

Administrative Reforms Commission's 5th Report titled "Public Order : Justice for each ... Peace for all"- List of recommendations

Sl. No.	Recommendations made by Administrative Reforms Commission	Decision of GOM	Information furnished by M/o Home Affairs
1	<p><i>(Para 5.2.1.8) State Government and the Police</i></p> <p><i>a. The following provision should be incorporated in the respective Police Acts:</i></p> <p><i>It shall be the responsibility of the State Government to ensure efficient, effective, responsive and accountable functioning of police for the entire state. For this purpose, the power of superintendence of the police service shall vest in and be exercised by the State Government in accordance with the provisions of law.</i></p> <p><i>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</i></p>	<p>(a) & (b): The GoM accepted the recommendation contained in Part (a) and decided to leave it to the States for implementation. It did not accept Part (b).</p>	<p>'Police' and 'public order' being State subjects falling in Entry 1 and 2 of the State List of the Seventh Schedule to Constitution of India, it is the responsibility of the State Government to maintain law and order in States/UTs. The Centre is pursuing the States/UTs from time to time bring the requisite reforms in the police administration to meet the expectation of the people. The Model Police Act sent to the States by MHA on 31.10.2006, emphasized the need to have a professional police service in democratic society which is efficient, effective and responsive to the needs of the people and accountable to the rule of law. So far 15 State Governments have either formulated or amended their existing Police Acts. Any amendments in the State Police Acts to incorporate ARC recommendation has to be considered by the State Governments.</p>

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	<p><i>all times in accordance with the law. This shall be achieved through laying down policies and guidelines, setting standards for quality policing, facilitating their implementation and ensuring that the police performs its task in a professional manner with functional autonomy. No government functionary shall issue any instructions to any police functionary which are illegal or malafide.(1)</i></p>		
2	<p>(Para 5.2.1.8) State Government and the Police</p> <p><i>b) "Obstruction of Justice" should also be defined as an offence under the law(2).</i></p>		<p>There are already provisions under sections 186 and 187 of the Indian Penal Code which indicate what constitute obstruction of justice. The existing provisions of IPC take care of all such cases.</p>
3	<p>(Para 5.2.2.30) Separation of Investigation from other Functions</p> <p><i>a) Crime Investigation should be separated from other policing functions. A Crime investigation Agency should be constituted in each state.(3)</i></p>	<p>(a) to (h) :</p> <p>Police and Public Order are State subjects falling in Entry 1 and 2 of the State List of the Seventh Schedule of Constitution of India. As such, part (a) may be left to the States for implementation. Part (b) to (g) may not be accepted while part (h) may be accepted. The GoM further decided that the salient features of the</p>	<p>Separation of investigation from law and order functions of police is recommendation No.14 of Review Committee constituted in MHA in December, 2004 which says that separation of investigation from law and order should be implemented in urban police stations to begin with. Non-core police functions should be outsourced to free more policemen for investigation. Both the Model Police Act and the judgement of the Hon'ble Supreme Court in Prakash Singh case have referred to this provision but with a difference.</p> <p>While MHA agrees to separate crime and investigation from other police functions, it is felt that, as opined by Soli Sorabjee</p>

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		<p>recommendations may be considered for inclusion in the new Draft Model Police Act. MHA to constitute a Committee of senior officers for drafting Model Police Act (hereinafter mentioned as Committee) which would submit the report at the earliest.</p>	<p>Committee, we should not have any vertical separation of the two wings, i.e., crime investigation and law and order. Sorabjee Committee visualized the need for the day to day interaction between the two wings and recommended for placing the two wings under the supervisory control of the Station House Officer and similarly at higher levels of the police hierarchy with one Police Chief to control both the wings. The problems pertaining to administrative control and adaptation in rural areas with lesser police presence have also been raised in the past in the DGPs conference held on 6th October, 2007.</p>
4	<p>(Para 5.2.2.30) Separation of Investigation from other Functions b) This agency should be headed by a Chief of Investigation under the administrative control of a Board of investigation, to be headed by a retired/sitting judge of the High Court. The Board should have an eminent lawyer, an eminent citizen, a retired police officer, a retired civil servant, the Home Secretary (ex-officio), the Director General of Police (ex-officio), Chief of the Crime Investigation Agency (ex-officio) and the Chief of Prosecution (ex-officio) as Members.(4)</p>		<p>The MHA does not favour the idea of placing the investigation agency under a board of investigation headed by a retired/sitting judge. As investigation is equally a function and prerogative of police, it does not seem tenable for a board comprising lawyers and citizens headed by a judge to exercise administrative and supervisory control over the investigation agency.</p>
	<p>(Para 5.2.2.30) Separation of Investigation from</p>		<p>MHA does not favour creating a Board of Investigators with people without exposure to</p>

