Moving the Needle on Police Reforms
Why Reforms have Stalled and How to Make Progress

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The Indian Police Foundation is a multi-disciplinary think tank that brings together
the police and the citizen stakeholders, to collectively work for building a
professionally efficient and socially sensitive police.

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Executive Summary

In recent years, the agenda to reform the police in India has been driven by the judiciary, while key constituents of the reform – politicians and bureaucrats – have been resistant to some or all of the suggested changes. The reforms correctly address issues of insufficient police autonomy and insufficient police accountability, but seem to be incompatible with the incentives of key stakeholders. As a result, there has been little take-up or buy-in from state governments across the country. This monograph analyses various points of leverage for reform and makes recommendations for tackling internal resistance within the police and political arena, and expanding the support base for reforms.

Points of Leverage for Reform: Role of Politicians

The most critical barrier to reform seems to be the disinclination of state governments to implement a reform that constrains their behavior, to their detriment, without any perceived benefits accruing to them.

Initiating Change Internally. State legislators and local politicians have most to gain from their control over the local police. In this situation, pursuing the case for reform requires building alliances with a few well-respected politicians, who, as internal champions of the reform, are likely to have the largest impact on reform efforts within State legislatures.

Creating Success Cases. Focusing on states where there is already some will for reform can help produce an initial success story, which can be used to build evidence, bolster momentum and influence public opinion.

Balancing Political and Executive Roles. The political executive, particularly the Home Minister at the centre and in the states, must send a strong message about need for the police to be impartial, professional and accountable, without buckling to pressure exerted by local politicians.

Points of Leverage for Reform: Role of the Bureaucracy

By supporting issues of police autonomy more than associated issues of police accountability, the police has created a lopsided constituency for reform and has slowed down progress. Police

autonomy and accountability should be treated as two sides of the same coin and should be jointly legislated and implemented.

Lack of well-defined relationships. The absence of well-defined relationships between police officers and other actors in the governance and criminal justice system creates nebulous hierarchies. There are competing claims between the central and state government, for example, or between district superintendents and district magistrates. This lack of clarity has negative implications for police performance and efficiency.

Coordination Problem. Police officers face a coordination problem, as on the surface of it, the benefits of reform seem to accrue to particular individuals but the benefits from working within a better system are dispersed across people. Solving the internal coordination problem within the police, especially senior officers, who are a formidable interest group, can play a major role in moving the agenda forward. Within the police, there is also a need to caution against taking a self-centric view of reforms. The effort should be to emphasize structural rather than individual benefits of the reform process. The differential incentives of senior officers and junior staff must be accounted for.

Life cycle of the motivation for reform. It is likely that police officers close to the end of their careers have fewer incentives for change compared to those just starting out. Given this life cycle of motivation for reform, certain changes such as minimum tenure requirements could be phased in from the beginning for freshly recruited cohorts in coming years, gradually leading the path to full-scale reform.

Role of information and training. Data shows that few police personnel at lower and mid-levels are aware of the police reforms agenda. This calls for building partnerships with other institutions to deliver information about the Supreme Court directives, provide training for more effective policing, and inculcate greater accountability. In addition to other kinds of training, greater professionalization and sensitization is required to tackle concerns about internal biases within the police. Data on policing should be published more regularly and openly, with fewer lags in publishing.

Role of IAS officers. IAS officers placed in the Ministry of Home Affairs play a very important role in setting and pushing the agenda for reform, mediating between key players, sharing

information and setting administrative priorities. Developing such partnerships would go a long way in ensuring that the case for reform is heard and prioritized at the right levels.

Points of Leverage for Reform: Role of the Judiciary

Advocacy by the highest levels of the judiciary on police autonomy and accountability has been a driving force for the implementation of police reforms. However, strengthening the working of local courts, reducing legal delays and improving convicton rates would supplement efforts towards increasing police accountability and effectiveness by controlling the tendency towards police vigilantism and, ultimately, enhancing the functioning of the criminal justice system.

Points of Leverage for Reform: Role of the Public

The public disproportionately bears the costs imposed by the current system. Unlike the police, who have an incentive to focus on greater autonomy, the public has an incentive to see concomitant progress on both autonomy and accountability.

Strengthening Electoral Accountability: Unlike other developmental issues such roads, electricity or water, crime and public safety have rarely been a serious issue on electoral platforms. Citizens' organizations must emphasize the importance of crime reduction to development and well-being and help make it an issue that is politically salient.

Coordination Failure. While public outrage has been shown to move the needle on reforms, it remains limited to the most egregious of cases. Organizations keen to make a difference in this space need to gather disparate voices in order to create a defined movement for reform.

Information Provision. A public campaign to provide information about the progress of police reforms in different states would help in generating awareness about the performance of police and politicians in delivering better outcomes, with an understanding that better service delivery does not necessarily mean fewer cases.

Better data, more reporting. To accurately judge politicians on their performance in fighting crime requires that data is reliable and regularly published. Political interference in crime recording must be controlled and the government and other third parties should publish better quality and more independent crime data in a timely manner.

I.   Introduction

It is rather unfortunate that the conversation about police reforms in India has remained unchanged over the best part of seven decades. In this time, India's population has grown from 361 million (1951) to 1.36 billion (2019), the level of urbanisation has increased from 17.3 percent (1951) to 31.2 percent (2011), and economic growth has spawned crimes that are highly sophisticated and transnational.

