

# STRENGTHENING THE PROCESS OF CHOOSING THE POLICE CHIEF

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

Recent developments in the Mumbai Police which resulted in the [removal of Param Bir Singh](#) from the Mumbai Police Commissioner's post focus the spotlight once again on long overdue reforms needed in the process of appointing and removing police chiefs. A crucial way in which governments exercise control over the State police is through their unregulated power to decide who the chief will be.

There is no independent vetting process to assess the suitability of qualified candidates, and the government's assessment, if it is done at all, remains opaque and is an exercise behind closed doors. While the principles of democratic accountability necessitate the police chief to remain answerable to the elected government at all times, the moot reform issue is in ensuring the right balance between conditioning the government's legitimate role in appointing or removing the police chief with the need to safeguard the chief's operational autonomy.

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Two elements are vital to reforms in this area. The first is the need to shift the responsibility of appointment and removal from the government alone to a bipartisan, independent oversight body of which the government is one part.

Establishing a state-level oversight body with a specified role in the appointment and removal of police chiefs was first suggested by the National Police Commission (NPC), constituted in 1979, and much later reaffirmed by the [Supreme Court of India in its judgment in 2006, in Prakash Singh](#). While the top court entrusted the Union Public Service Commission (UPSC) with [a role in shortlisting candidates](#) from which the State government is to appoint the police chief, the [Model Police Bill, 2015](#) places the responsibility with a multiparty State Police Board, also referred to as the State Security Commission (SSCs), instead (Section 8). Made up of government officials, the Leader of the Opposition as well as independent members from civil society, the board provides the additional safeguard of civilian oversight over the appointment process.

India, however, has made little progress in constituting truly independent bodies. While 26 States and the Union Territories have [established SSCs](#), either through new police acts or amendments or through executive orders, not a single one adheres to the balanced composition suggested by the top court. Some do not include the Leader of the Opposition; others neither include independent members nor follow an independent selection process of the members. In essence, the commissions remain dominated by the political executive. Keeping aside the concern over non-functioning SSCs (as of 2019, [information secured through the Right to Information Act indicates](#) that only four SSCs have held meetings since 2014), their design itself will have to be strengthened if they are to drive meaningful reforms.

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Moreover, [in as many as 23 States](#), governments retain the sole discretion of appointing the police chief. Assam, Jharkhand, Karnataka, Meghalaya and Mizoram are the only States where, on paper, the SSC is given the responsibility of shortlisting candidates. Whether this process is

followed in practice each time remains to be verified.

The second element critical to police reforms is instituting an independent and transparent selection and decision-making process around appointment and removal, against objective criteria. Much standard-setting work is needed on this as only basic safeguards have been defined in reform measures towards protecting the operational autonomy of the police chief. On appointments, the Court and the Model Police Act require the UPSC/SSC to shortlist candidates on the basis of length of service, service record, and range of experience and a performance appraisal of the candidates over the past 10 years.

Still awaiting police reform

However, no further guidance has been developed on explaining these terms or specifying their elements to guide the appointments. What qualifies as a “good” range of experience? How is the integrity of a candidate measured during appraisals? What is the process required to be followed by the SSC in reviewing the suitability of candidates? Should not interviews with the candidates be considered as a requirement, for instance?

Similarly, no scrutiny process has been prescribed to justify removals from tenure posts. The NPC had required State governments to seek the approval of the State Security Commission before removing the police chief before the end of term. This important check was diluted under the Prakash Singh judgment that only requires governments to consult the SSC. Most States omit even this cursory step. Broad terms such as “on administrative grounds” or “in the public interest” continue to be retained in police acts to justify the government’s power to remove the police chief. Such terms remain liable to misuse.

Indeed, the Supreme Court has rightly emphasised that “prima facie satisfaction of the government” alone is not a sufficient ground to justify removal from a tenure post in government, such as that of the police chief ([T.P. Senkumar vs Union of India, 2017](#)). The rule of law requires such decisions be for compelling reasons and based on verifiable material that can be objectively tested.

Clear and specific benchmarks need to be integrated into decision-making processes, both on appointments and removals, to prevent politically motivated adverse actions.

Police reform and the crucial judicial actor

In improving transparency of the review process, the United Kingdom provides a useful example. [The Police Reform and Social Responsibility Act, 2011](#), introduced public confirmation hearings as an additional layer of check for the appointment of the heads of their police forces known as Chief Constables (outside of London city).

The proposed candidates are required to participate in a hearing organised by the police and crime panel in each area (made up of representatives from local councils and co-opted independent members) where questions centre on the candidate’s ability to “recognize and understand the separation of political and operational responsibilities in relation to the post”. This constitutes a crucial step of the time-bound vetting process based on which the panel makes its recommendations on the suitability of the candidate. Importantly, these panels have the power to veto (by two-thirds majority) the proposed appointment as well. On removals too, the panels allow the police chief an opportunity to respond to the allegations on the basis of which their removal is being sought as part of the scrutiny process.

Such steps can help ensure fairness in administrative decisions and need to be considered in

our context as well in order to protect the political neutrality of the police. Any further delay in implementing reforms in this area will continue to demoralise the police and cripple the rule of law.

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