2019 can be downloaded for free (from our website, [commoncause.in](http://commoncause.in)) and you can also write to us if you need a printed copy, particularly for a library. Your valuable feedback is welcome.

### **Partnerships in Progress**

The first SPIR study was launched in 2018 with the support of our philanthropic partners, the Lal Family Foundation and Tata Trusts whose consistent commitment has made the ambitious, nationwide studies possible. The SPIR 2018 was devoted to citizens’ trust and satisfaction in police and was India’s first study which combined performance with perceptions. It was conducted by Common Cause and its academic partners, the Centre for the Study of Developing Societies (CSDS) and the Lokniti Network of scholars at universities and research institutions all across India. The SPIR 2019 is a study of police adequacy, attitudes and working conditions and it builds on the findings of the first report.

The idea behind bringing out a series of scientific and data-based studies on policing was to create a set of baseline documents on the state of policing and the rule of law in India. Studies like these perform three distinct functions: First, they quantify the citizens’ experiences with the criminal justice system in general and with the police in particular. Secondly, data-based studies show us how far we are from our own state’s objectives and point out to policy makers the areas where urgent action is required. Lastly, facts and figures help to fight prejudices and stereotypes prevalent in the society.

The Constitution of India – the source from which our statutes get their meaning and institutions and elected leaders derive their authority – defines in its Preamble the foundational principles of justice, liberty, equality and fraternity. Together, these principles underpin a fair, harmonious and forward-looking state. But the clarity of objectives is not enough to secure the life, liberties and fundamental rights of all citizens. We need a fair and efficient criminal justice system to translate such a noble vision into reality.

And that is why we need the police to function not as the strong-arm of the rulers of the day but as a service to the people, enabling them to realise their full potential peacefully. The SPIR is an effort in that direction.

The objective of the series of studies is to make the police more efficient, humane and service-oriented. The analysis includes the community's contact with the police, their experiences and grievances, and the conditions under which an average police person works. Advanced democracies like the US, Canada, UK, Germany and France have been using surveys and data analysis to improve the functioning of their criminal justice systems for decades, mostly with the help of independent players like the civil society, think tanks or universities. Even there, crimes like domestic violence or racial attacks are under reported and surveys are needed for a clearer picture of the citizens' lived experiences and expectations.

## **Many Firsts in SPIR 2019**

The SPIR 2019 presents, for the first time in India and South Asia, a combination of analyses of official data and the findings of an all India survey involving 21 states. The respondents were 12000 police personnel and around 11000 of their family members who were interviewed at their workplaces or inside their homes by a team of specially trained surveyors. The family members have been included to capture the stresses and vulnerabilities faced by police personnel in their line of duty.

The study covers the trying working conditions of police men and women, their infrastructure, capacities and resources for crime investigation, diversity in the forces and the attitude of police personnel towards the use of violence and torture to elicit confessions or to restore law and order. The survey was designed to draw out responses of police personnel about their daily routines, the larger society, and their capacities to fight crimes.

The study is designed to be a suitable tool for advocacy and reforms. It points out the need gaps in crucial areas of policing where immediate policy changes are required. For instance, if the data tells us that the average workload on a female police officer is several times more than her male counterpart, and rising, it calls for more recruitment of women without losing time. Similarly, when the data tells us that only 6.4 percent police personnel got any in-service training at a time when policing is becoming more of a mental rather than physical exercise, it calls for a whole new level of training and technical capacities.

We also know that the real challenge, in a democracy, is to constantly train and sensitise our police personnel and build their capacities without compromising privacy and dignity of citizens and with minimum intrusion and illegal surveillance. We hope that the data presented in the SPIR will provide fresh insights to the police and political leaderships and will be useful for carrying out effective police reforms in India.

We at Common Cause treat the SPIR as a continuous process rather than as isolated reports. Work has already started on the third round of data collection to be released next year. The process of finalising the framework and the areas to be covered is currently on and we will keep you informed about the progress. Like always we will wait for your comments or suggestions, please write to us at [commoncauseindia@gmail.com](mailto:commoncauseindia@gmail.com).

**Vipul Mudgal**  
Editor

# INDIAN POLICE AND THE RULE OF LAW IN PRACTICE

Excerpts from the SPIR 2019 Panel Discussion

The launch of the Status of Policing in India Report (SPIR) 2019 at the India International Centre was a well-attended event. Participants included a large number of lawyers, judges, journalists, social scientists, retired and serving police officers, civil society activists and students. The report release event also featured a panel discussion on 'Indian Police and the Rule of Law in Practice.' The participants of the panel discussion were Aruna Roy, recipient of the Ramon Magsaysay award for community leadership, Prakash Singh, a crusader for Police Reforms in the country and human rights lawyer Vrinda Grover, who has represented victims of communal violence, extrajudicial killings and custodial torture. The discussion was chaired by Justice Jasti Chelameswar, who has delivered several landmark judgments on matters of national and Constitutional importance and is known for his expressions of dissent as well as emphasis on transparency.

The edited excerpts of their presentations are given here.

“***It's not that we have the rule of law, we have the law of rulers.***”



PHOTO CREDIT: Pathyam Oinam, We The Young

## **Prakash Singh, former DGP, Uttar Pradesh, Assam and Border Security Force**

Over the years as politicians have become more unscrupulous and unprincipled, what happens to the police as a consequence of non-compliance is different. Earlier it would be a transfer from what they say is a 'non-vegetarian' posting to a 'vegetarian' posting (euphemisms for 'dry' or 'lucrative' postings). Or it could be a transfer from a prestigious post to a non-prestigious post. For instance, from SSP Kanpur you become SP Vigilance, a less prestigious posting. After that came a second stage, where you

could be punished, or some kind of charges or disciplinary proceedings etc. may be initiated against you for non-adherence. And now I think we are gradually moving towards the third stage where you may be suspended, arrested, involved in such a case that you'll have to resign. You may even be jailed for something you have not done. So politicians are becoming more and more harsh for non-compliance of political directions. It needs to be understood that working has become much more difficult than what it was in our times.

I have been asked to speak on police and the rule of law in practice, not rule of law in theory. Now, what do you mean by rule of law? Many political



*A number of civil rights activists, lawyers and journalists attended the report launch.*

PHOTO CREDIT: Prathyam Oinam, We The Young

understand clearly why these Acts were passed. The Supreme Court said in 2006 that these directions will hold good 'till such time as the Centre or the state governments pass their own laws on the subject.' The state governments, without being bothered about what the rest of the judgment said, just picked up this one sentence. They said the best way to get out of the Supreme Court directions is to pass an Act. So, 17 states have passed Acts not to implement the directions of the Supreme Court but to circumvent their implementation. Bihar was the first state to pass an Act. In everything else it would be the last, but was the first to pass the Police Act because it wanted to legitimise the status quo.

Police reforms were discussed for the first time in 1902, when it was felt that radical police reforms are necessary in this country. Certain observations were made at the time by a commission appointed by Lord Curzon. I read from that report: 'the police force is far from efficient, it is defective in training and organisation, it is inadequately supervised, it is generally regarded as corrupt and oppressive, and it has utterly failed to secure the confidence and cordial cooperation of the people.'

There were many commissions in the wake of independence, a National Police Commission, state police commissions, the Ribeiro Committee,

philosophers have from the beginning distinguished between the rule of law and rule by individuals. British constitutional expert AV Dicey has a very good explanation for the rule of law and its absolute supremacy. I repeat, absolute supremacy and predominance of the rule of law as opposed to the influence of arbitrary power. Where do we stand in the rule of law? The World Justice Project brings out the Rule of Law Index. I was going through their latest report of 2019, where they have eight parameters on which they judge different countries.

The overall ranking of India out of 126 countries, is 68. What is worrying is that between the report of 2018 and 2019 we have gone two notches below.

Now, why are we at such a low position: 68 out of 126 in the Rule of Law Index? If I were to give you a one sentence reply, I would say: It's not that we have the rule of law, we have the law

of rulers. What they say prevails. In a critical situation a policeman is always thinking not of what the Code of Criminal Procedure (CrPC), or the Indian Penal Code (IPC) says, but what the Chief Minister sitting in Bhopal or Jaipur or Lucknow would be wanting. The policeman wants to be on the right side of the establishment and therefore, he makes an assessment of what would be the best course of action and acts accordingly.

Basically this dilemma of the police results from our colonial structure of policing. The 1861 Act has been replaced by a different Act in at least 17 states following the Supreme Court directions. But we need to

“**Politicians are becoming more and more harsh for non-compliance of political directions.**”

Padmanabhaiah Committee, Malimath Committee, and so on. There was one common recommendation: that the police should be insulated from outside pressures. Barring this recommendation, everything else was implemented. If they want more motorcycles, give them more motorcycles, if they want an increase in uniform allowance, give it to them. So things that were cosmetic in nature, were readily conceded. What would have made a fundamental change in the working of the police was never agreed to, or complied with. Now, 17 states have passed Acts that violate the Supreme Court's directions. Although these states are under the impression that they are out of the Supreme Court's ambit and jurisdiction, or any review or oversight, we have got these Acts challenged in the Apex Court. Equally worrying is the situation in states that have passed executive orders. On paper they have set up state security commissions, police establishment boards and police complaints authorities, but the moment we go into the details of these institutions we find that the states have curtailed their powers, diluted their composition and circumscribed

**“We want to be a great power, have a seat in the Security Council, but are we degenerating into a criminal state?”**



PHOTO CREDIT: Sunil Saxena, Hindustan Times

*Students arguing with a police officer at a protest in Delhi.*

their charter. It is, in fact, a farcical compliance.

Every October we have this Commemoration Parade and the names of all those who die in the performance of their duties is read out there. Normally the list has 500 to 800 men across the country who died discharging their duties in one year. From memory I can tell you that the national average comes to about 500 plus every year. In the U.S. the figure is just in the range of 100, or below 100. But mind you, 100 on one side and 500 plus on the other shows the kind of hazardous conditions under which Indian policemen have to work.

Fourteen hours a day, not getting a weekly off, and not having a vehicle at your disposal are troubling realities but to be exposed to dangerous situations where your life is at stake is an entirely different proposition for a policeman.

There is a very good sentence in the introductory part of the Status of Policing report which says that India's future as a democracy and an economic powerhouse cannot be secured by an obsolete criminal justice system. If you want the future of democracy to be safeguarded, you must have a reformed police. Similarly, you can't have economic development if law and order is not good. But, are we making serious efforts in securing the democratic structure? I don't see that because the ADR figures say that the number of persons with criminal background was 30% in 2009, went up to 34% in 2014 and is at 43% in 2019. It is a graph that's going upwards and we haven't arrested its progress. So what worries me is the future of democracy in this country. We want to be a great power, have a seat in the Security Council, but are we degenerating into a criminal state?



PHOTO CREDIT: Pathyan Oinam, We The Young

## Aruna Roy, social activist and founder of Mazdoor Kisan Shakti Sangathan

About two months ago I was invited by the police academy in Jaipur in Rajasthan to address them. I went and what followed was a conversation as frank as it could be, between the powerful and the powerless. I was flanked by a senior police officer who had been transferred under a cloud many years ago for being honest by the Chief Minister at that time, for implementing the law! After many years he was posted back to a position of power and authority. When the conversation ended, a Deputy Superintendent of Police from the audience stood up and said “until and unless we are removed from the control of the political system we cannot deliver justice.” He said in

Hindi: “*Jo Constable karta hai Usko Thanedaar nahi manta, jo Thanedaar karta hai usko SP nahi manta, aur jo SP karta hai usko DG nahi manta, aur jo DG karta hai usko Mukhyamantri nahi manta, toh hum kahan se nyay de sakte hain aapko.*”

(The Station officer overrules the constable’s action, the Superintendent of Police overrules the Station House Officer, and the DGP overrules

“***This report will strengthen public debate and discussion, and for those of us who fight small battles for justice, this report adds value and credibility.***”

the Superintendent of Police, and finally the Chief Minister overrules the DGP.)