Yet, the main organizational and institutional issues in policing have remained the same as at the time of Independence, perhaps even before then. The police are both insufficiently autonomous to political pressures from above, and insufficiently accountable to the needs of the people below. The potential solutions to these problems have remained unchanged too. Several commissions have been set up at the highest levels of Government over the course of more than four decades, and they have all made broadly similar recommendations to curtail abuse both of and by the police. However, even the most compelling of these directives has not been implemented, and states have completely rebuffed or bypassed the reform agenda (Bhatnagar, 2018).

In this paper, I focus on the incentives of, and the constraints faced by, the key constituents of the reform, namely, politicians, bureaucrats and the public. I seek to understand what generates 'political will' for reform and what can be done to amplify the call for reform, exploring the sources of internal resistance and external demand in the system. For the purposes of analytical clarity, this paper focuses more on the question of police autonomy, relative to police accountability.

The remainder of the paper is organized as follows. Section II provides a brief description of two alternative frameworks of accountability relationships that I base this discussion on. Section III provides a background of the previous police reform efforts and a summary of the main recommendations for reform. Section IV summarizes the compliance efforts of states and discusses some of the reasons for poor compliance. Section V explores the sources of internal resistance and considers the incentives of some of the key stakeholders in the reform process. Section VI considers some ways in which to generate external support for reform. Section VII concludes.

II.   Alternative Frameworks of Accountability Relationships

In a democracy, elected representatives are responsible for overseeing the work of bureaucrats in line with the principles of democratic oversight and public accountability, in order to deliver results for citizens. These agency and accountability relations are often summarized through a triangle with mutually accountable relationships – politicians are accountable to the citizens they represent in government, the police is accountable to the state government in their use of force, and finally, bureaucrats are also accountable to the people in the delivery of citizen-facing services such as policing, while ensuring that law and order prevails in the community (World Bank, 2003). These ideals are enshrined in a system of checks and balances in our democracy, where the relationship between different arms of government is not hierarchical. Instead, the legislature, the executive and the judiciary work together to prevent excesses and ensure the rule of law.
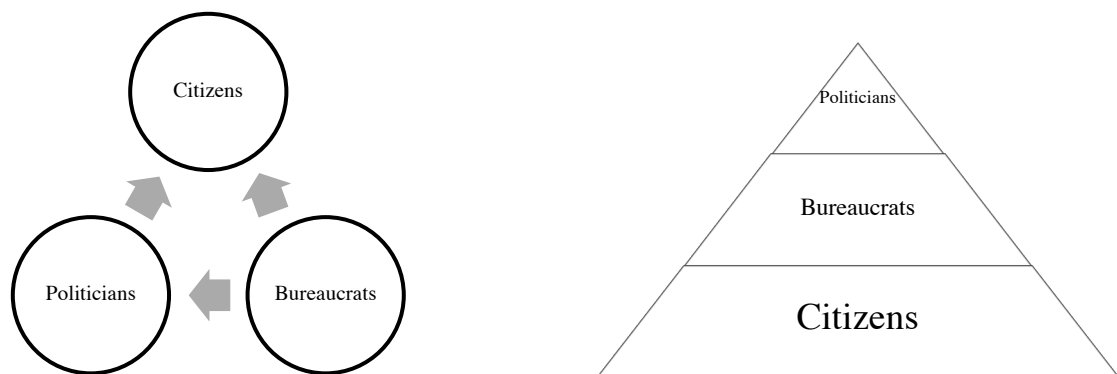
Figure 1. Alternative Frameworks of Accountability Relationships

In practice, however, all three relationships in the triangle are considerably weak. First, the relationship between the police and the state governments is defined by the Police Act of 1861, which vests the superintendence of the police in a police-district to the government of the state to which the district belongs.

> The superintendence of the police throughout a general police-district shall vest in and shall be exercised by the State Government to which such district is subordinate, and except as authorized under the provisions of this Act, no person, officer of Court shall be empowered by the State Government to supersede or control any police functionary. (Section 3 of the Police Act of 1861)

However, the scope of such "superintendence" is undefined. This creates the space for discretion, and the opportunity for patronage and partisan politics to interfere with the working of the state law and order machinery. Several commentators, including those within the police community have noted that political power has been "misused, and ministers have used police forces for personal and political reasons", and that the police may be victimised for the bona fide use of force (Second Administrative Reforms Commission, Government of India, 2007a). In such cases, political interference in due process has prevented, rather than enabled, the police from carrying out its mandate and maintaining law and order.[1] For example, the 2019 Status of Policing (SPIR) in India Report finds that one in three police personnel have very frequently experienced political pressure in the course of a crime investigation (CSDS-Common Cause, 2019).

The second weak link in the triangle is the accountability relationship between the police and citizens. The Indian Police Act of 1861 was enacted by the erstwhile British government following the Revolt of 1857 as a means to efficiently administer the police and to prevent future revolts in the colony. Tragically, the interaction between police officer and citizen is still modelled after the relationship between imperial police and colonial subject (Dzenisevich and Daruwala, n.d.). The potential misuse of the police's coercive power creates fear in the very communities the police are supposed to serve and protect – for example, an index of fear created by the SPIR 2018 found that 44 percent of respondents were either highly or somewhat fearful of the police (CSDS-Common Cause, 2018).

Finally, the third weak link in the chain is the accountability relationship between citizens and the politicians they vote for. Unlike other developmental outcomes like roads or electricity, public safety is rarely an election issue in India. Research shows that having female or SC/ST elected representatives, improves safety outcomes for members of those groups and empowers them to report more crimes. Yet, crime and policing are rarely politically salient issues in India. In fact, the show of extensive police support, security and raw muscle power often works in the favour of politicians at the time of elections, which further weakens this link (Vaishnav, 2017).