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5	<p>other Functions</p> <p>c) The Chairman and Members of the Board of Investigation should be appointed by a high-powered collegiums, headed by the Chief Minister and comprising the Speaker of the Assembly, Chief Justice of the High Court, the Home Minister and the Leader of Opposition in the Legislative Assembly. The Chief of Investigation should be appointed by the State Government on the recommendation of the Board of Investigation.(5)</p>		<p>investigation. It will dismantle police structure and its function of investigation into crimes.</p>
6	<p>(Para 5.2.2.30) Separation of Investigation from other Functions</p> <p>d) The Chief of the Crime Investigation Agency should have full autonomy in matters of investigation. He shall have a minimum tenure of three years. He can be removed within his tenure for reasons of incompetence or misconduct, but only after the approval of the Board of Investigation. The State Government should have power to issue policy directions and guidelines to the</p>		<p>MHA agrees that DGP being overall singular authority responsible for maintaining law and order in the State and crime control would ensure autonomy of investigation. Hence, no chief of a separate investigating agency suggested.</p>

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	<i>Board of Investigation.(6)</i>		
7	<i>(Para 5.2.2.30) Separation of Investigation from other Functions e) All crimes having a prescribed punishment of more than a defined limit (say three or more years of imprisonment) shall be entrusted to the Crime Investigation Agency. Registration of FIRs and first response should be with the 'Law and order' Police at the police station level(7)</i>		MHA is of the view that all crimes should be investigated by the crime investigation wing of police as far as possible and not only the crime with a punishment of 3 or more years of imprisonment. The registration of FIRs is to be done by the law and order police.
8	<i>(Para 5.2.2.30) Separation of Investigation from other Functions f) The existing staff could be given an option of absorption in any of the Agencies – Crime Investigation, Law and Order and local police. But once absorbed, they should continue with the same Agency and develop expertise accordingly. This would also apply to senior officers(8)</i>		f) & g)The staff of the two wings deserves to be interchangeable, so that the overall functional performance of police could be enhanced. Further, investigation officers should be imparted specialized training.
9	<i>(Para 5.2.2.30) Separation of Investigation from other Functions g) Once the Crime Investigation Agency is staffed, all ranks</i>		

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	<i>should develop expertise in that field and there should be no transfer to other Agencies.(9)</i>		
10	(Para 5.2.2.30) Separation of Investigation from other Functions h) Appropriate mechanisms should be developed to ensure coordination between the investigation, Forensic and the Law and order Agencies, at the Local, District and the State levels.(10)		MHA agrees with the need for ensuring appropriate coordination between all the wings. At the District level the coordination should be ensured by the District Magistrate and at the State level, by the Home Secretary.
11	(Para 5.2.3.7) Accountability of Law and order Machinery a) A State Police Performance and Accountability Commission should be constituted, with the following as Members: <ul style="list-style-type: none"> • Home Minister (Chairman) • Leader of Opposition in the State Assembly • Chief Secretary • Secretary in charge of the Home Department; • Director General of Police as its Member Secretary • (For matters pertaining to Director General of Police, including his appointment, the Home Secretary 	(a) to (e) : The GoM decided that the salient features of the recommendations may be considered for inclusion in the new Draft Model Police Act. Parts (a) to (c) may be left to the States/UTs for implementation. As regards parts (d), the recommendation is not accepted and part (e) may be accepted as the tenure of DGP should be two years as far as possible subject to superannuation. The Committee constituted by MHA may look into the matter.	(a) to (c) The State level Commission to oversee the police functioning has remained the most contentious issue for long. The National Police Commission recommended for constituting State Security Commission, the recommendations of which shall be binding on the government. The Soli Sorabjee Committee in the Model Police Act recommended for constitution of a State Police Board, the recommendations of which shall only be advisory. The State Police Performance and Accountability Commission, as proposed by the ARC, is found to be similar to the State Police Board, both in composition (ARC excluding the Judicial Member) and functions, that was proposed by the Soli Sorabjee Committee. It is also one of the interim directions given by the Supreme Court for constituting a State level overseeing mechanism. Different State Governments have responded to this suggestion differently. The composition of this State level body has not been supported by many States. It is for the State Governments to take appropriate action as per their local requirements, as 'law and order' and 'police' are in the State List in the Seventh Schedule to the Constitution of