The only solution to police reform, in the penultimate sense, he said, would be an independent police system. But that also raises a huge question, because though we could all argue for the independence of the police and of institutions, how can a police force, or any other wing not be accountable?

I do have some understanding of what happens inside the system, because of seven brief years as an IAS officer; when I had a lot to do with law and order in Delhi. I spent hours in the police stations in Parliament Street, Rajendra Nagar and in various parts of South Delhi as an SDM there, listening to my colleagues, the SHOs tell me how they tortured people in custody. But when I was in the IAS, I always had a mixed reaction to comrades in the police. They were de-humanised but I also knew that they were subject to a killing routine, as stated in your report. I also knew that they were subjected to orders which they could not refuse, even if they quoted law and rule. They did what was asked of them, without a demur. They were tools in the hands of decision makers who were often invisible.

Citizens when they face the police are not comfortable. When I left the IAS and went off to work in rural Rajasthan, I knew I was a common citizen

in the villages of India, but slowly the impact began to seep into my daily life. I would judge how ordinary citizens felt about the police by looking at their behaviour as they crossed a policeman on the road. If they saw a cop coming and dodged him, then they were dead scared, or at least worried; because the appearance of a cop portended something horrible had happened. In the villages of Rajasthan in those years, when a constable entered, there was terror, because they thought that there would be bad news and potential trouble.

Going into a police station was not ever a comfortable situation for any ordinary citizen. While we blame the police, I have always felt that the police are merely a baton in the hands of the system. While the baton is used against us, the orders normally come from somewhere else. You can't blame the hand for hitting somebody; you blame the person. While the cop stands in front of you, when these things happen, it's the effect of a great systemic disorder. Police reform is the first step towards correcting the processes of delivery of justice. I would say that the fear of the cop is now in the shadow of the fear of the state. Today when we go out it's not just the fear of policemen, it's a fear of what could happen to any of us as the complicit policeman is dictated to by the vested interests of the government in power. That is because the rule of law is not only threatened by

the state of the police today, but by insidious processes violating basic rights in the running of the government itself.

The study shows that training of policemen is a low priority. I have come from a meeting today, where we were quite disappointed to know that the Constitution of India is hardly familiar even to most lawyers. Civil servants, students of law and Indian citizens are likewise unaware of its content. When we demand the rule of law, what are we then demanding? How can the system deliver justice, if it does not know what the rule of law is, in its basic form? Training for police personnel is therefore, critically important if we expect them to perform. They should know how to work under the various laws and understand what the criminal justice system is.

I have many friends who have retired as constables from the police service, and I know how much of the law they actually are taught or know.

You and I interface with them as representatives of the state, and expect them to engage in action that will guarantee us our constitutional and legal rights. But constables, basic pillars of constitutional guarantee in public interface, are merely their master's voice. There is a deep anomaly. I think we'll have to go into a much deeper critique of police systems all over the world perhaps, but definitely of the Indian police system.

In my interactions with the police, I've seen a very human side to them. I remember MKSS organising a big hunger strike for minimum wages in a small town called Bhim in Rajasthan in 1992.

The Chief Minister at that time Bhairon Singh Shekhawat denied us minimum wages amounting to Rs 1600 on a Jawahar Rozgar Yojana work site. We sat in protest, with a hunger strike. Finally, we got that money and the Government of Rajasthan paid us Rs 1600. During the strike, however, more than a



*Attendees at the launch of SPIR 2019.*

100 policemen were posted there for more than 10 days. The government must have spent more than Rs 1 lakh at that time, to ensure the “law and order” was not disturbed. During that period the cops used to come and say: “why are you asking only for the wages of these agricultural labourers and workers, ask for our minimum wages as well.” We asked them to join the strike, sit down with us and demand their wages. There were human responses like: “please pack up your strike, I’ve been away from home too long, I have a son, or daughter.” And then there was the jailor of the Bhim jail, who used to get drunk every night. Since our dharnas were always volatile, demands presented through theatre, full of song and dance, he used to turn up at night and dance with my friend Shankar to the drum beat of the Rajasthani dhol. He would promise and give us some wheat every day; (MKSS lives on crowd funding) but he would say: “don’t announce it on the mike.”

When we sat on our various protests for RTI, police constables and sub-inspectors gave us money, cautioning us not to announce it. There is a human side to the cops. The malfunctioning of the system to develop that human side and make it function in a just and judicial manner is the bigger failure. We feel that merely criticising the police will not do. We have to take the police force as a wing of the government. We

have to basically take cognisance of the decaying values in the system itself. I really do think that when we talk of law and order and the rule of law, we are really talking of a much larger framework in which the police and the police system functions. What is there in the system that renders the police inhuman and makes them completely immune to sensitivities and compassion? These are issues that we as part of a democratic society have to address.

I have known some excellent police officers, who are very good human beings. I know of Rajasthan police personnel who have shown much compassion. They have intervened to get justice for people, but they are celebrated as exceptions, whereas that should be the rule. And I think every system has outstanding people and they have to really surmount innumerable problems within the system to function as they do.

This report itself is excellent because it has shown us factual data on how badly trained our police are. It has revealed how sensitisation has not really worked, how prejudiced the police force is and reflects the social framework from which they come. Unless there is social change there cannot be any democratic or political change. What kind of social change have we worked for as a people? How can we expect the constable or the police not to be prejudiced?

The entire bureaucracy and civil service need to get training in constitutional values. The police are just a cog in a much larger wheel where constitutional values are fast disappearing. They really need to be re-established. This report with empirical data, at least gives power to some of demands that we make on the system.

We do need the police, like we need the bureaucracy. Sometimes we say there should be no bureaucracy, we are fed-up with the red tape. But can the country really run without a bureaucracy? Like we need a bureaucracy, we do need a police system. What is missing is its accountability to constitutional values, where the system supports and encourages it to do its best. Therefore, reforms are critical. I wish all of you good luck and myself too, as democratic campaigners to succeed in our efforts. We have to make sure that fundamental reforms come to be and through them the uncomfortable questions about impunity and accountability are placed in the public domain. We have to also ensure that we are allowed to debate and discuss these issues because it is only in such debates that a democracy grows in understanding and strength. This report will strengthen public debate and discussion, and for those of us who fight small battles for justice, this report adds value and credibility.



PHOTO CREDIT: Prathyan Oiram, We The Young

## Vrinda Grover, human rights lawyer and social activist

I am glad that at least now we have an evidence based understanding of what is wrong so that we can at least try and start doing, thinking or talking, as Aruna said, about what needs to be done.

I do not for a moment believe that police is some demonic force, or that there are no good individuals. That would be a silly assumption on anybody's part. I think about the compulsions, exigencies within which the police force is functioning, particularly on the aspect of political pressure, political interference and subservience that the political class seeks from it.

I engage with the criminal justice system both as a lawyer and from

the human rights perspective on behalf of vulnerable groups, including Dalits, Adivasis, Muslims, other targeted minorities, women and workers. And what is the experience of that? There is a phrase that appears in the report called 'Institutional Bias.' It's a phrase that many of us have for very long been wanting to place at the centre of issues of governance, policing and there has been a huge resistance.

The phrase 'institutional racism' was actually coined by Sir William Macpherson, a Scottish retired high court judge, after the killing of a black man in England. But it can be adapted and understood in our context, and we can always look at it from the lens of caste, religion, gender. Today you have transgender persons actually facing one of the worst cases of police violence

ever, and I wonder whether we can justify that as political orders. There was a report done by PUCL Karnataka many years ago, where the targeted violence and abuse of transgender persons by the police is documented. This violence can't be justified as orders given by any political party.

The term institutional racism was defined as: 'The collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.'

One can use this in the broad sense to examine many of the issues that have actually been highlighted in this report, with regard to the responses received from within the police force, both about their own colleagues as well as people outside.

Interestingly, the first time we saw the phrase 'institutional bias,' was in the police study of 2018 (Status of Policing in India

**“I do not for a moment believe that police is some demonic force, or that there are no good individuals.”**

2018: Study of Performance and Perceptions) quoted in a Delhi High Court judgment of the Hashimpura killings. The judgment actually took over 30 years to come. The killings happened in 1987 when over 40 Muslim men were killed and their bodies thrown into the canal by the UP Provincial Armed Constabulary. Hashimpura is a neighbouring mohalla of Meerut, just a few hours' drive from Delhi. The case was transferred to Delhi, but the trial took forever. We got a judgment in 2017 from the trial court, acquitting all the accused, and then one from the Delhi High Court in October, 2018. I am just going to read out one paragraph because I think it speaks to the findings here. The judgment says, 'A disturbing aspect of the present case is the targeted killings of persons belonging to one minority community. It was submitted on behalf of the accused that the prosecution in the present case has not proved motive for the commission of the crime and since the 42 persons allegedly abducted were total strangers, the accused had no grudge or animosity against them and further that "no sane and prudent person much less than members of the disciplined force like the accused/Respondents would commit such gruesome crime.' And the High Court says, 'What the above submission overlooks is the fact that all the victims belonged to a minority community. This was a case of

a targeted killing revealing an institutional bias within the law enforcement agents in this case.'

A study conducted by Centre for Study of Developing Societies and Common Cause which resulted in a report titled "Status of Policing in India 2018: Study of Performance and Perceptions" noted that Muslims comprised only 2.5% of the Police Force. 64% of Indian Muslims, who were interviewed, were either highly or somewhat fearful of the police. The reasons for this fear were stated to be the failure of the police to act as a neutral law enforcement agency. The report notes as under: "in addition to the physical police brutality, institutional discrimination is another component of policing that cannot be denied..."

So what we are noticing here is how actually valuable this research is even for the judiciary. In a criminal case the judiciary should not look only at the forensic evidence but must comprehend the context within which it has taken place. Academic research of this kind actually locates it precisely in the context of institutional bias within the law enforcement agency. There have been similar High Court judgments vis-à-vis caste, particularly with reference to the Mirchpur massacre. This was a trial that had to be transferred. I think that in itself speaks volumes about discriminating behaviour. K G Kannabiran, on the occasion of cases being heard by the

Supreme Court had said: "the rule of law seems to be running for refuge from one state to the other."

In the Mirchpur case again, the homes of the Balmiki were being targeted by the mob, not the police, but the way the police investigated the case became the question. These issues of power go into the heart of Indian democracy. Therefore, the sooner we reckon with them and acknowledge them, the faster we will start changing the ways in which we function.

There have been a lot of discussions around police reform. What I find very surprising is that when you have cases of torture or extra-judicial killings or fake encounters, senior police officers who are respected, or associations of that kind, actually prefer to remain silent. If senior police officers are not going to stand up and say that they don't condone these acts in the name of policing, it adds to the problem.

We do know that there are many serious fake encounter cases, which are not proceeding. There are political pressures and police officers are paying a price. Many of them have resigned; others are being implicated in a whole slew of cases. At least to my knowledge, they are not receiving support from the police fraternity. So, even the one who wants to work is not receiving support from those who say 'we would like the system to change

and the shackles of political hold to break.’ But it cannot be broken simply because the political class is a problem, it will have to be broken to create different levels of accountability.

Torture is India’s best kept public secret. The Akshardham case, which went right up to the Supreme Court, had the Apex Court acquitting Muslim men on a death row. The Supreme Court details the torture committed, names the police officers who engaged in torture in the judgment and acquits these men. Those Muslim men, having lost almost a decade of their lives in incarceration, including some part on the death row, go back to the Supreme Court and ask for compensation for the years lost. The petition was dismissed. We do not have a law in this country for malicious police prosecution. Last year there was a report by the Law Commission of India expressing grave concern about malicious prosecution. We still don’t have a system where those who deliberately, intentionally, falsely implicate someone in a criminal case, are made to answer. The men on a death row in the Akshardham case had simply asked for compensation, and not for the accountability of cops, despite the Supreme Court acknowledging this reality.