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[1] It is important to acknowledge that this illegitimate control, even though symptomatic of an asymmetric power relationship, is not unidirectional, but instead can be a mutually beneficial, reciprocal relationship, where certain police personnel are just as likely to use their connections with politicians for personal and professional gain. This facet of the relationship remains understudied, and I do not discuss it in detail here, focusing instead on cases where a neutral bureaucracy is hijacked for personal and political ends.

The deep imbalances in all three of these relationships weaken the structure of the triangular accountability framework. In practice, the relationships are closer to resembling a hierarchical framework, in the shape of a pyramid, where the politicians are accountable to no one, the police are accountable only to politicians, and no one is accountable is to the people. The Second Administrative Reform Commission, deliberating on the political causes of public disorder, wrote,

> The increasing propensity to use public office for private gain, unwarranted interference in crime investigation and day to day functioning of police, short-term populism at the cost of durable solutions, complexities of a federal polity – all these make it difficult to address some of the growing threats to public order. Added to this is the relatively low importance attached to public order in our political discourse. All these contribute to breakdown of the public order fabric. (Second Administrative Reforms Commission, Government of India, 2007b)

Most of the conversations about police reform in India have centred around the first two linkages. I will focus on the first two linkages in the following sections and will return to the question of electoral accountability in Section VI.

III.   Historical Background

Reform Efforts

Since Independence, the Government has appointed several expert committees to understand the problems of police autonomy and accountability and make recommendations for reform. The National Police Commission (NPC) was the first of these commissions and was appointed following what was seen to be a blatant misuse of the police for political motives during the Emergency of 1975-1977. The Report of the Shah Commission of Enquiry (1978) reported on some of these excesses committed by the police and the magistracy during this period. The National Police Commission was tasked with reviewing the entire police system, and it submitted eight detailed reports to the Government between 1977 and 1981, which contained recommendations about nearly every aspect of police work. While several of the recommendations regarding operational issues were implemented, the most crucial recommendations of the National Police Commission, shown below in Table 1, have remained unimplemented to this day (Ministry of Home Affairs, Government of India, 2016).
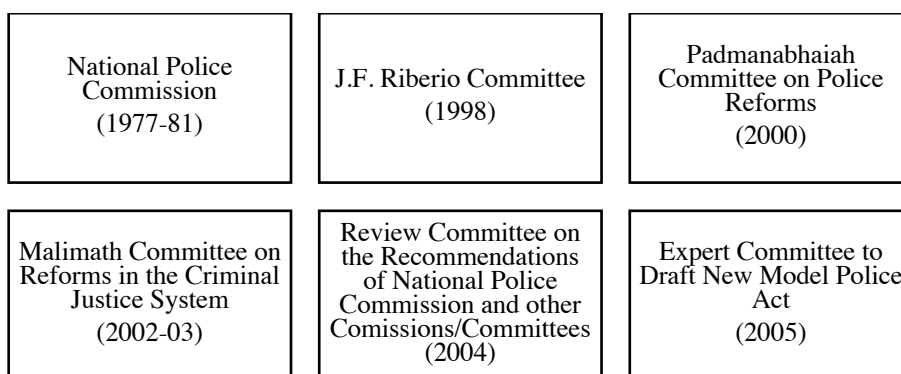
National Police Commission (1977-81)	J.F. Riberio Committee (1998)	Padmanabhaiah Committee on Police Reforms (2000)
Malimath Committee on Reforms in the Criminal Justice System (2002-03)	Review Committee on the Recommendations of National Police Commission and other Comissions/Committees (2004)	Expert Committee to Draft New Model Police Act (2005)

Figure 2. Key Expert Committees on Police Reforms in India

Reforms

The recommendations made by the various Committees focus on tackling some of the most perverse aspects of power asymmetry in the politician–bureaucrat relationship, including high levels of discretion, difficulty in monitoring insider deals and low levels of accountability due to improper regulation. Some reforms specifically focus on the system of transfers and appointments, which is known to be a crucial instrument of discretionary control, often misused by politicians (Iyer and Mani, 2012).

To tackle these problems, the different commissions focused on finding solutions that delegated operational control to the police, while democratizing governance to different bodies. They made recommendations that governed both the interaction of the police with politicians, as well as that of the public with the police, seeking to enhance police autonomy as well as accountability. Some of the key structural reforms that emerged from the work of various commissions are shown in Table 1 and discussed below.

First, in the light of the undefined "superintendence" relationship between the police and the state governments, the commissions recommended that states enact new Police Acts, which would help set in place some ground rules about legitimate and illegitimate behavior. Second, they recommended putting in a place a transparent and rules-based procedure to appoint the Director General of Police to reduce the discretion involved in this process and make it more meritorious. Similarly, creating rules for minimum tenure would reduce the arbitrariness of transfer decisions and insulate police officers from one of the better-known instruments of political control. They recommended setting up a Commission (Police Establishment Board,

or PEB) to make decisions on matters of transfers, postings, etc.[2] In order to counter unwarranted pressure on the police and monitor performance, they recommended the creation of an ombudsman, or an oversight committee (State Security Commission, or SSC). This would encourage the police to report pressure to an appropriate forum and also help the ombudsman to gather more information and build stronger cases against individuals who have a history of putting pressure on several different officers. This would both improve monitoring and create deterrence. Separating the functions of investigation from law and order would reduce the scope for misuse of police and political authority and improve efficiency of the investigation process. Finally, a specialized body (Police Complaints Authority, or PCA) to investigate cases of wrongdoing by the police would help in increasing police accountability and, if effective, enhance people's trust in the system.