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	<p><i>shall be the Member Secretary)</i> <i>Five non-partisan eminent citizens(11)</i></p>		India.
12	<p><i>(Para 5.2.3.7) Accountability of Law and order Machinery</i> <i>b)The State Police Performance and Accountability Commission should perform the following functions:</i></p> <ul style="list-style-type: none"> <i>• Frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with law;</i> <i>• Prepare panels for the office of Director General of Police against prescribed criteria;</i> <i>• Identify performance indicators to evaluate the functioning of the police service; and Review and evaluate organizational performance of the police service.(12)</i> 		
13	<p><i>(Para 5.2.3.7) Accountability of Law and order Machinery</i> <i>c) The method of appointment of the Chairman and Members of the State Police Performance and Accountability Commission should be as stipulated in the Draft Model Police Act.(13)</i></p>		

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14	<p><i>(Para 5.2.3.7) Accountability of Law and order Machinery</i></p> <p><i>d) The State Government should appoint the Chief of Law and Order Police from the panel recommended by the State Police Performance and Accountability Commission. The panel will be for the 'Office' of Director General of Police and not to other posts of the 'rank' of DGP.(14)</i></p>		<p>MHA is not in agreement to have separate Chiefs for Law and Order and Investigation. There has to be single DGP as the head of the State Police. MHA is also of the view that appointment of DGP should be done by the State Governments from amongst the eligible IPS officers.</p>
15	<p><i>(Para 5.2.3.7) Accountability of Law and order Machinery</i></p> <p><i>e) The tenure of the Chief of the Law and Order Police as well as the Chief of the Crime investigation Agency should be at least three years. But this tenure should not become a hindrance for removal in case the Chief is found to be incompetent or corrupt or indulges in obstruction of justice or is guilty of a criminal offence. The State Government should have powers to remove the Police Chief but such order of removal should be passed only after it has been cleared by the State Police Performance and Accountability Commission (or the State Investigation Board, in the case of</i></p>		<p>MHA is of the view that tenure of the DGP should be 2 years as far as possible, subject to superannuation but such time limit should not become a hindrance to remove Police chief by the State Government for valid reasons.</p>

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	<i>Chief of Investigation).</i> (15)		
16	(Para 5.2.4.9) Police Establishment Committees a) A State Police Establishment Committee should be constituted. It should be headed by the Chief Secretary. The Director General of Police should be the Member Secretary and the State Home Secretary and nominee of the State Police and Accountability Commission should be the Members. This Committee should deal with cases relating to officers of the rank of Inspector General of Police and above.(16)	(a) to (g) –GoM accepted the recommendations contained in parts (a) to (e) and decided that the salient features of these recommendations may be considered for inclusion in the new Draft Model Police Act. These can be implemented by the States/UTs in the phased manner at different levels in the Police. As for part (f), the GoM decided that the minimum tenure of officers and staff can be 2 years. The GoM did not agree with part (g) of the recommendation.	Many States have constituted State Police Establishment Board in accordance with the Hon'ble Supreme Court Judgment in Prakash Singh's case to deal with cases relating to the officers of the rank of and below Deputy Superintendent of Police. Some States have constituted State Police Establishment Board to recommend transfers of all police officers. Therefore, to change the prevailing system and set up Police Establishment Committee is not suggested.
17	(Para 5.2.4.9) Police Establishment Committees (16) b) A separate State Police Establishment committee should be set up with the Chief of Law and Order Police as its Chairperson and two senior police officers and member of the State Police Performance and Accountability Commission as Members (All Members of this Committee should be nominated by the State Police		MHA is not agreeable for a separate Police Establishment Committee to deal with transfer/posting/promotion procedures for officers up to the rank of DIGP. However, it is for the State Governments to take action on this ARC recommendation.