Will the rule of law acknowledge the bias and prejudice of police reflected in the survey, or is there

actually some other nexus at play between the police and the political class? It’s not just one giving the orders and the other complying with them. Maybe the situation is actually much more complex.

The part that I found a little sketchy in the report is that it seems to think that training is the answer to the biases. I have actually done a lot of police training in Hyderabad, in the Haryana police academy, and in Delhi. Now I refuse to do them because I don’t think they should be done. I am exasperated with what happens unless we have very good directors of police academies across states. You’re usually just asked to quickly tell police personnel about the criminal law and not about the Constitution. But the criminal law cannot be understood unless you know its roots in the Constitution.

Training is not the only answer. I have studied the syllabus of police academies when I was heading an organisation. We had compiled the syllabus on human rights and what was actually being taught. We found out how hollow those trainings were. I think what we are looking here to interrogate is something much deeper within the police force. Trainings may not necessarily be the answer, and probably would have to be coupled with many more things.

That the criminal justice system is collapsing, has been said by at least two former Chief Justices of India. The police are the bedrock of the criminal justice system, who conduct the investigation. If our understanding of the police force is centred around the high number of acquittals and anxiety over growing crime in society, it is counterintuitive to talk about making confessions admissible. I completely oppose the Justice Nariman report, which actually gives more powers to the police in terms of investigation and lesser accountability. I think that the answers may be difficult but they perhaps lie elsewhere. Unless there are improvements in the working conditions, insulation from the political class and police accountability as one seamless thing, I don’t think there will be any change.

“***The first time we saw the phrase ‘institutional bias,’ was in the police study of 2018 (Status of Policing in India 2018: Study of Performance and Perceptions) quoted in a Delhi High Court judgment of the Hashimpura killings.***”



PHOTO CREDIT: Pathyan Chinam, We The Young

**Justice Jasti Chelameswar, former Judge, Supreme Court of India and former Chief Justice, Kerala and Gauhati High Courts**

I must start with a caveat. I was the Additional Advocate General of the old Andhra Pradesh, which is now divided into the states of Telangana and Andhra Pradesh. In that capacity, I was dealing with the Police Department, therefore, I may see them in a somewhat favourable light as I know not only their shortcomings and also their problems to some extent. Every system is manned by both good and bad people.

The question is how do we make this system more civilised and rational? Do we have a system at all, and if so, what is wrong with

the system? All of us know that problems exist. Some of them have been highlighted by my predecessor speakers.

The lack of adequate training and the interference by the political executive are two primary elements which are responsible for the various problems faced by the police in India.

The topic today is ‘Indian Police and the Rule of Law in Practice.’ I’ll just give you two or three cases which I dealt with, which demonstrate the various problems narrated by speakers so far.

There was a man called Kura Rajaiah in the old Andhra Pradesh state (now divided into Andhra Pradesh and Telangana). He was part of one of the leftist outfits banned for a certain period and had three or four

criminal cases against him including for the offence under Sec. 302 IPC. He was evading the long arm of law. Warrants of arrest were issued by the concerned courts of Andhra Pradesh for the apprehension of Rajaiah. At some point, the Superintendent of Police, Karimnagar District (now Telangana), received intelligence about the movements of Rajaiah, that he was moving in the limits of Barabanki in Uttar Pradesh. So a team of police personnel were sent to apprehend him, in furtherance of the execution of the warrants mentioned earlier.

The CrPC contains elaborate provisions dealing with the arrest of the accused and execution of warrants for apprehension of the accused. I have discussed those procedures in some details in the judgment *Kura Rajaiah Vs. State of Andhra Pradesh* reported in 2007 Cr. L.J. 2031. Unfortunately, quite often those procedures are not strictly followed. Kura Rajaiah’s case is a typical illustration of how the procedural law is flouted. What happened in the case of Kura Rajaiah was really hilarious from the point of view of academic discussion, though there is flagrant violation of the Fundamental Right guaranteed under Article 21 of the Constitution. The police team went to U.P. They found Rajaiah at the Barabanki bus stand with a few companions. The police team, in civilian dress, pounced on Rajaiah and tried to arrest him. However, Rajaiah

and his companions, who were unaware of the identity of the Andhra Pradesh policemen resisted. A scuffle ensued. The local U.P. police swung into action and rounded up all the fighting parties. They were taken to the Barabanki police station. After going to the police station, the policemen from Andhra Pradesh disclosed their identity. After some verification, the Uttar Pradesh police allowed the Andhra Pradesh police party to take Rajaiah and his companions to Andhra Pradesh. Rajaiah and his companions were dumped in a vehicle and brought to Andhra Pradesh. Once the cars entered the borders of erstwhile Andhra Pradesh, the police party started entertaining some doubt about the procedure followed by them, at least with reference to the persons other than Rajaiah.

Since there was no case registered against Rajaiah's companions, they were taken to the local magistrate with a fabricated story about their arrest. The case of the police was that they tried to escape from custody. A case was formally registered against them in Karimnagar district.

The truth of the matter is that there was no case registered in Andhra Pradesh against any of these people when they were apprehended in Barabanki. Eventually, they moved the then High Court of Andhra Pradesh. The police took the stand that Rajaiah's companions were trying to escape from police custody.

Therefore, a case was registered against them in Andhra Pradesh. As a matter of fact, there was never any legal custody when they were brought under compulsion from Barabanki to Andhra Pradesh. The only case (if there was any) with respect to the incident which occurred at Barabanki, was outside the state of Andhra Pradesh. The scuffle with the police took place in the Barabanki jurisdiction. The case (if any) should have been registered and tried there. The Andhra Pradesh police had no business bringing Rajaiah's companions to Andhra Pradesh.

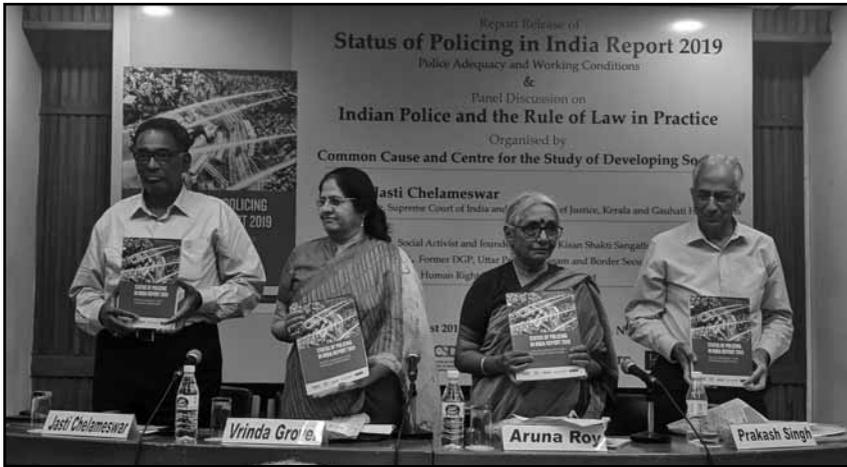
The entire episode demonstrates how simple ignorance of law or indifference to it can lead to chaos. If any one person related to the case --- be it the policemen who went there, the Superintendent of Police who sent them there, or even the Magistrate who registered the case had only bothered to check up the provisions of the CrPC, this wouldn't have happened. Most of the time such incidents are the result of sheer ignorance. Nobody, including the judicial officer, has the patience to check up the procedures thoroughly. I am sad to say that these matters are recurrent.

When I was the Chief Justice of Gauhati High Court, I noticed that the system of administration of Criminal Justice System was too casual. I was worried. Hence, I called the Director General of Police to discuss the problem. I asked him how he

expected the law and order to be maintained in such a scenario. The Director General of Police asked me whether he could tell me something frankly? I assured him that he can safely speak out his mind. He told me, "You graduated in law some 30 years back, and you worked as a lawyer for 20 years and as a Judge for 10 years. Hence, you understand the nuances of law. What training does my officer on the field receive before he starts investigating a crime? It is hardly six months in the local police academy, out of which there may be a 30 or 60 day crash course in the IPC, CrPC and Evidence Act. How would he have a perfect understanding of the nuances of the rule of law and the system of administration of criminal justice?"

The point I am emphasising here is whether we have a proper training module for police. There is no point in finding fault with the police for inefficiency until we train them properly in the first place.

Investigation of crime is a highly specialised affair, particularly in the modern world, where the perpetrators of crime take advantage of technology. White collared offences are committed by highly accomplished people. We ask a policeman, who has nothing to do with technology, to investigate these crimes. What do we expect out of him? We don't even train police personnel to deal with crime under the Indian Penal Code that needs



Panellists launching the report.

to be investigated according to the age old principles of the Evidence Act and the CrPC of the 19<sup>th</sup> century, why talk about more sophisticated crimes? Do not forget that investigation of crime is not the only duty which a policeman is required to perform. There are various other responsibilities attached to him.

When I was in Kerala, a matter came before me. A lady who went for employment to the Middle East came back and filed a complaint. The complainant said that she was lured there on the promise of employment but was eventually pushed into the flesh trade. The accused – X (a woman) was carrying the activity as a business. According to the complainant, though the case was registered for two-three years, the investigation did not progress. It came to me as a Public Interest Litigation. It was alleged that X was travelling between the Middle East and Kerala very frequently but was still not being apprehended. When I read the petition I

was very upset. I asked my colleague, a local judge, to identify some senior police officer, to whom we could entrust the investigation of that case. Eventually my colleague identified an officer of the rank of Inspector General of Police, to carry out this responsibility. By a judicial order we made the officer the Superintending Investigating Officer and asked him to investigate. Sometime later, the Station House Officer in-charge of the investigation was suspended on the initiation of the Superintending Engineer. Later, the accused was

“ ***The lack of adequate training and the interference by the political executive are two primary elements which are responsible for the various problems faced by the police in India.*** ”

apprehended. The investigation revealed that the lady made some 10-12 visits to the Middle East even after a case was registered against her. One committed officer can make all the difference. But the question is who will put that one officer in charge? In a normal scenario, the administration should have taken care of this kind of incidents, but since it didn't, the matter came to the court.

Another Public Interest Litigation came before the Supreme Court. The police of Maharashtra arrested some 40-50 young girls (all belonging to the state of Rajasthan), engaged in the flesh trade. They were apprehended and produced before the concerned court. Eventually the custody of the girls was handed over to people who had come forward claiming to be relatives or parents of those young girls. According to the petitioner, the claimants were either not really related to the girls or in some cases, the girls were once again sent back to the same occupation. The Supreme Court, after taking note of this information, ordered notice. In response, a police officer filed a vague and casual affidavit, saying that the case was being investigated and some culprits had been apprehended but later released on bail by various courts.

“If 50 girls from the state of Rajasthan came to Maharashtra and were found in such a nefarious activity, obviously there



PHOTO CREDIT: Mohd Zakir, Hindustan Times

*86-year-old Sharbati Devi being helped to cast her vote in Delhi's Sadar Bazar Constituency.*

is something more than what meets the eye. It's an organised crime, something is going on here. As the Maharashtra Police, did you make any effort to trace the origins of the crime?" They did not even inform the Rajasthan Police.

Realising that a mere notice is not going to help the situation, we summoned the Home Secretary of Maharashtra to the Supreme Court. He came to the Court. He was both more responsive and responsible. He took some time to examine the matter. Then he corresponded with his counterpart in Rajasthan to set things in motion. Shortly thereafter, I retired and don't know about the subsequent chain of events.

All the above narrated cases are politically neutral. Ordinary cases where policing should have taken place in accordance with law and efficiency. But, it did not happen. Why? Inadequate training, insufficient manpower and resources are some of the reasons.

The report released today mentioned that some of the police stations don't even have telephone and wireless connections. All these are problems, and when coupled with interference by politicians, can lead to chaos.