	Commissions	National Police Commission	J.F. Riberio Committee	Padmanabhaiah Committee	Model Police Act	Supreme Court Directives
1	Enactment of new Police Act	✓	✓	✓	✓	-
2	Appointment of Senior Officials (DGP)	✓	✓	✓	✓	✓
3	Minimum Tenure of Police Officials	✓	✓	✓	✓	✓
4	Commission to counter unwarranted pressure on the police and monitor performance	✓	✓	✓	✓	✓
5	Commission to make decisions on matters of transfers, postings, etc.	✓	✓	✓	✓	✓
6	Commission at central level to oversee policy and make appointments to CPOs	✓	✓	✓	✕	✓
7	Separation of investigation functions from law and order	✕	✓	✓	✓	✓
8	Body to inquire into complaints against police	✓	✓	✓	✓	✓

Table 1. Position of Key Expert Committees on Main Police Reforms. Reforms 2-6 pertain to functional autonomy, and reforms 7-8 pertain to police accountability. A checkmark denotes that the relevant commission recommended a given course of action. CPOs: Central Police Organisations. DGP: Director General of Police.

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[2] In the US context, Ornaghi (2018), for example, finds that limiting politicians' ability to influence police officers through discretionary firings improved certain performance metrics of police departments.

Reform Progress

In the decades since, other committees on police reform have made recommendations that are similar in spirit to those of the NPC. As can be seen from Table 1, some of the principal reform recommendations have been recommended by nearly every committee. While there are some differences in the details, such as in the composition of the different regulatory bodies, or in the ranks to which these recommendations would apply, they are broadly marginal in the face of the larger reform agenda.

In 2005, the central government set up the Police Act Drafting Committee to draft a new model police law that could replace the Police Act, 1861. The Committee submitted the Model Police Act in 2006, which included the recommendations previously made by the other commissions, including specifying the "superintendence" role of elected government.[3,4] While some states began to consider how the suggested model could replace the older acts, these recommendations and the model bill were not incorporated into broader policymaking or practice (PRS Legislative Research, 2017).

In this context, despite the extensive work done by the various commissions on police reforms in the country, it was a judicial intervention that produced a landmark judgment and pushed the agenda forward with respect to implementation of the previously identified reforms. A 1996 petition filed by a retired police officer, Mr. Prakash Singh, before the Supreme Court, alleged misuse of their powers by the police and by persons with clout. The petition urged the Supreme Court to direct states to implement the recommendations of the various committees highlighted above. Ten years later, in September 2006, the Supreme Court of India issued instructions for the Central and State Governments to comply with a set of seven directives (reforms 2-8 in Table 1). Of the seven directives, six (reforms 2-5 and 7-8) were meant for the states and Union Territories (UTs) to implement, while one (reform 6 in Table 1, regarding policy and

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[3] As per Section 39 of the draft Police Act, "The State Government shall exercise its superintendence over the police in such manner and to such an extent as to promote the professional efficiency of the police and ensure that its performance is at all times in accordance with the law".

[4] However, in the view of the Administrative Reform Committee, this provision was insufficient to deal with the pervasiveness of informal, and often illegal instructions to the police. It recommended that the issue of illegal or mala fide instructions by any government functionary to any police functionary should be made an offence (Second Administrative Reforms Commission, Government of India, 2007b). It recommended the inclusion of the following in the Police Acts: "No government functionary shall issue any instructions to any police functionary which are illegal or mala fide." Furthermore, "'Obstruction of justice' should also be defined as an offence under the law." However, this recommendation was not accepted by the Government (Department of Administrative Reforms & Public Grievances, Ministry of Personnel, Public Grievances and Pensions, Government of India, n.d.).

appointments in Central Police Organisations) was solely related to the Central Government and is not discussed here.

IV.   Compliance of Supreme Court Directives by States

States were required to comply with the directives immediately, even if they were in the process of drafting their new Police Bills that, once enacted, would include the previous recommendations and replace the directives. In the short term, there was a lot of variation in the compliance by different states. Some states, such as Sikkim, Manipur, Meghalaya, Mizoram and Tripura took early steps to comply with all of the reforms. Partial compliance was reported by states such as Himachal Pradesh and Jharkhand. The majority, however, either sought to delay because they were in the process of drafting the Police Bills, sought to delay without giving a reason or expressed resistance and requested the Supreme Court to reconsider its decision (Commonwealth Human Rights Initiative, 2007). The union territories, led by the Ministry of Home Affairs, showed partial compliance and requested that the directives be adjusted to their size and specific conditions. The Chief Justice of India is said to have lamented in July 2009, "Not a single state government is willing to cooperate. What can we do?" (Pratap, 2018).

States' opposition to the directives came from three particular sources – denial of the occurrence of political interference, their concerns regarding the undemocratic nature of regulatory bodies, and a contention that reforms would be costly and result in a duplication of effort. First, States denied that politicians interfered in the operations of the police, which made reforms unnecessary in the first place. They also contended that commission of excesses by the police was rare, and hence the creation of a Police Complaints Authority (PCA) was unnecessary. Second, states perceived the creation of commissions such as the Police Establishment Board (PEB) or State Security Commission (SSC) to be "undemocratic" and undermining the power of elected government. Similarly, they felt that imposing fixed tenure would reduce the rights of the elected government. Third, states were concerned about recommendations such as the creation of the Police Complaints Authority (PCA) and the Police Establishment Board (PEB), which they believed would result in duplication of effort and would be a financial burden on the state.