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	<i>Performance and Accountability Commission) to deal with cases relating to all gazetted officers up to the rank of Deputy Inspector General of Police.(17)</i>		
18	<i>(Para 5.2.4.9) Police Establishment Committees c) These Committees should deal with all matters of posting and transfers, promotions and also grievances relating to establishment matters. The recommendations of these Committees shall normally be binding on the Competent Authority. However, the Competent Authority may return the recommendations for reconsideration after recording the reasons.(18)</i>		It is for the State Governments to take action on the recommendation. MHA can at best persuade the State Governments to take action on the recommendations.
19	<i>(Para 5.2.4.9) Police Establishment Committees d) Similarly, a District Police Establishment Committee (City Police Committee) should be constituted under the Superintendent/ Commissioner of Police. This Committee should have full powers in all establishment matters of non-gazetted police officers. (19)</i>		In States, Police Establishment Board are functioning to deal with transfer and posting. It is for the State Governments to constitute District Police Establishment Committee under the chairmanship of SP.
	<i>(Para 5.2.4.9) Police Establishment</i>		

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20	<p>Committees e) For inter-district transfers of non-gazetted officers, the State level Establishment Committee may deal with it or delegate it to a Zonal or a Range level Committee(20)</p>		<p>The State level Police Establishment Board should deal with inter-district transfers of non-gazetted officers. However, it is upto the State Governments to adopt this recommendation of ARC.</p>
21	<p>(Para 5.2.4.9) Police Establishment Committees f) All officers and staff should have a minimum tenure of three years. Should the Competent Authority wish to make pre-mature transfer, it should consult the concerned establishment committee for their views. If the views of the establishment are not acceptable to the Competent Authority, the reasons should be recorded before the transfer is affected, and put in the public domain. (21)</p>		<p>MHA is of the view that minimum tenure of 2 years not 3 years for all officers and the staff is desirable. But such time limit should not become a hindrance to transfer them by the Competent authority only for valid reasons, and with no need to refer such cases to Establishment Committees, as per mechanisms established by relevant state governments.</p>
22	<p>(Para 5.2.4.9) Police Establishment Committees g) The Board of Investigation should have full and final control on all personnel matters of Crime Investigation Agency. Therefore, the Board should act as the establishment committee for all senior functionaries in investigation and prosecution. An</p>		<p>The proposal is not agreeable as stated in earlier paras.</p>

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	<i>appropriate committee may be constituted at the district level by the Board, for dealing with non-gazetted officials. (22)</i>		
23	<p>(Para 5.3.13) Competent Prosecution and Guidance to Investigation a) A system of District Attorney should be instituted. An officer of the rank of District judge should be appointed as the District Attorney. The District Attorney shall be the head of Prosecution in a District (or group of Districts). The District Attorney shall function under the Chief Prosecutor of the State. The District Attorney should also guide investigation of crime in the district. (23)</p>	<p>(a) & (b) : The GoM decided to reject the recommendation</p>	<p>As per the section 25A of Cr.P.C. inserted through the Code of Criminal Procedure (Amendment) Act. 2005, there shall be a separate Directorate of Prosecution with Director of Prosecution and as many as Deputy Directors of Prosecution as is considered necessary by the States. All Public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors shall function under Deputy Director of Prosecution, who can co-ordinate their work. The amendment in Cr. P.C. have already been made.</p>
24	<p>(Para 5.3.13) Competent Prosecution and Guidance to Investigation b) The Chief Prosecutor for the State shall be appointed by the Board of Investigation for a period of three years. The Chief Prosecutor shall be an eminent criminal lawyer. The Chief Prosecutor would supervise and guide the District Attorneys.</p>		<p>The existing provisions in section 25A of Cr.P.C. inserted through the Code of Criminal Procedure (Amendment) Act. 2005, are considered sufficient.</p>