Now this is a problem which has to be handled carefully. Because in a system of representative democracy, to say that the

government should have no say at all in these matters, would be an extreme proposition. At the same time to what extent it should have a say is a matter to be regulated.

Perhaps those who are concerned with policing and the rule of law in this country should think about finding ways and means in this area.

**“Investigation of crime is a highly specialised affair, particularly in the modern world, where the perpetrators of crime take advantage of technology.”**

# COMMON CAUSE EVENTS

National Seminar on Realization of the 'SMART' Policing Vision: October 5, 2019

Akhilesh Patil and Harshitha Manwani \*

On the occasion of Police Reforms Day, Indian Police Foundation in association with the National Centre for Good Governance (Department of Administrative Reforms) and Bureau of Police Research & Development (BPR&D) had organised a 'National Seminar on Realization of the 'SMART' Policing Vision of the Prime Minister: Innovations in Citizen-Centric Governance. Common Cause was a knowledge partner. The event, held at the India International Centre on October 5, 2019 had the Vice President of India, M Venkaiah Naidu as its chief guest.

The Vice President, in his address, touched upon various aspects of policing in India, while speaking at length about the need for a competent police force in a country aspiring to become a global superpower. He also noted how concerns on the workings of the current police force came to his notice while going through the Common Cause report. "I had the occasion of seeing the Status of Policing in India Report (SPIR) 2019, brought out by Common Cause and the Centre for the Study of Developing Societies. There are certain areas of concern. These findings show that there is serious

need for attitudinal change in the lower ranks of policemen. Another area that needs to be flagged is the issue relating to the safety and security of women and children. Some parts of the country are witnessing sporadic instances of sexual assault and crimes against women and minor children," he said. "The police must be sensitised to the need to act firmly and ensure that the culprits are brought to book," he added.

Most of the sessions were dedicated to solving governance issues with the help of new technology. Senior police officials from Kerala, Haryana, UP, Karnataka and Maharashtra presented their success stories of building their own technology-enabled citizen services. Ramphal Pawar, Director, National Crime Records Bureau (NCRB) and Dharam Chand Jain, Joint Director, CBI, gave detailed presentations on the importance of blending skills and technology in the advancement of justice. They also elaborated on their efforts to improve policing with the help of new technologies like Crime and Criminal Tracking Network & Systems (CCTNS).

In the session 'Reducing the trust deficit,' Vipul Mudgal, Director

Common Cause, presented the key findings of the Status of Policing in India Report (SPIR) 2019. Sudhir Pratap Singh, Former DG, National Security Guard (NSG) moderated the session.

Mudgal, in his opening remarks, explained the idea behind bringing out the research and analysis driven SPIR 2019. While acknowledging the efforts made by the NCRB and BPR&D in collecting official police data from different units, he emphasised on the need for an independent agency and academic eye to analyse that data. In the first part of the presentation, he gave a detailed context to the findings based

“***These findings show that there is serious need for attitudinal change in the lower ranks of policemen. Another area that needs to be flagged is the issue relating to the safety and security of women and children.***”

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\* Akhilesh Patil is a Research Executive and Harshitha Manwani is an intern at Common Cause



Vice President of India, M Venkaiah Naidu was candid in his speech about policing on the ground.



Presentation of SPIR 2019: Vipul Mudgal, Director, Common Cause.



Skills and technology in policing: Ramphal Pawar, Director, NCRB.

on official data analysis. In this section, key findings related to police strength, infrastructure, caseload, in-service training etc. were discussed. In the second part, analysis of data collected from the surveys was presented. The presentation was followed by a question-answer session, in which many senior police

officers described the report in glowing terms. Ish Kumar, Former Director, NCRB, requested DG BPR&D to compile the salient findings of the report and send them to all the state DGPs.

Mudgal explained how the objective of policy oriented research is simply showing the

mirror to whoever is interested in seeing it. "Yes, criminal justice system is facing problems but one of the reasons why we should reform is that in India the situation is still not so bad. We can improve it because people of India still believe in their police," he said.

# People's Tribunal on Constitutional Processes and Human Cost: September 7 and September 8, 2019

Anshi Beohar\*



*Lawyer and activist, Prashant Bhushan discussing the unconstitutionality of the Foreigners' Tribunals in Assam.*

Common Cause partnered with 11 civil society organisations to put together a two-day event titled 'Contested Citizenship in Assam: People's Tribunal on Constitutional Processes and Human Cost' at the Indian Society of International Law. Held on September 7 and September 8, 2019, it was perceived as a forum to discuss the National Register of Citizens (NRC) in Assam. The tribunal featured a jury observing depositions made by academics, activists, advocates, journalists, social workers and testimonies of the affected people. Members of the jury included former Supreme Court judges Justice Madan B Lokur and Justice Kurian Joseph; former Chief Justice of the Delhi High Court, Justice AP Shah; former diplomat Deb Mukharji; author Githa Hariharan; social and women's rights activist Syeda Hameed;

and academics Prof Monirul Hussain and Prof Faizan Mustafa.

Conversations were woven around issues of culture, land, the evolution of citizenship in India, migration, the NRC exercise in Assam and the constitutional processes surrounding it. Also part of the discussions were the Foreigners' Tribunals in Assam, the state's detention centres, as well as the possible aftermath of extending the NRC to other Indian states.

Eminent speakers at the event included Harsh Mander, Prashant Bhushan, Teesta Setalvad, Vrinda Grover, Sanjoy Hazarika, Prof Neera Chandhoke, Gautam Bhatia, Aman Wadud, Sajjad Hassan, and more.

The NRC published by the government on August 31, 2019 has excluded 19 lakh applicants but they can file appeals in the Foreigners' Tribunals and provide documentary evidence to establish their citizenship.

Experiences of activists and victims from Assam were widely shared on the platform. In the concluding session, featuring the final presentation by the jury, Vipul Mudgal spoke on how it is the job of the media to connect the dots while reporting on NRC. "I don't think many journalists are going out there. However, the idea is to connect the social and political aspects, as well as the legality and constitutionality of the NRC exercise," he said.



*Harsh Mander (speaking), and the members of the jury (sitting, from left) Faizan Mustafa, Githa Hariharan, Justice AP Shah, Syeda Hameed, Justice Madan B Lokur and Deb Mukharji.*

\* Anshi Beohar is a Legal Consultant at Common Cause

## Social Accountability Workshop: September 1 to September 4, 2019

Akhilesh Patil \*

Common Cause participated in a four-day workshop titled Social Accountability: From Theory to Practice, and from Practice to Theory in Bhim, Rajasthan. The workshop was organised by the Social Accountability Resource Unit (SARU) in collaboration with the School for Democracy and was held at the Loktantrashala School For Democracy campus between September 1 and September 4, 2019. The objective of the workshop was to familiarise participants with the existing social accountability framework and organise discussions on techniques to improve it.

Representatives from different civil society organisations, including Mazdoor Kisan Shakti Sangathan (MKSS), Association for Democratic Reforms, Population Foundation of India, Astha Sansthan, academics and independent researchers working on various accountability initiatives across the country participated in the workshop.

While explaining the need for such workshops, Rakshita Swamy of SARU highlighted the importance of people's movements in bringing greater transparency and accountability in the delivery of public entitlements. She discussed how



PHOTO CREDIT: Akhilesh Patil

*Nikhil Dey of MKSS discussing the evolution of the RTI Act at the Social Accountability Workshop.*

one such citizen's movement led to the establishment of the Right to Information Act. Other such movements have led to the formulation of statutory provisions of social audit under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) as well as the National Food Security Act, 2013.

Aruna Roy and Nikhil Dey, founding members of MKSS and renowned rights activists helmed the introductory session where they discussed the Constitution and its significance in preserving social democracy. Professor Satish Deshpande of Delhi University was part of a session on implicit and explicit power and its interplay with democracy, where he also touched upon caste issues in India.

The genesis of social accountability can be traced to six principles of access to relevant information, right to be heard, time-bound grievance redress, protection, participation and public collective platform. Collectively these are known as the Bhilwara Principles of Social Accountability and a significant part of the workshop was dedicated to discussions on these principles.

To give participants a feel of how a local accountability unit functions on ground, visits to nearby villages were organised. Apart from regular lectures from domain experts, organisers also used innovative ways to engage the workshop participants. There were focused group discussions, film screenings as well as musical performances and plays on social accountability.

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\* Akhilesh Patil is a Research Executive at Common Cause

# Safe in India Report Launch: August 7, August 11, 2019

Dhruv Shekhar and Harshitha Manwani\*



PHOTO CREDIT: Safe in India

Common Cause President Kamal Kant Jaswal (sixth from left) with various stakeholders at the launch of the Accident Prevention Report, 'Crushed' at IIMA.

Common Cause participated in the launch of the report 'Crushed', brought out by the Safe in India (SII) Foundation, and was part of two panel discussions at the Indian Institute of Management Ahmedabad (IIMA) and in Gurugram. SII is a social initiative supported by the 1991 batch of IIMA students. The outfit's current focus is on providing free assistance to injured workers in their health-care and insurance claims from the Employees State Insurance Corporation (ESIC) in the Gurugram-Manesar region.

The context for establishment of the SII initiative is the poor safety culture among factory workers. Thousands of workers in automobile manufacturing plants lose their hands or fingers owing to the absence of a safety net and high productivity pressure. To make matters worse, bereaved workers rarely receive any support from the

management. Even the health care and due compensation from the ESIC, where eligible, get inordinately delayed owing to bureaucratic red tape.

Since its inception in 2015, SII has relied on data-based analysis to understand how the automobile manufacturing centres can be transformed into safer workplaces for workers. Therefore, the launch of the report 'Crushed', highlighting the extent, severity and reasons for accidents in the Indian auto-sector, in 2019 was a natural progression.

At the national launch of the report at IIMA on August 7, 2019, Prof Errol D'Souza, Director of IIMA, stated that world over corporations are leaning on the idea of taking accountability for the predicament of their workers at the workplace. However, Saji Narayanan, President, Bharatiya

Mazdoor Sangh (BMS) placed the onus on the legislature, saying that the existing laws have proven to be inadequate in addressing issues of worker safety and more needs to be done.

Common Cause President Kamal Kant Jaswal contended that reworking the CSR budget allocations would be critical in ensuring worker safety. He stated that instead of merely allocating money for a social cause, CSR funds should instead be reinvested within the organisation or partner organisations to improve worker safety conditions.

The panel discussion marking the Gurugram launch of the accident prevention report 'Crushed' featured Vipul Mudgal, Director and CEO of Common Cause, Ashok Sangwan, Commissioner, Gurugram Division, Gurugram, Rajiv Khandelwal, Co-Founder and Executive Director, Aajeevika Bureau and Prof Ravi Srivastava, Chairman, Institute of Development Studies, Jaipur, among others.

Mudgal stated that although the relevance of numbers is minimal for those who receive injuries, they provide the basis for evidence-based policymaking on a macro level. He also rooted for the imposition of strict liability on corporations.

\* Dhruv Shekhar is a Research Executive and Harshitha Manwani is an intern at Common Cause

# Status of Policing in India Report (SPIR) 2019: A Summary

Compiled by Radhika Jha\*

The *Status of Policing in India Report (SPIR) 2019- Police Adequacy and Working Conditions* is the second in the series of research-based studies undertaken by Common Cause as part of its Police Reforms Initiative. Building on the 2018 report which captured police performance across states and people's perception of policing, SPIR 2019 focuses on the working conditions, availability of resources, opinions, experiences and attitudes of the police personnel.

SPIR 2019 is also the first of its kind in India and South Asia. It covers the trying working conditions of police personnel, their meagre resources and infrastructure, crime investigation, gender diversity, policing and marginalised communities, people-police contact and police violence. Besides a survey of 11,834 police personnel inside police stations across 20 states and the Union Territory of Delhi,<sup>1</sup> the study also includes another sample of 10,535 family members of police personnel who were interviewed inside their homes.