More recent reviews found that seventeen states have now passed new Police Acts, while others have passed executive orders to implement the same.[5] However, these new Acts are not based on the draft Police Bill of 2006, and do not include any of the reforms that were seen as desirable by various commissions, serving only to legitimize the status quo. By passing the bills and acts, however, states are no longer required to comply with the directives issued by the Supreme Court in Prakash Singh v. the Union of India. In this manner, states have completely bypassed the reform agenda (Anand, 2018).

V.   Tackling Internal Resistance

In recent years, the agenda to reform the police in India has been driven by the judiciary, whereas the key constituents of the reform – politicians and bureaucrats – have been resistant to some or all of the suggested changes. While the recommendations made by multiple commissions are appropriate as technical solutions to the problems of information asymmetry and improper accountability, and may even be administratively feasible, they seem to be incompatible with the incentives of many politicians. As a result, there has been little take-up or buy-in from state governments across the country. A great part of the discussion on the implementation of the police reforms revolves around the role of 'political will' to implement these reforms, but the ways in which such political will is to be generated remain relatively underexplored.

The Process of Change: Alignment of Technical solutions, Administrative capacity and Political support

In each of the directives discussed above, the role of the technical recommendation has been to clarify rules and definitions, for example, reducing the discretion associated with the term "superintendence", or in the system of appointments and transfers, and setting up regulatory bodies that can monitor, and ideally, punish errant behavior. Furthermore, while setting up these regulatory bodies will incur some costs, separate budgetary and staffing allocations can be made to ringfence the expenditure. However, the most critical barrier to reform seems to be the disinclination of state governments to implement a reform that constrains their behavior, to their detriment, without any perceived benefits accruing to them. For example, the Justice

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[5] Detailed information on state compliance as of 1 August 2016 can be found in Annexures I & II of Jain and Gupta (n.d.), and Commonwealth Human Rights Initiative (2018).

Thomas Committee appointed by the Supreme Court, in a report on state compliance in 2010, expressed "dismay over the total indifference to the issue of reforms in the functioning of Police being exhibited by the States" (Jain and Gupta, n.d.).

An analysis of the reasons due to which states have resisted the reforms, denying their need and calling them undemocratic, shows that politicians have little to gain from the implementation of this reform. Indeed, the reforms restrain some of the unconstrained power of state governments, but that in itself is not undemocratic – in fact, it reinforces a democratic system of checks and balances, where different agents are accountable to each other. Similarly, the existence or non-existence of political interference is not a matter of opinion, but an empirical question that has already yielded answers in research and investigation, by neutral observers, as well as those appointed by Government at the highest levels.

There are two possible ways to proceed in this situation. The first is to keep the suggested reforms unchanged, while building political support around these recommendations. A second is to start from scratch and generate a different set of recommendations that might be slightly less technically correct or administratively feasible but are more politically supportable than the current set of reforms. In this paper, I focus on the first approach, and consider ways in which to expand the support base of the existing reforms.

Incentives of politicians. In an environment with weak formal institutions, control of the local police is an important way for politicians to secure benefits for themselves, consolidate electoral gains and distribute benefits to constituents. First, by controlling the police, politicians can protect themselves or their associates in cases of brazen wrongdoing and safeguard themselves from investigation in cases of criminal activity. Second, control over the police allows politicians to manipulate the electoral space in which they operate, by saddling their opponents with fake and frivolous cases, or eliminating forms of political competition, or providing speedy justice or other benefits to their constituents without following proper procedure, for example. Third, control of the police is also an instrument that allows politicians to engage in partisan, patronage or ethnic politics. The muscle power of the police works both as a show of strength for their own communities, and a threat to other communities, making politicians appear more credible in their promise to improve the lot of their own (Vaishnav, 2017).

Incentives of the police. For the police, on the other hand, the most important personal and professional goals of career progress and personal stability are contingent on them having a good working relationship with political superiors. Iyer and Mani (2012) show evidence that bureaucrats respond to political control over their careers, for example, by investing in one of two alternative paths to career success – officers of higher initial ability are more likely to invest in skill, but caste affinity to the politician's party base also helps secure important positions. Finally, unlike with politicians, jobs in the police tend to be secure with little threat of being dismissed from service, except in the most serious cases of egregious behaviour or cases where disagreement with political supervisors has escalated.

Points of Leverage for Reform: Role of Politicians

One of the most intractable, but also crucial, aspects of the reform effort is implementation. For reforms to succeed in implementation requires that they are not only technically correct and administratively feasible but also politically supportable by the constituents of the reform, including those who will implement the reform and those who are affected by it. In the most complex cases of political reform, the implementers and targets of the reform process are the same. In the case of the states, for example, it is the state legislators who are required to pass modern and efficacious police acts. At the same time, it is these legislators, their party men and women who are likely to be most directly affected by the passing of these reforms.

In the absence of term limits, one of the most important concerns of a politician is to be re-elected, as all other direct, indirect and electoral benefits follow from such re-election. At the same time, politicians may also have some pro-social motivations to bring benefits to their community or constituency. Most discussions about the implementation of reform terminate at the point of 'political will'. But how is such will generated and what role can politicians play?

Initiating Change Internally. Pushing the case for reform requires not only the presentation of incontrovertible evidence but also the ability to build an alliance with at least some politicians who can champion and push through the reform agenda. While this is, by its nature, more likely to be an individual rather than an institutionalized effort as it relies on particular personalities, it requires us to acknowledge that not all politicians, legislators or members of the executive engage in illegitimate behaviour, and to further seek the participation of some of

these members in making the case for change. It is these internal champions of the reform who are likely to have the largest impact in building a coalition for reform within State legislatures.