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25	<p>(Para 5.4.7) Local Police and Traffic Management</p> <p>a) A task force may be constituted in the Ministry of Home Affairs to identify those laws whose implementation, including investigation of violations could be transferred to the implementing department. A similar task force should look into the state laws in each state. (25)</p>	<p>(a) To (d) :</p> <p>The GoM decided to leave it to the states to implement them to the extent possible</p>	<p>a) & b) It is for State Governments to take appropriate action as per local conditions. In some States, such arrangement to entrust investigation to relevant Departments already exists. The task of investigation of offences and violations under various economic, social and public services should not be transferred to Departments other than the Police, like Civil Supplies, Sales Tax, Transport, Power, etc.</p>
26	<p>(Para 5.4.7) Local Police and Traffic Management</p> <p>b) To start with, departments like the State Excise, Forest, Transport and food with enforcement divisions may take some officers from the police department of appropriate seniority on deputation and form small investigation outfits by drawing departmental officers from corresponding ranks for the purpose of investigating cases of violations of appropriate laws; after a transition period, the concerned department should endeavour to acquire expertise and build capacity to cope with the investigation work with its own departmental officials.</p>		

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27	(Para 5.4.7) Local Police and Traffic Management c) A Municipal Police Service should be constituted in Metropolitan cities having population of more than one million. The Municipal Police should be empowered to deal with the offences prescribed under the municipal laws. (27)		c) & d) No such proposal to consider Municipal Police Service is envisaged by the MHA. At present this recommendation is not considered practicable and feasible. However, relevant State Governments may take a decision in this regard.
28	(Para 5.4.7) Local Police and Traffic Management d) The function of Traffic control (along with traffic police) may be transferred to the local government in all cities having a population of more than one million. (28)		
29	(Para 5.5.4) The Metropolitan Police Authorities a) All cities with population above one million should have Metropolitan Police Authorities. This Authority should have powers to plan and oversee community policing, improving police-citizen interface, suggesting ways to improve quality of policing, approve annual police plans and review the working of such	(a) & (b) : The GoM decided that the salient features of the recommendations may be considered for inclusion in the new Draft Model Police Act and the matter should be left to the States/UTs for implementation.	a) & b) Considering the plethora of Authorities already existing in the UTs which include Security Commission and the Police Complaints Authority, a new Metropolitan Police Authority would hardly serve any purpose. MHA appreciates the spirit of the recommendation and the need for improving police-public interface. However, at present setting up of such Authorities is not considered feasible and practicable. In the Model Police Act, which has been sent to the State Governments for appropriate action, certain recommendations have been made for having a framework for community policing and having police-citizen interface. Action is already being taken by certain State

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30	<p><i>plans. (29)</i></p> <p>(Para 5.5.4) The Metropolitan Police Authorities</p> <p>b) The Authorities should have nominees of the State Government, elected municipal councilors, and non partisan eminent persons to be appointed by the government as Members. An elected Member should be the Chairperson. This Authority should not interfere in the 'operational functioning' of the police or in matters of transfers and posting. In order to ensure this, it should be stipulated that individual members will have no executive functions nor can they inspect or call for record. Once the system stabilizes, this Authority could be vested with more powers in a phased manner. (30)</p>		Governments on this recommendation.
31	<p>(Para 5.6.2.) Reducing Burden of Police – Outsourcing Non Core functions.</p> <p>a) Each State Government should immediately set up a multidisciplinary task force to draw up a list</p>	<p>(a) & (b) : The GoM accepted the recommendation and decided that the matter may be left to the States/UTs to implement.</p>	<p>a) & b) Police being a State subject, it is for the State Govt. to implement this recommendation after exercising due care while delineating the non-core functions of police for outsourcing. The Review Committee set up by the MHA on Police</p>