The report analyses data from two sources—in the first chapter, official time-series data released by the government is statistically analysed to measure state-wise

level of adequacy of police structures across states. In the following chapters, data from a survey of police personnel across 20 major Indian states and the Union Territory of Delhi is analysed. Key findings of the report are presented here.

## Measuring Police Adequacy Through Official Data

Policing requires certain basic infrastructural, manpower and capacity-building frameworks for it to function optimally. We have looked at the strength, training, physical infrastructure, diversity, reasonable case-load and functional autonomy as the sine qua non of any police force.

We used the data from official, publicly available sources to answer these questions for the police forces across states. For most variables, time-series data has been used over a period of five years or more. To assess the adequacy of structures, we have used averages of five years (wherever available), so that the peaks and troughs possibly caused due to extraneous circumstances, can be balanced out.

On the issue of police strength, the official data analysis reveals that the police force across the

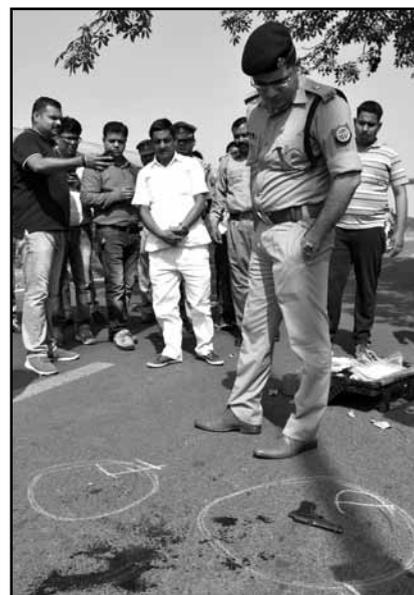


PHOTO CREDIT: Sakib Ali, Hindustan Times

*A police officer at the site of an encounter in Ghaziabad.*

country is severely under-staffed. It works at just 77 percent of its sanctioned capacity, that is, at three-fourth of its required capacity. When seen as an average of five years (2012-16), only Nagaland has been able to meet the sanctioned benchmark for strength among the 22 states and UTs, while all other states failed to do so.

Further, the vacancies in the police force are skewed, with higher vacancies at senior ranks – Assistant Sub Inspector (ASI) and above –, than at the constabulary levels. This needs to be seen in the context of the decision-making and investigating powers accorded to

\* Radhika Jha is a Research Executive at Common Cause

different ranks, as most of these powers are vested with the ranks of ASI and above, rendering them crucial to the effective functioning of the police. It was with this consideration that the Padmanabhaiah Committee of 2000 recommended a ratio of four constabulary per officer. However, only two states—West Bengal and Bihar—have been able to meet this ratio. In the other 20 states, not only is the actual number of constabulary per officer much higher, but the vacancies are also higher among the senior personnel.

Not only is the police understaffed, but also under-trained, as per official data. Over the last five years, on an average, only 6.4 percent of the police force have been provided in-service training. Senior police officers, who form a much smaller proportion of the police force, are much more likely to receive in-service training than the constabulary-level personnel.

The low strength of police personnel is coupled with poor adequacy of even the most rudimentary infrastructure. Basic communication and transport facility are still not available in several police stations. Across the 22 states, 70 police stations do not have access to wireless devices, while 224 police stations don't have telephones. Faring worse are 24 police stations, which don't have either wireless or telephones. While on an average, there are six computers per police station in the country,

states like Assam and Bihar have an average of less than one computer per police station. About 240 police stations across the 22 states have no access to vehicles.

Diversity and adequate representation of vulnerable communities in the police force, aside from being a constitutional mandate, are also known to increase efficiency of the police force. A 2000 study found that a more diverse police force is seen by the community as more legitimate, and the people are more likely to take ownership in policing when a department is diverse (Weitzer, 2000). However, representation of SCs, STs, OBCs and women in the police forces of the states is poor, with huge vacancies in the reserved positions. Only four states have been able to fill the vacancies for SCs, and eight states each for STs and OBCs. There are 60 percent and 53 percent vacancies for the reserved posts of SCs in

UP and Haryana respectively, significantly higher than the overall vacancies in those states. Aside from high vacancies in the reserved posts for vulnerable communities, the distribution of these communities across various ranks is also skewed. Data shows that SCs, STs, OBCs and women are less likely to be recruited/posted at the officer-ranks than police personnel in general.

The official data analysis also looked at how autonomous the police is in its functioning. As evident in Figure 1, while the transfer of SSPs and DIGs in less than two years has declined significantly from 37 percent in 2007 to 13 percent in 2016, premature transfers of SSPs and DIGs are still high, particularly during election years. For instance, 98 percent SSPs and DIGs were transferred in Rajasthan in 2013, an election year in the state. Overall, the highest proportion of transfers in less than two years was made in Haryana and UP.

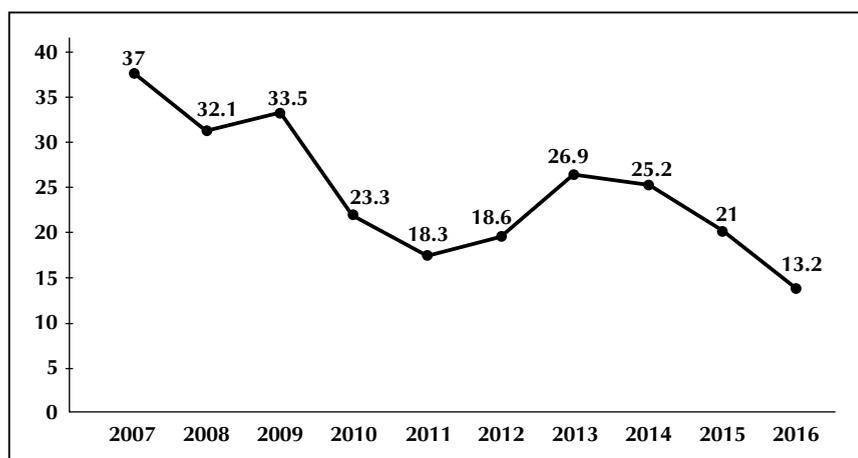


Figure 1: SSPs and DIGs (range) transferred in less than two years as a percentage of the total number of AIGP/SP/SSP/DIG in the selected States from 2007–2016.

## Service Conditions of the Police

The survey sample was spread across 22 major Indian states and responses were collected from personnel of all ranks. The sample was representative of the opinions of women, SCs, STs and OBCs within the police force.

An analysis of the survey data reveals that police personnel have extremely long working hours, with an average police personnel working for 14 hours a day (Figure 2). As many as 80 percent of the police personnel work for more than eight hours in a day, which is the international standard as well as the standard recognised for working hours of police personnel in the country by the Model Police Act 2006. Except Nagaland, the average working hours of personnel are between 11 and 18 hours, in all of the selected 21 states and UTs. Nagaland has police personnel who have reported as working eight hours a day on an average.

Aside from long duty hours on a daily basis, personnel have also reported having to work overtime, with nearly one in two saying that they were required to work overtime regularly, while eight out of 10 said they do not get paid for overtime work. Many personnel also reported the lack of weekly rest, with one out of two reporting that they do not get any weekly off day.

The level of satisfaction with government-provided housing

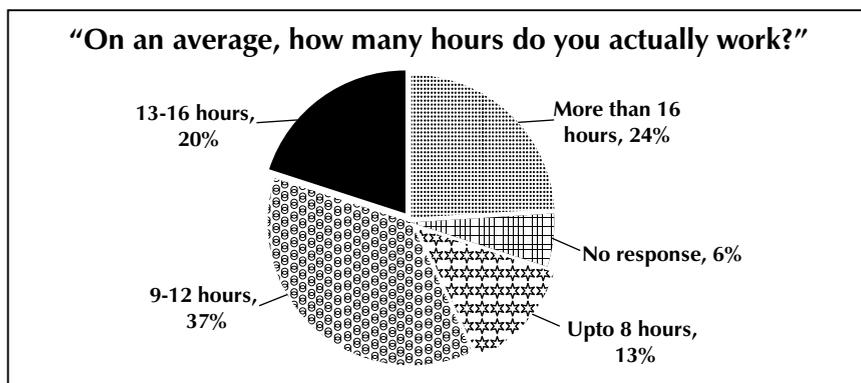


Figure 2: Average number of daily working hours as reported by the police personnel.

quarters was also poor among the family members of police personnel. Nearly three out of five respondents from the families of personnel were dissatisfied with government provided housing quarters.

Stress is a major concern for police personnel across the world, but the level of stress they face and the impact it has on their personal well-being as well as on their work efficiency has not been properly documented. This survey reveals that three out of four personnel believe that their workload is affecting their physical and mental health. Similarly, three out of four

personnel feel that the workload is making it difficult for them to do their job well. As many as 84 percent personnel reported not being able to devote enough time to their families because of policing duties.

The work culture within the police force is hierarchical, with common complaints of abuse of authority and power. This anecdotal aspect is captured from the survey data as well. As seen in Figure 3, one out of four personnel reported that senior police personnel ask their juniors to do their household/personal jobs even though they are not meant to do it. Interestingly, SC,

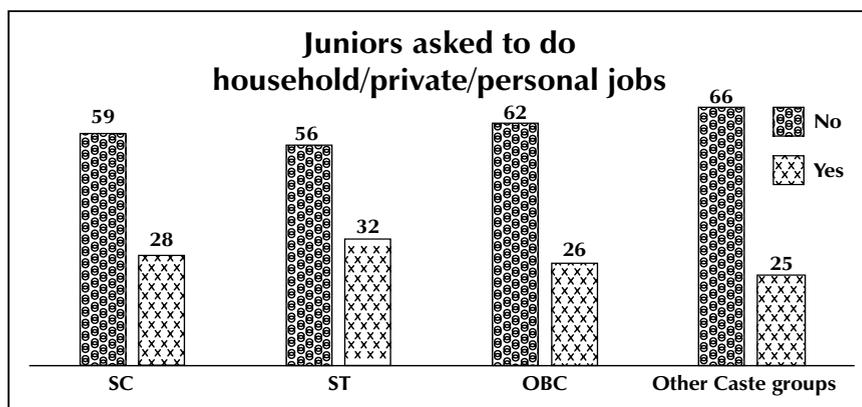


Figure 3: SC, ST police personnel more likely to feel that senior officers ask juniors to do their private-personal/household jobs.

ST and OBC personnel are more likely to report this than other caste groups, indicating that caste might be a determinant in the abuse of authority by senior officers. Further, two in five police personnel report the use of bad language by senior officers.

The cumulative impact of harsh service conditions, stress and abuse of power, can perhaps be responsible for the fact that as many as 37 percent police personnel said that given an opportunity, they would be willing to give up their job for another profession if the perks and salaries remain the same.

## Resources and Infrastructure Available to the Police

A basic prerequisite for any policing force is the availability of basic infrastructural facilities and resources. That, however, appears to be lacking to a significant extent. Even rudimentary facilities like drinking water and clean toilets are missing in many police stations. Twelve percent personnel reported that there is no provision for drinking water in their police stations, 18 percent said there are no clean toilets, and 14 percent said there is no provision for seating area for the public.

When it comes to resources required by police personnel to carry out their duty, the figures are even more distressing.

Forty-six percent personnel have frequently experienced situations where they needed a government vehicle but it was not available (Figure 4). Further, 41 percent personnel have frequently been in situations where they could not reach a crime scene on time because of lack of staff.

The extent of availability of digital and technological infrastructure is also poor. Eight percent personnel said that functional computers are never available at their police stations, while 17 percent and 42 percent said that the same is true for CCTNS facility and forensic technology respectively (Table 1).

The survey data reveals an anomaly between the official data and the ground reality.