Creating Success Cases. Simultaneously, focusing on states where there is already some will for reform will produce an initial success story, that can be used to build evidence, bolster momentum and influence public opinion. This might even help create pressure on other states that are unwilling to reform. Deciding which states to focus on would require a better understanding of the constraints to reform in different states. States in which political interference is relatively small to begin with might be more amenable to reform efforts, with a view to becoming an early mover and garnering possible economic gains from reform, such as increased private investment. This is also the case in states where development and good governance have credible political benefits, and where Chief Ministers have a broad-based vision of development. Smaller states that depend on the center for funds might also be a good place to begin if financial incentives, such as additional development funds can be provided, conditional on implementing police reforms.

Political executive vs. other politicians. Finally, the political executive has a significant role to play in balancing the need for the police to be seen as impartial and professional, as opposed to the demands made by local politicians and party workers. In particular, the Home Minister, both at the centre and in the states, can send a strong message to all stakeholders by supporting more police autonomy and accountability, and not buckling to pressure exerted by local politicians.

However, it might be useful to caveat this discussion by mentioning two proposals that are unlikely to work.

Role of Union vs. State. One particular solution that has been suggested to resolving the problem is to shift policing from being a subject on the State List of the Constitution to the Concurrent List. This would allow the Union government to intervene in issues of policing and public order earlier, where states are unable or unwilling to control the situation. However, even if state governments were willing to cede control over the police to their national counterpart, it is unclear why policing matters should be re-centralized.

There is little evidence to show that, relative to state governments, the central government is more committed to police reforms or has more credibility in implementing them. If this were to be the case, we would expect to see more progress in reform implementation in the Union Territories, including Delhi, where the Centre is responsible for policing. However, no new laws have been enacted in these regions. Despite great focus on public safety in the capital in recent years, the new Delhi Police Act has not yet been passed. Various commissions found that the Delhi Police played a perverse role during the 1984 communal riots in the city (Nanavati Commission of Inquiry, Government of India, 2005). As a result, it might be difficult to conclude that the centre's incentive structure is different or that its performance on police reforms will be any better than that of other states.[6]

Non-partisan Support. Unlike certain reforms which tends to be partisan, police reform is non-partisan in the sense that neither of the main parties has shown any interest in pro-actively leading this reform. There is also little evidence to show that one political party engages in this behaviour more than another. In fact, all parties might be as likely to interfere in policing and gain from the status quo. Hence, building partisan support for this reform is also unlikely to work.

Points of Leverage for Reform: Role of Senior Bureaucrats

The role of the police in supporting one plank of reforms more than the other has created a lopsided constituency for reform and has slowed down progress.

Dual Control. The absence of well-defined relationships between police officers and other actors in the governance and criminal justice system creates nebulous hierarchies. For example, although IPS officers are centrally recruited and deputed, state governments have disproportionate discretionary penal control over them (Raghavan, 2003). This could result in harmful career impacts for officers caught in disputes between the central and state governments. Gulzar and Pasquale (2017), studying the NREGA in the country, find that implementation of the program is significantly better where bureaucrats are supervised by a single politician, as compared to jurisdictions where they are supervised by multiple politicians. They show that this superior performance can be attributed to politicians facing strong

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[6] A different reason given for supporting the shift of policing and public order to the Concurrent List is the rapid increase in inter-state crimes. In this case, shifting the mandate on public order, or certain parts of it, might be the appropriate solution to improve inter-state and state-centre coordination.

incentives to motivate bureaucrats as long as they are able to claim the benefits from better performance. Such a dynamic might also be relevant for police officers and would need to be further studied. Finally, others have expressed concerns about the provisions of the Indian Police Act as per which local police forces come under the command of the district superintendents of police and senior officers but are also subject to the "general control and direction" of district magistrates. This remnant of policing under British colonial rule could also have implications for police efficiency and performance (Joshi, n.d.).

Coordination Problem. Police officers face a coordination problem, as on the surface of it, the benefits of reform seem to accrue to particular individuals, but the benefits from working within a better system are dispersed across people. There may be several officers who strongly support the reform process and have been concerned about interference based on their own experiences but lack the appropriate forum to express their concerns and ideas about their working conditions. This is particularly true if they are either unsure about where other police officers stand on the issue, or if their personal stance is seen to have political repercussions. As the discussion on incentives of police officials mentioned, being in the good books of politicians is in the interest of a bureaucrat's career, and there is a fear of backlash from the government if a senior police officer seems to be too close to the agenda on police reforms (Singh, 2019). Solving the internal coordination problem within the police, especially senior officers, who are a formidable interest group, can play a major role in moving the agenda forward.

Divergent dynamics at different levels of the force. In a force as large as the police in India, with different levels and responsibilities, the incentives and concerns of the top brass are likely to differ from those whom they supervise, and who form the largest share of the force (Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, 2019). The Status of Policing in India Report 2019 showed that police personnel with more years of experience are also less likely to consider political pressure as the main hurdle in crime investigation, unlike those who are more junior and have fewer years of experiences (CSDS-Common Cause, 2019, p. 88). Yet, political interference was reported to be the biggest factor adversely impacting crime investigation, with about three in every ten policemen reporting it (CSDS-Common Cause, 2019, p. 151).

