

An eye on the police

On December 5, 2017, Delhi High Court asked the Centre and Delhi government to finalise a scheme for a Police Complaints Authority (PCA) for the national capital by January 2018. This urgency is required because policymakers must be made to feel the pressure. While Delhi Police routinely tops the charts in the number of complaints against police personnel, residents have been denied an effective and independent body to respond to their complaints.

In 2006, the Supreme Court (SC) ordered all states and Union Territories to set up PCAs as one of seven directives to usher in police accountability. A PCA is intended to be a free-standing, absolutely independent adjudicator with diverse membership, intended to act as a remedy for the public and a corrective mechanism for the police. In the court's scheme, a PCA is envisaged as a body to address complaints filed by the public against police officials in cases ranging from custodial death, torture, illegal detention, and even land grabbing. Complaints authorities are to be set up at both the state and district levels and their recommendations should be binding.

In 2012, the Delhi government with the approval of the Union Ministry of Home Affairs (MHA), extended the mandate of the existing Public Grievances Commission (PGC) in the city to respond to complaints against the police. At present, there are individuals who act "as the PCA" within the PGC. This is in violation of the court's directive and led to a petition being filed in the Delhi High Court in 2015, seeking an independent specialised PCA.

Numerous factors must be taken into account to fix the mandate and jurisdiction of a PCA for Delhi. There are standards in place, namely the SC's directive on the PCAs and a memo issued by the MHA directing the setting up of PCAs in the Union Territories. The MHA's memo is in violation of the court's directive with several gaps impeding both the independence and potential effectiveness of the agency.

Delhi police is among the largest police departments in the country with a 82,000-strong force. The MHA's memo sets up a single complaints authority for Delhi, presumably with jurisdiction over all complaints and police ranks. But a single-window PCA for Delhi simply cannot work given the scale of the metropolis and the volume of complaints against the police. These realities can best be met by one PCA at the city-level to inquire into complaints against police officers of and above the rank of deputy commissioner of police, and a complaints authority at each of the six ranges to receive complaints against police officers of and below the rank of assistant commissioner of police. At both levels, their mandates should cover both serious misconduct and lesser misconduct, properly defined and delineated.

The MHA memo neglects to lay down a selection process to select the chair and members of the PCA. This contravenes the court's prescription of an independent selection panel to shortlist candidates to avoid politicised appointments. The process has to be participatory and transparent with an independent selection panel. The only way to move away from compromised selection is to open up the process by advertising vacancies inviting applications from eligible candidates.

The memo is also silent on providing independent investigators for the PCA — this is needed to keep the complaints authority at arm's length from both the police and the government. The memo dilutes the binding nature of the PCA's final orders by empowering the administrator — in this case, Delhi's Lieutenant Governor — to overturn the PCA's orders in the case of disagreement. Allowing the administrator the leeway to reverse or amend its decisions, when he is also directly in charge of the Delhi Police, dilutes the PCA's efficiency and creates a de facto appeals body. If Delhi's policymakers are interested, there are lessons to be learnt by long-functioning complaints authorities in Kerala and Tripura. Holding an inclusive public consultation with citizens of Delhi, on

the PCA they want, would be important.

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