Thirty-one percent respondents from West Bengal and 28 percent respondents from Assam said that a functional computer was never available at their police station/work place. This is despite the fact that as per official data released by NCRB, Assam scores high on level of compliance to CCTNS infrastructure.

The status of training provided to personnel is also poor, with most of it being imparted only at the time of recruitment. Also, a very low percentage of personnel are being given in-service training. The focus of training is more towards traditional policing skills, with a much higher percentage of personnel having received physical training, and a significantly lower proportion receiving training in specialised

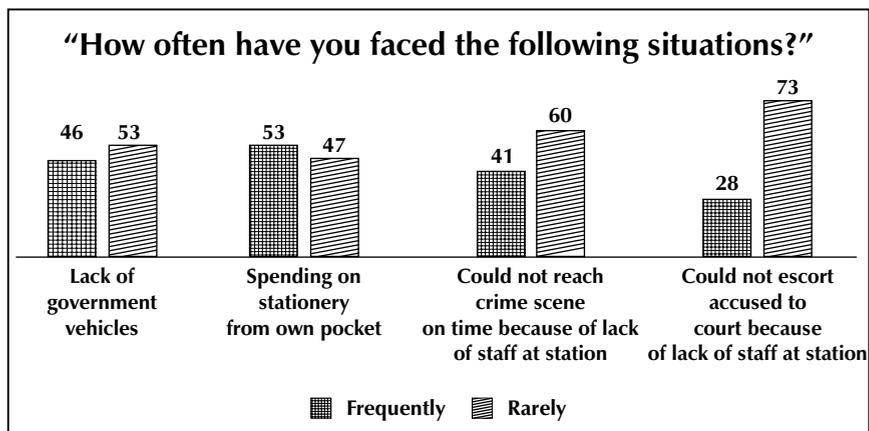


Figure 4: Experience of police personnel of lack of resources.

"Are the following facilities available at your police station/workplace?"	Always	Sometimes	Never	No response
Functional Computer	68	22	8	2
Functional CCTNS software	55	23	17	5
Forensic Technology	27	20	42	9
Storage facility for documents	67	20	11	2

Table 1: Facilities available at the police station.

skills such as tackling cybercrimes and forensics. Almost one in three civil police personnel never received training in forensic technology.

## Crime Investigation: Perceptions and Experiences of Police Personnel

According to 36 percent civil police personnel, crime has increased in the last two-three years. A similar proportion of police personnel feel that crime in their area has decreased in the last two-three years.

While police personnel who think that crime has increased are most likely to attribute the phenomenon to societal reasons such as unemployment and lack of education, those who think that crime has decreased are most likely to offer improved policing (police becoming more active, stricter, etc.) as a primary reason for crime reduction.

As shown in Table 2, many police personnel feel that there is a need to spread education and awareness, increase patrolling and staff to control crime.

Spread education/awareness	13
There should be more patrolling	10
Increase the staff in police	10
Police should be more strict	8
Laws/rules should be more strict	8
Police should work honestly and with more dedication	7

Table 2: "What is the most important step that the police should take to control crime?"

A common feature of crime investigation in India is undue political and external pressure along with interference. This is also confirmed by the survey. Twenty-eight percent police personnel believe that pressure from politicians is the biggest hindrance in crime investigation. One in three personnel have very frequently experienced political pressure in the course of crime investigation. Thirty-eight percent personnel reported always facing pressure from politicians in cases of crime involving influential persons (Figure 5).

Three out of five personnel reported transfer as the most common consequence of not complying with such external pressures.

## Gender and Police

When we look at policing from the perspective of gender, we find that there is a lack of representation and facilities for women within the police, as well as a bias against both women within the police force, and against women who come to the police with complaints.

As is evident from Figure 6, women police personnel are more likely to be engaged in in-house tasks, such as maintaining registers, data, etc., while male personnel are more likely to be involved in field-based tasks, such as investigation, patrolling, law and order duties, etc.

Basic workspace facilities for women are also abysmal, with one in five female personnel

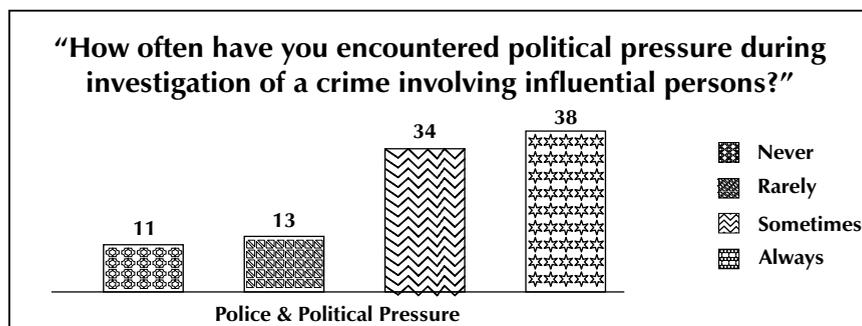


Figure 5: Experience of police personnel with political pressure during crime investigation.

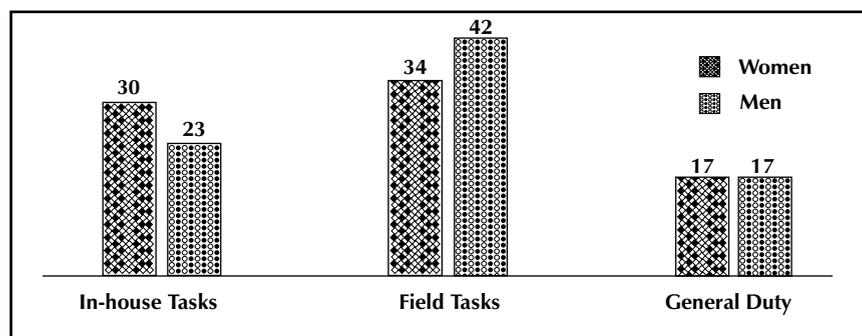


Figure 6: Women more likely to be involved in in-house tasks.

reporting the absence of separate toilets for women at their police station/workplace. One in four policewomen said there was no sexual harassment committee in their police station/ jurisdiction

Over half of the personnel (both men and women) feel that men and women in the police force are not given completely equal treatment. Policewomen at higher ranks are more likely to report discrimination.

There is a high level of bias against the women within the police force, as seen in the responses to questions given in Table 3. States like Bihar, Karnataka and West Bengal have the highest levels of bias against women in the police force, i.e., personnel from these states are most likely to believe that policewomen are less hardworking and efficient, and should focus on their household duties.

There is also bias against women who come to the police with complaints. Nearly one in five police personnel are of the opinion that gender-based violence complaints are false and motivated to a very great extent.

Police personnel also hold contentious views towards transgenders. Eight percent personnel are of the opinion that transgenders are very much naturally inclined towards committing crimes.

### Police and the Marginalised Communities

The survey data also looks at the conditions of marginalised sections—both within the police force, as well as outside, by studying perceptions of personnel towards communities such as SCs, STs, OBCs, Muslims, migrants, etc. We find that less than half of the police personnel

feel that SCs and STs within the police are given completely equal treatment when compared to other caste groups. Notably, SC and ST personnel are more likely to believe that discrimination exists against these groups (Figure 7).

Almost one in three personnel feel that religious minorities within the police force are not given completely equal treatment, with Sikh personnel being most likely to hold this opinion.

Police personnel exhibit a distrust towards minorities and vulnerable communities even outside the police force. Fourteen percent personnel feel that Muslims are ‘very much’ naturally prone to committing crimes, while 36 percent feel that they are ‘somewhat’ naturally prone to committing crimes. Further, one in five police personnel believe that complaints under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are very much false and motivated, with upper caste personnel being more likely to hold this opinion.

Similarly, 24 percent personnel believe that migrants are very much naturally prone to committing crimes and 36 percent personnel feel that they are ‘somewhat’ naturally prone to committing crimes.

In the survey, police personnel have also been found to believe that children in conflict with law

	"Being in the police requires physical strength and aggressive behaviour which women lack"			"Women police are incapable of handling high intensity crimes and cases"			"Because of the inflexible working hours, it is not alright for women to work in the police force as they cannot attend to homely duties"		
	Overall	Men	Women	Overall	Men	Women	Overall	Men	Women
Fully Agree	14	15	10	10	11	7	22	23	17
Somewhat Agree	27	28	19	22	23	15	29	31	24
Somewhat Disagree	19	19	20	25	25	26	19	18	22
Fully Disagree	39	36	48	41	39	51	27	24	35

Table 3: Bias against women within the police force.

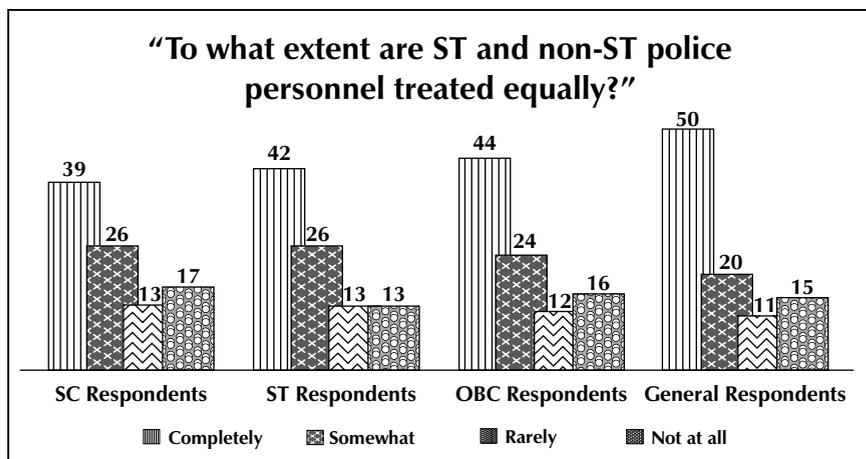


Figure 7: SC, ST personnel less likely to believe they are treated 'completely' equally.

should be treated like adults. Two out of five police personnel think that children in conflict with law between the ages of 16 years and 18 years should be treated like adult criminals, irrespective of the severity of the crime. This perception goes against the law of the land which prescribes that children between the ages of 16 years and 18 years should not be treated like adults, except in cases of heinous offences.

There is also a significant level of sympathy towards mob violence among police personnel. Thirty-

**“Evidence from studies worldwide suggests correlations between the effect of unjust working conditions and stress, leading to the increasing tendency of the police to use violence.”**

five percent personnel feel (to a large extent and somewhat combined) that it is natural for a mob to punish the culprit in cases of cow slaughter (Table 4).

### People and the Police

Police attitude towards crime registration remains a cause for concern. In the survey 54 percent police personnel were found to hold the opinion that an increase in the number of FIRs registered indicates an increase in crime in the area, as opposed to an increase in registration of complaints by the police. Senior officers are more likely to believe that it indicates an increase in registration of complaints by police. This is despite the fact

	To a large extent	Somewhat	Rarely	Not at all
In case of cow-slaughter	15	20	16	46
In case of kidnapping	17	22	18	38
In case of rape	22	21	17	36
In case of road accidents due to driver's negligence	20	21	16	40

Table 4: "To what extent is it natural for the mob to punish the culprits on their own in the following cases?"

that three out of five personnel believe that the number of crimes reported are lesser than the number of crimes committed in the society. Two out of five personnel also admitted that common people are hesitant to approach the police even when there is a need.

Another commonly held opinion of police personnel, which goes against legal procedures and court guidelines in the *Lalita Kumari v. Govt. of U.P.* judgment of 2013, is that a preliminary investigation by the police is required before the registration of FIR in all cases. Three-fifth of the civil police personnel believe that no matter how serious a crime, there should be a preliminary investigation before registering an FIR, as opposed to direct registration of FIR.

Interestingly, police personnel who are better educated are more likely to hold both of these opinions that go against good practices—that an increase in FIRs reflects an increase in crime in the area, and that a preliminary investigation is necessary before the registration of FIR, no matter how serious a crime.