Life cycle of the motivation for reform. As per some observers, those closer to the top of the hierarchy have worked through their careers in a particular kind of system, and some of them have even contributed to the creation of that system. As a result, they may be hesitant to support an alternative structure where merit matters most and may fear losing out (Singh, 2019). Similarly, having spent thirty years in a system where police follow orders from political 'bosses' and are unaccountable to the citizens, a constable might be averse to doing things differently, where suddenly he is accountable to the citizens and would need to make a judgement about whether an order is legitimate or not. In this way, it is likely that those close to the end of their careers have fewer incentives for change compared to those just starting out. Given this life cycle of motivation for reform, certain changes, such as minimum tenure requirements could be phased in right from the beginning for new batches and freshly recruited cohorts in the coming years. As these officers progress through their careers over time and older batches retire, the resistance within the system would reduce and officers would be more amenable to the idea of full-scale reform.

Concomitant autonomy and accountability. One possible source of resistance among police officers is that greater autonomy would also engender higher accountability, for the processes must go hand-in-hand in a sound democratic system. Holding the police more accountable entails bringing more transparency into the functioning of the system, especially as it pertains to the interaction between the police and the public. Data should be published more regularly and openly, with fewer lags in publishing. There are concerns about some of the internal biases within the institution which emphasize the need for greater professionalization and training. A body like the Police Complaints Authority (PCA) can help clarify the penalties for transgression, set up disciplinary committees and open up the space for more monitoring by third parties.

Having greater autonomy entails greater responsibility and requires making judgement calls that are not easy or obvious, opening the doors to criticism. In these cases, some members of the police might find it more convenient to play a subordinating role, follow orders and not necessarily be held accountable for their actions, as they will be protected by those issuing the orders in the first place. The role of upright police officers in this effort is crucial, particularly those who do not feel defensive or threatened by reform and can use this as an opportunity to improve their own performance and working environment.

Role of information and training. As per the most recent Status of Policing in India Report, only 14 percent of the police surveyed reported that they had heard of Prakash Singh vs. Union of India (CSDS-Common Cause, 2019, p. 150). This is too low a number, and increasing it requires providing more information across all levels of the force. This calls for building partnerships with other appropriate institutions, such as the National Police Academy, the Indian Institute of Public Administration, the Bureau of Police Research & Development and other institutes to deliver information about the Supreme Court directives, provide training for more effective policing, and undertake sensitization towards citizen accountability across different levels of the police.

The SPIR 2019 finds evidence for deep-seated biases in the police against certain communities and groups, including individuals from lower castes, Muslims and women (CSDS-Common Cause, 2019). Overcoming these biases requires greater professionalization of the forces and greater sensitization on issues of human rights. There also needs to be a better understanding of the law, and dealing with sensitive issues such as juvenile delinquency, mob violence, communal riots and crimes against women.

Within the police, there is also a need to caution against taking a *self-centric view of reforms*. There is the possibility that senior officers view the judgement of the Supreme Court in Prakash Singh v. Union of India in a self-centric way and become more concerned with interpreting the judgement in a way such that allows them to move into or stay on in the role of the DGP for as long as possible. While this has happened in a few cases, the efforts of the movement should remain to emphasize structural rather than individual benefits. Setting a strong example of this early on would deter such self-seeking considerations in the future (Singh, 2019).

Points of Leverage for Reform: Role of non-IPS Bureaucracy

Another, perhaps less obvious, constituency in police reforms are officers of the Indian Administrative Service (IAS), who are appointed to executive positions such as that of the Home Secretary, and intermediate between the police and politicians, both at the central and state levels. IAS officers in these positions play a very important role in setting and pushing the agenda for reform, mediating between key players, sharing information and setting administrative priorities. Even within the states, for example, IAS officers play an important role in the creation of commissionerates for better policing. Implementing police reforms in

any state requires strong support of the Home Secretary and administrative officers in the Home and Cabinet Secretariats. Developing such partnerships would go a long way in ensuring that the case for reform is heard and prioritized at the right levels.

Points of Leverage for Reform: Role of the Judiciary

The judiciary, exercising its pivotal role in the criminal justice system, has actively advocated for police reforms, nudging governments and encouraging accountability at every level of policing. For example, the interventions of the court in terms of the rights of arrested persons and the judgement following the DK Basu v. State of West Bengal case in the Supreme Court of India (1997) have the potential to reduce custodial violence and torture by the police (Singhvi, 2020). The Courts have also been one of the strongest proponents of police reforms in the country. Closer to the ground, however, a lack of capacity in the local judiciary, manifested in the form of insufficient staffing, long delays in prosecution and a poor rate of conviction of criminals have a negative impact of the functioning of the local police, and result in a tendency towards vigilantism and fake, or encounter, killings (Joshi, 2019). The positive impact of advocacy at the top-levels of the juidicary can continue to play an important role in supporting police reforms, even as there is internal work within the judicial system to strengthen the functioning of local courts.

VI.   Generating Broader Support for Reforms

In the previous section, I focused on the internal demand, or lack thereof, from political and bureaucratic quarters. These are policymakers who would be most directly affected by the police reform agenda in desirable and potentially undesirable ways. However, one of the most important constituencies of the demand for reform in a democracy is the public. In this section, I focus on the third weak link discussed in Section II, that of electoral accountability. In order to bring about a paradigmatic shift in the way policing and police reforms are discussed in the country, reinforcing this third link is crucial, and will go a long way in developing stronger accountability mechanisms in the domain of public safety. The current agenda on police reforms would hence stand to gain by leading discussions on how public safety is a key performance indicator for politicians.

Public Costs and Private Gains in Status Quo

The public disproportionately bears the costs imposed by the current system. First, the unequal application of the rule of law has direct human costs, including the lives and safety of those who are harmed by political interference in reporting, recording and investigation. This includes cases where the police fail to act against genuine criminal elements who are protected by politicians. Given that the victims of this process are more likely to be those without adequate clout or protection, this cost may fall disproportionately on certain classes or groups within society.