PHOTO CREDIT: Parveen Kumar, Hindustan Times

The Gurgaon Police Control Room is equipped with an IVR system, an automated telephone system that interacts with callers and gathers information.

Police personnel across states are also quite likely to condone custodial violence of various forms—ranging from a small punishment in case of minor offences, to harsher instances of encounter killings or custodial deaths.

Thirty seven percent personnel feel that for minor offences, a small punishment handed out by the police is better than a legal trial. One out of five

“*The SPIR series are an attempt to induce meaningful changes in the system, by taking into account opinions, experiences and attitudes of all stakeholders.*”

police personnel feel that killing dangerous criminals is better than a legal trial. Four out of five personnel believe that there is nothing wrong in the police beating up criminals to extract confessions. Three out of four

personnel feel that it is justified for the police to be violent towards criminals (Figure 8).

## Summing Up

The SPIR series are an attempt to induce meaningful changes in the system, by taking into account opinions, experiences and attitudes of all stakeholders, particularly the citizens and the police personnel themselves. However, certain debatable opinions, such as the police’s inclination to use violence, treat juveniles in conflict with law as adult criminals, or their attitudes towards women within the police force suggest that the opinions of personnel cannot be taken at face value to change the system. Instead, they actually buttress the argument on how lack of awareness and absence of training on human rights,

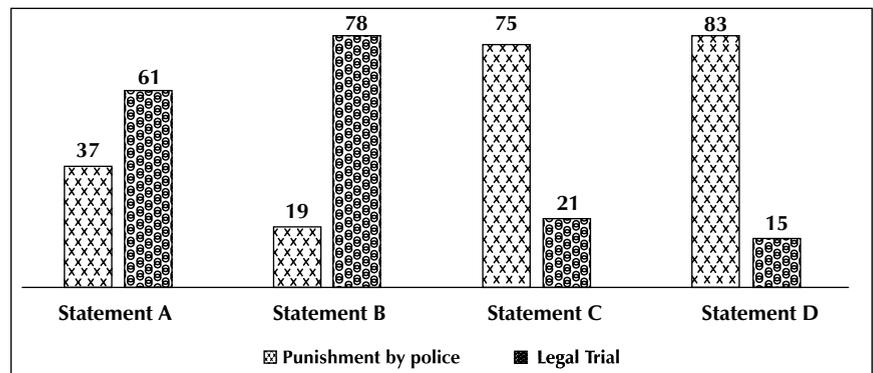


Figure 8: Police attitude towards custodial violence.

- **Statement A:** For smaller/minor offenses, a small/minor punishment by the police is better than legal trial?
- **Statement B:** For the greater good of the society, killing dangerous criminals is better than legal trial?
- **Statement C:** For the greater good of the society, it is alright for the police to be violent towards criminals?
- **Statement D:** Sometimes while investigating serious cases, there is nothing wrong in police beating up criminals to extract confessions?

gender sensitisation or legal procedures are responsible for the reinforcement of stereotypes and biases among police personnel, leading to their failure in adhering to the rule of law.

The experience-based sections of the report, however, present a dismal picture of the work conditions of police personnel. Long working hours, lack of weekly rest and basic resources as well as external pressure in work are commonly reported by personnel across states, reflecting an urgent need for enhancing resources, both human as well as physical. Evidence from studies worldwide suggests correlations between the effect of unjust working conditions and stress, leading to the increasing tendency of the police to use violence. These are therefore issues that need to be seen

together in a larger context of making police in India a more people-oriented institution intended for providing services, and not as a tool for state oppression.

In a nutshell, this report underlines the pathetic work conditions in which the police in India operate. It also brings out, at the same time, the social stereotypes that both men and women in uniform are unable to shake off. In both respects, thus, the institutional neglect of two key responsibilities — of improving work conditions and orienting the police to a more sophisticated, democratic and humane work ethic — emerges as the most striking finding of the study.

***For a soft copy of the Status of Policing in India Report 2019-***

***Police Adequacy and Working Conditions, please visit [www.commoncause.in](http://www.commoncause.in).***

Graphs courtesy: Anshi Beohar

## Endnotes

1. Survey was carried out in the following States and UTs: Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Odisha, Punjab, Rajasthan, Telangana, Uttar Pradesh, Uttarakhand, West Bengal and Delhi. The official data analysis presented in Chapter 1 also includes data from Tamil Nadu.

## References

- Lalita Kumari v. Government of Uttar Pradesh*, 2013, W.P. (Cr.) No. 68/2008
- Weitzer, R 2000, 'White, Black, or Blue Cops? Race and Citizen Assessments of Police Officers', *Journal of Criminal Justice*, vol.28, no.4, pp. 313-24

# Common Cause Initiatives on Police Reforms

## Consistent Efforts and Advocacy

Swapna Jha\*



PHOTO CREDIT: Bachchan Kumar, Hindustan Times

*Waterlogging at the Turbhe police station in Navi Mumbai.*

The antiquated Police Act of 1861 largely remains the defining guideline for the current ecosystem of policing in India.

The Government of India appointed a National Police Commission (NPC) only in 1977. However, its crucial recommendations could not be implemented. In fact, the NPC also prepared a draft of a new Police Act to replace the archaic 1861 Act, which wasn't adopted either.

Recognising the urgent need for reforms in the country's law enforcement system, and

noticing how recommendations made by expert committees on police reforms were biting the dust, a PIL was filed in 1996 by two retired DGPs, Prakash Singh and N K Singh as well as Common Cause in the Supreme Court (SC), seeking directions to the government to implement the NPC recommendations.

The central government set up the Ribeiro Committee on Police Reforms (1998) on the directions of the Supreme Court, followed by the Padmanabhaiah Committee on Police Reforms (2000). Eventually, the central government set up the Police Act Drafting Committee, chaired by

Soli Sorabjee in 2005 to draft a new model police law aimed to replace the Police Act, 1861. The committee submitted the Model Police Act in 2006, which was circulated to all the states in 2006. Seventeen states (Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand) passed new laws or amended their existing laws in light of this new model law.

In 2006, the Supreme Court delivered a historic judgment in *Prakash Singh v. Union of India*,

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ruling that the central and state governments need to comply with seven time bound directions on police reforms. Six of these related to policing and internal security at the state level and the seventh, to the establishment of a National Security Commission by the Union Government.

Since then it has been an uphill task to get the Court's directions implemented. On July 3, 2018, responding to an interlocutory application filed by the Ministry of Home Affairs (MHA) regarding the appointment of acting Director General of Police (DGP) in the states, the SC gave a slew of directions. These were meant to ensure that there were no distortions in such appointments. It laid down that the states shall send their proposals to the UPSC three months prior to the retirement of the incumbent DGP. The UPSC shall then prepare a panel of three officers so that the state can appoint one of them as DGP. To curb the practice of appointing Acting DGPs by the states, the Court directed that the UPSC should ideally empanel officers who have at least two years of service left, giving due weightage to merit and seniority. It also held that any legislation/rule framed by the states or the central government running counter to the direction shall remain in abeyance.

## Advocacy

In an attempt to initiate an informed debate within the

civil society on adopting a coherent position on police reforms, Common Cause organised a seminar on "Making our Police Effective & People-friendly," on July 4, 2009 at the India International Centre. Justice JS Verma, Former Chief Justice of India, and N Gopalaswami, Former Chief Election Commissioner of India, had chaired two of its sessions. The speakers included eminent social activists, thinkers and distinguished public servants, such as Maja Daruwala of Commonwealth Human Rights Initiative (CHRI); Madhu Kishwar, Founder, Manushi; Prakash Singh, Former DGP, Uttar Pradesh, Assam and Border Security Force; and Kamal Kumar, Secretary, Police Act Drafting Committee. The seminar concluded that a combination of positive developments in the recent past have provided a credible base for comprehensive police reforms. These reforms, if implemented, had the ability to transform the police forces into effective and citizen-friendly organisations committed to upholding the rule of law and to rid police personnel of their colonial mindsets.

## Representation

Common Cause has been constantly making efforts towards facilitating the emergence of a national consensus for expeditious implementation of the directions of the Supreme Court. It has also been striving for the enactment of contemporary

police laws inspired by the Model Police Act (MPA) and the formulations of the Second Administration Reforms Commission in its 5th Report, titled "Public Order."

As a part of this endeavour, Common Cause addressed an appeal to all Members of Parliament, drawing their attention to the recommendations of the Soli Sorabjee Committee and the Second Administrative Reforms Commission in its report on "Public Order."

It began a campaign for enactment of a new legislation meeting the contemporary needs of policing in the states and the Union Territories.

It sent a letter addressed to P Chidambaram, Union Home Minister, on August 11, 2009, requesting him to adopt the legislative framework recommended by the Police Act Drafting Committee to enact a new Police Act for the Union Territories.

“**Common Cause has been constantly making efforts towards facilitating the emergence of a national consensus for expeditious implementation of the directions of the Supreme Court.**”



PHOTO CREDIT: Gokul VS, Hindustan Times

*A traffic policeman on duty during the heatwave in New Delhi.*

## Key Highlights of the Proposed Delhi Police Bill, 2010

- Well defined structures which ensure operational autonomy, along with institutional arrangements to assess performance and enforce accountability.
- Clear delineation of role, functions, duties and responsibilities, internally within the police service and externally vis-a-vis of the civilian authorities.
- High levels of professionalism and leadership qualities, enhanced by regular training and infrastructure, comprising effective transport, quality computer databases and communication network, modern weapons, clean and well designed police stations and other work places.
- Focus on core police functions and duties, viz. crime investigation, maintenance of law and order, intelligence and internal security, while gradually transferring non-core functions to state and local institutions in accordance with the intent and provisions of the Constitution.
- Transparent procedures for recruitment, promotion, disciplinary action and grievance redressal.
- Welfare measures for the lower ranks of police personnel, which constitute the vast majority of the strength of police organisations.

On August 27, 2009, a delegation from Common Cause met the Union Home Secretary, to urge him to revive the process of enactment of the Model Police Act, 2006, incorporating the citizen-centric modifications suggested by the Second Administrative Reforms Commission. In September 2009, the Union Home Secretary requested the Lieutenant Governor of Delhi to send a legislative proposal for amendments to the Delhi Police Act, 1978, in conformity with the SC directions and the provisions of the MPA. Subsequently the latter forwarded a draft Delhi Police (Amendment) Bill, 2010 to the Union Home Ministry on February 23, 2010. Thereafter, the proposal was put in the public domain for comments.

Pushing forward with the consensus forged in the Common Cause seminar on effective

and people-friendly policing, the organisation joined hands with CHRI and the Foundation for Restoration of National Values (FRNV) to formulate a Model Delhi Police Bill, 2010. This bill was essentially based on the Model Police Act, 2006, formulated by the Police Act Drafting Committee under the chairmanship of Soli Sorabjee. It incorporated the directions of the apex court in the Prakash Singh case and also took into account the relevant recommendations of the Second Administrative Reforms Commission. It was presented to the Union Home Secretary on May 7, 2010 and the Lieutenant Governor of Delhi on May 11, 2010 as an alternative to the Delhi Police (Amendment) Bill, 2010, proposed by the Delhi Government to Ministry of Home Affairs, which was found to be utterly lacking in substance.

- Operational transparency to the maximum extent feasible and effective mechanisms for co-ordination and co-operation between the police service and the civil authorities and between the police service and common citizens.

Although the concerted efforts of Common Cause resulted in the Ministry of Home Affairs putting up a Draft Bill for Delhi reflecting some of the propositions contained in the draft Delhi Police Bill, 2010 prepared and submitted by the organisation, it yielded no positive result.

## Initiative for a New Police Law for Uttar Pradesh

Capitalising on its prior experience of formulating a progressive police law for the NCT of Delhi, Common Cause also wrote a letter to the Chief Minister of Uttar Pradesh on Feb 14, 2011. The letter offered the assistance of a coalition of civil

**“The SC’s directives as well as the Draft Model Police Act, if followed in spirit and implemented holistically, can go a long way in furthering the narrative towards citizen-centric policing.”**

society organisations in drafting a police law for Uttar Pradesh, incorporating the directives of the SC and the essential features of the Model Police Act. The first draft (Model Police Act, 2011 for UP) of such a formulation was also proposed for consideration.

## Submissions to the Justice JS Verma Committee

In the aftermath of the brutal gang rape in Delhi on December 16, 2012, Justice JS Verma Committee was constituted to give a report on criminal law reforms for faster trial and enhanced punishment in case of sexual offence of extreme nature against women. Joint submissions were made before the Committee on Jan 4, 2012, underlining the urgency of a comprehensive revamp of the criminal justice system, including policing ([http://www.commoncause.in/publication\\_details.php?id=145](http://www.commoncause.in/publication_details.php?id=145)). Common Cause too made additional submissions, stressing that the Committee should finalise its report after extensive stakeholder consultations and a public debate over its draft recommendations. It emphatically stated that “...It is imperative to ensure that there is no dilution or curtailment of the due process of law and of the fundamental rights guaranteed by the Constitution. As it is, the punishment prescribed in the laws concerning sexual violence against women is stringent enough; it is the enforcement

of these laws that is uneven and capricious. It will be tedious to recapitulate the prescriptions of eminent jurists and various expert bodies for restoring the health of our ailing criminal justice system and instilling a sense of security among the vulnerable sections of society, including women, suffice it to mention the seven binding directions of the Apex Court in Prakash Singh’s case, the comprehensive scheme of police reforms proposed in the Model Police Act, 2006, and the considered recommendations of the Second Administrative Reforms Commission on the subject of Public Order. We would urge the Committee to insist on the systemic reforms envisaged in these formulations.”

## Joint Submission on the Functioning of Delhi Police

In response to a public notice by the Parliamentary Standing Committee on Home Affairs inviting suggestions on the functioning of Delhi Police, CHRI, FRNV and Common Cause presented a joint submission. It sought to reorient the agenda for police reforms to accord primacy to the fact that the police needed to function as a service and not as a coercive force. The submission also focussed on the need for the police to provide an environment within which every individual or group could enjoy the fundamental freedoms and liberties given by

our Constitution. The following parameters were suggested in the submission:

1. **Performance Measurement:** It was proposed that at all executive levels, representatives of citizens should be co-opted to assist the police in monitoring matters related to law and order, crime and security. Accordingly, transparently appointed unbiased Citizens Oversight Committees may be constituted at thana, circle, district, range, zone and PHQ levels through an executive order. It was also suggested that the committee at the police headquarters level may be entrusted with the additional role of oversight of the Police Establishment Board to ensure that decisions of transfers and postings of key functionaries are not made arbitrarily, or at the instance of the political executive in disregard of the tenure rules.
2. **Internal Assessment:** Instead of assessing performance on criminal cases solved, the measure ought to be the police department's own criteria, based on indicators like action taken on FIRs, pendency of investigations, efficient and rational use of money and manpower, action taken to build community relations, monitoring of history sheeters, cases related to Protection of Civil Rights (PCR) Act, 1955, reduction

in communal incidents and heinous crimes.

3. **Professionalism and Technological Support:** The new police service must be encouraged to demonstrate high levels of professionalism as well as a high degree of reliable mobility, access to computer databases, state of the art communication networks, cyber-experts, modern forensic methods, advanced weaponry and well-designed work places.
4. **Prioritisation and Focus on Core Police Functions and Duties:** Instead of frittering its resources on non-core functions, the new police service should use its talents and resources predominantly for crime investigation, maintaining peace, intelligence gathering and ensuring internal security.
5. **Transparent Procedures for Recruitment, Promotion, Grievance Redressal and Welfare:** Personnel of all ranks of the new police service must have knowledge of, and access to, transparent procedures for recruitment, promotion and grievance redressal.
6. **Mechanisms for Cooperation and Collaboration:** Effective mechanisms for coordination and cooperation between the police and civil authorities, as well as between the police and common citizens, are imperative. These steps would make the new police

service answerable and accountable to the people they serve, and greatly enhance the ability of the police to gather relevant and timely "human intelligence."

These suggestions, if adopted in earnest, would have ensured that the new police service was responsive and accountable to the people. At the same time, it would have had functional responsibility over all its legitimate affairs, even as the supervision of the service remained with the political executive.

## **Annual State of the Police Report (ASPR)**

Common Cause sought to launch an Annual State of the Police Report (ASPR) as a regular feature of its portfolio of activities. It was felt that the ASPR Survey would provide a statistical framework to the antiquated police administrative system, enabling the creation of time series data on the satisfaction levels of the citizens with policing in India for advocacy initiatives on police reforms.

Common Cause and other like-minded civil society organisations like CHRI and FRNV chose to come together and work towards creating a platform on police reforms. After a few moderated brainstorming sessions, these organisations agreed upon a proposal to conduct an annual state of policing survey to

generate credible time series data on the levels of satisfaction regarding the citizens' interface with the police in different geographies. It was felt that the survey would provide invaluable support to the advocacy efforts for police reforms and help in the formulation and monitoring of reform measures. The executing agency would be selected with utmost care with regard to its credentials, the methodological rigour of its proposal and the overall value proposition. The focus of this advocacy initiative would have to be customised with regard to the legal framework and practices of policing in each of the target states.

Eventually, this police reforms initiative transformed to take the shape of two research studies titled the Status of Policing in India Report (SPIR), undertaken by Common Cause and its academic partner CSDS. The

2018 report served as the first comprehensive audit of the performance of police and the citizens' perception of policing, including those of vulnerable communities. It was conducted at a representative all-India level, featuring a survey covering 22 major Indian states. The next edition of the study, SPIR 2019, captured the perceptions and experiences of the police personnel across major Indian states. It studied the working conditions, infrastructure, experiences of the personnel and their biases against vulnerable communities. Taken together, these reports provide a comprehensive view of the challenges and opportunities that present themselves in transforming one of the critical cogs of the Criminal Justice System.

## **Conclusion**

The Draft Model Police Act prepared by the Soli Sorabjee

Committee developed at the behest of the central government was submitted to the Home Ministry in 2006. The Act was to be adopted by the Centre and taken as a template for all the other states. It was expected that at least the Union Territories, especially Delhi, which is the largest and most populated, would ensure that the Act was adopted. Unfortunately, neither the Centre nor the states have adopted the Act in its complete version. States have adopted parts of the Act, diluting essential safeguards of independence and accountability.

Needless to say, the SC's directives as well as the Draft Model Police Act, if followed in spirit and implemented holistically, can go a long way in enhancing the efficiency of the police force in India and further the narrative towards citizen-centric policing.

# COMMON CAUSE UPDATES

## Supreme Court

### Contempt Petition Against Lawyers' Strike:

The contempt petition filed by Common Cause against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction, in WP (C) 821/1990 (*Harish Uppal v. Union of India*) was eventually taken up on July 4, 2019. The SC was informed that the Bar Council of India (BCI) was neither enforcing its own resolutions nor looking effectively into disciplinary action against lawyers. The court directed the BCI to file an affidavit by September 20, 2019, with data on the implementation of its resolutions as well as disciplinary matters pending with State Bar Councils' disciplinary committees (DC). The affidavit sought the number of matters pending and their duration including periodic strikes and cease work taking place in the country along with reasons. The SC sought information on disciplinary action initiated by DCs against lawyers contravening the resolution(s) of the BCI and the judgment(s) of the SC. The matter was taken up on September 23, 2019, when the court, after hearing the counsels, directed the registry to list the matter on October 22, 2019.

**Coal Block Allocation:** The Enforcement Directorate (ED) on September 4, 2019 approached the SC, seeking permission to transfer 42 officials from agencies probing the coal block allocation cases. The permission was sought on the ground that their deputation tenures were over. In July 2017, the SC had barred the transfer of officers of CBI and ED probing the cases without its prior approval. The bench, headed by Justice N.V. Ramana, said that the CJI would decide on listing the matter for a hearing.

On September 17, 2019 the SC enquired on the status of the investigation and trial in the matter being probed by the CBI and ED.

In response to the ED's request for the repatriation of officers, the SC said it would take a practical view in a manner that the investigation does not get stalled.

The new bench of justices Deepak Gupta and Aniruddha Bose sought the assistance of senior advocate RS Cheema, in perusing the files. The SC did not pass any order to our request seeking direction to the SIT for filing a fresh status report of the probe into charges of "abuse of official position" by former Director, CBI, and listed the matter for October 27, 2019.

During the hearing on September 27, 2019, the SC reiterated its July 2017 order of barring the transfer of officers of CBI and ED probing the cases without its prior approval. It said that investigating officers of the coal scam cases shall not be released, so that continuity is maintained but the supervising officers, who have completed their deputation tenures, can be released. The court said that the officers so repatriated shall be replaced by officers of the same rank. The bench however, allowed a plea for repatriation of some supervisory officers in the ED and CBI.

The SC was informed that the CBI had filed 33 charge sheets and judgments had been delivered only in six of the cases. Owing to lack of prosecutors and personnel needed to handle the cases, Cheema pleaded before the bench to relieve him from the money laundering cases arising out of the matter. The apex court declined to pass any order on this application and said it would consider the plea in December 2019.

**Illegal Mining in Odisha:** This matter was listed several times in the period between July and September this year. In 2017 the apex court had constituted a committee of former SC judges

tasking it with investigating the alleged illegal transfer of iron ore mines in Odisha. The initial 12-week deadline was later extended by 10 weeks. On July 26, 2019 our counsel drew the court's attention to the pending report and the SC requested the committee to submit its report by September, 2019.

The court granted the committee's request of extra time, directed the registry to communicate to Justice Singhvi to submit the report by October 19, 2019, and listed the matter for October 24, 2019.

**Right to Living Will:** The Indian Society of Critical Care Medicine has filed a Miscellaneous Application (MA), seeking a clarification on paragraphs 191 to 194 of the judgment on the petition filed by Common Cause (WP (C) 215 of 2005). Paragraphs 191 to 194 provide an explanation of the Advance Medical Directive (AMD), and its procedure. The MA seeks specific modifications deemed necessary to remove the uncertainty on withholding or withdrawal of life-sustaining treatment in India and is motivated by communication

received from citizens distressed by the process and formalities of executing an AMD.

## Delhi High Court

### **SIT on Over Invoicing:**

Common Cause and Centre for Public Interest Litigation approached the Delhi High Court seeking a direction for a thorough investigation by a Special Investigation Team into the over-invoicing of imported coal and equipment. The over-invoicing was carried out by various private power companies as detailed by Directorate of Revenue Intelligence (DRI) in several of its investigative reports. Previously, CC had filed a response to the status report filed by DRI, which in turn was required to file its response to the additional affidavit of CC and the report of the CBI was to be furnished to all the petitioners. On December 4, 2018, the CBI was ordered to produce its original records/ investigation files relating to the two preliminary enquiries and the regular case, as mentioned in its earlier affidavits/reply. The counsel for the DRI was directed by the SC to produce the four adjudicating orders concerning

various entities and the counsel for the CBI was to file the status report and produce the relevant records duly flagged, together with a comprehensive note vis-a-vis each one of them.

The matter was again taken up on August 8, 2019, when the counsel appearing for CBI submitted that there was no necessity for filing another status report as the enquiry stood closed. The HC directed that the records be produced before the court on the next date of hearing. The DRI submitted that in three cases adjudication was complete, while in five others adjudication was pending, subsequent to issuance of show cause notices. It also added that the rest of the matters pertaining to other industries were under investigation.

Our counsel submitted that the DRI was delaying the matter, to which the HC directed that specific affidavits be filed within four weeks and the advance copy be given to the petitioners with respect to the present status of each of the investigation/ adjudication. The matter has been listed for November 4, 2019.

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