Second, such illegitimate control can have direct economic costs when the failure of the police to act in accordance with the rule of law can result in riots, stampedes and situations of public disorder. Third, the diversion of limited police resources to cases that are highlighted by politicians or others with connections reduces the resources available for everybody else, creating further inefficiencies in the system and slowing down the process of bringing justice to the people, hence, creating a vicious cycle. This also creates allocative inefficiencies in the system in terms of human and monetary resources. Similarly, under-reporting of crime due to political interference also results in the misallocation of future resources. Fourth, as pointed out by the Vohra Committee Report on the nexus between criminals, politicians and the police in India, a perverse police-political partnership has allowed the unchecked expansion of organized crime in the country, which imposes its own costs on the people (Ministry of Home Affairs, Government of India, 1993). Fifth, the unequal application of the rule of law also generates negative externalities in the form of a culture of impunity, where those in power are empowered to continue violating the law but are unlikely to face any repercussions for it, perhaps also encouraging others in similar positions to take such undue advantage of their position.

In most of these cases, the costs of politicizing the police are borne by the people, particularly those without access to connections and clout and those belonging to vulnerable or marginalized groups. This would include women, individuals from religious or ethnic minorities, individuals from lower castes and the poor. Research shows that the police is least likely to register a case being filed by members of these groups (Shah et al., 2009). In this setting, generating external demand for reforms is an important way to counter internal resistance.

Points of Leverage for Reform: Role of the Public

In a context with weak state capacity and poor rule of law, having access to politicians or political middlemen can help the poor gain better access to the state and get even routine things done with relative ease (Berenschot, 2011; Vaishnav, 2017). However, for those individuals or groups without these connections, an increase in police autonomy could have an ambiguous impact. On one hand, it would improve their access to justice, free up police resources for citizens' issues, reduce impunity, and minimize the other economic and human costs of political interference discussed above. However, simply enhancing police autonomy could unleash the coercive power of the force and make it even less accountable than it is at the moment. So, unlike the police themselves, who have an incentive to focus on greater autonomy without the emphasis on commensurate accountability, the public, including non-governmental organizations and social activists, have an incentive to see concomitant progress on both sides of the reform process. Some of the important points of leverage for this group are discussed below.

Strengthening Electoral Accountability. Unlike other developmental issues such roads, electricity or water, crime and public safety have rarely been a serious issue on electoral platforms. Furthermore, unlike growth, crime is a highly localized issue that can be adequately controlled by local politicians and local police.[7] Citizens' organizations must emphasize the importance of crime reduction to development and well-being and help make it an issue that is politically salient. This requires creating a demand-side agenda that asks for more safety, not just in the capital, and not just when the gravest violations occur, but as a matter of daily encounters between citizens and the police.

Coordination Failure. First, while public outrage has been shown to move the needle on reforms, it remains limited to the most egregious of cases (Bhatnagar et al., 2019). Those who stand to benefit the most from a structural reform of policing are dispersed, and the benefits disaggregated. There is little evidence that security and public order are salient issues at the time of elections. While solving the coordination failure problem is not easy, organizations who are keen to make a difference in this space need to gather disparate voices in order to create a defined movement for reform.

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[7] This is especially pertinent in the context of the criminalization of politics where an increasing share of politicians in office have a criminal background (Association of Democratic Reforms, 2019).

Information Provision. A second part of this effort would also include reaching out to those who have little information about the state of police reforms in different states. A public information campaign would have to be adapted to the conditions of the state and local police districts. In this regard, having some data on which politicians are the most egregious would be helpful, but in the absence of such information, other ways of conveying the relative magnitude of the problem in some places versus others would need to be found.

Better data, more reporting. Accurately judging politicians on their performance in dealing with crime requires data that is reliable and regularly published. However, there is evidence that the police do not record all crimes and certain cases are not filed to begin with. There are also reports that politicians interfere in the recording of crime to show better performance in their jurisdictions, resulting in the production of incorrect crime statistics. This calls for better quality and more independent crime data. At the same time, we should not necessarily see higher crime reporting as an undesirable trend. Research by Iyer et al. (2012) shows that constituencies with women councilors see higher crimes against women, but this is only because there is a greater emphasis on recording these crimes and also because women feel more comfortable in reporting such crimes. This requires us to examine not just trends in crime, but also what factors they are being driven by.

VII. Conclusion

The creation of new mechanisms of control and supervision is indispensable for empowering the police to carry out their duties in maintaining law and order, while at the same time helping the states to govern effectively under the framework of law. These mechanisms constrain actions that are seen to be illegitimate in a democracy, and hence shift the balance of power. However, ultimately, they aim to expand people's access to justice and bring all people within the ambit of the rule of law. This is a considerable mission, and to succeed, it will need broad-based support.

The conversation and discussions about police reform in India have benefitted a great deal from the contributions of various commissions set up by the Government of India and the intervention of the Supreme Court. Going forward, the reform movement stands to gain by involving some of the members of the two key constituents of the reform – bureaucrats and

politicians – as champions of the movement in their own right. Greater involvement of the people in the process of police reform will also require that police autonomy and public accountability are treated as two sides of the same coin and are jointly legislated and implemented. Finally, and curiously enough, it seems as though depoliticizing the police and politicizing electoral representatives' performance on crime and public safety go hand in hand. This will help in rebuilding electoral accountability on matters of public safety and create external demand for reform to counter some of the internal resistance.

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