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	<i>of non-core police function that could be outsourced to other agencies. Such functions should be outsourced in a phased manner. (31)</i>		Reforms has also made similar recommendation, which has been sent to State Govts. for appropriate action.
32	(Para 5.6.2.) Reducing Burden of Police – Outsourcing Non Core functions. b) Necessary capacity building exercise would have to be carried out for such agencies and functionaries in order to develop their skills in these areas. (32)		
33	(Para 5.7.10) Empowering the ‘Cutting Edge’ Functionaries a) The existing system of the constabulary should be substituted with recruitment of graduates at the level of Assistant Sub-Inspector of Police (ASI). (33)	(a) to (f) : The GoM decided that parts (a), (b) and (c) may not be accepted. Parts (d), (e) and (f) may be accepted in principle and left to the States for implementation.	a) to c) Soli Sorabjee Committee strongly advocated for distinguishing police personnel posted in Police Stations, vis-à-vis the personnel posted in Armed Battalions. It was pointed out that the civil police are dealing with the problems of policing mostly at individual level, and that the civilian public personnel require better training and competency. MHA considers that the police personnel, after recruitment may have one year institutional training followed by field training and so on, considering their large numbers and need for elaborate training infrastructure. Further, replacing constable with ASI level officer, as proposed by ARC, might mean enormous cost and problems in career progression.
34	(Para 5.7.10) Empowering the ‘Cutting Edge’ Functionaries b) This changeover could be achieved over a period of time by stopping recruitment of constables and instead inducting an		A number of States have already been maintaining two separate streams - one ‘Civil Police’ and the other Armed Police. The Model Police Act has already been sent to

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	<i>appropriate number of ASIs. (34)</i>		the State Governments. The State Governments may take appropriate action as per their local conditions.
35	<i>(Para 5.7.10) Empowering the 'Cutting Edge' Functionaries c) Recruitment of constables would, however, continue in the Armed Police. (35)</i>		
36	<i>(Para 5.7.10) Empowering the 'Cutting Edge' Functionaries d)The orderly system should be abolished with immediate effect. (36)</i>		Review Committee set up by MHA on Police Reforms has recommended that existing orderly system should be replaced by a system of attachment of one Constable/ Helper for assisting the officers in attending to receipt of petitions and handling of telephones. This recommendation of the Review Committee has been sent to the State Govts. in 2005, for appropriate action.
37	<i>(Para 5.7.10) Empowering the 'Cutting Edge' Functionaries e) The procedure for recruitment of police functionaries should be totally transparent and objective. (37)</i>		One of the recommendations made by the Review Committee is regarding setting up of Police Recruitment Boards by the State Governments. Recruitment by transparent process and motivating people to join police are welcome suggestions.
38	<i>(Para 5.7.10) Empowering the 'Cutting Edge' Functionaries f) Affirmative action should be taken to motivate persons from different sections of society to join the police service. Recruitment campaigns should be organized to facilitate this process. (38)</i>		One of the recommendations made by the Review Committee is regarding setting up of Police Recruitment Boards by the State Governments (Rec. at Sl. No.3 at Annexure 'A'). Recruitment by transparent process and motivating people to join police are welcome suggestions.
	<i>10 (Para 5.8.4) Welfare</i>	<i>(a) To (c) : The GoM</i>	

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39 40 41	<p>Measures for the Police</p> <p>a) Rational working hours should be strictly followed for all police personnel.(39)</p> <p>b) Welfare measures for police personnel in the form of improved working conditions, better education facilities for their children, social security measures during service, as well as post retirement should be taken up on priority.(40)</p> <p>c) Major housing construction programmes for police personnel should be taken up in a time bound manner in all states.(41)</p>	<p>agreed that funds for welfare measures for the police should be enhanced. Best practices in the sector should be disseminated.</p>	<p>(a) to (c) Welfare of police personnel is an ongoing process. The matters relating to the State Police are looked after by State/UT Governments. For CPFs several measures have been taken to improve their working and living conditions and to provide better amenities, e.g., establishment of Welfare and Rehabilitation Board, Canteen for Central Police Military Forces. As it is an ongoing process, no time frame can be fixed. Review Committee on Police Reforms has also recommended that endeavor should be made to ensure that at least one day weekly rest is available to all police personal. Though the State Governments are required to take action on this recommendation, the housing problems of police are also being taken care of under the scheme of Modernization of State Police Forces.</p>
42	<p>(Para 5.9.15) Independent Complaints Authorities</p> <p>a) A District Police Complaints Authority should be constituted to enquire into allegations against the police within the district. The District Police Complaints Authority should have an eminent citizen as its Chairperson, with an eminent lawyer and a retired</p>	<p>(a) to (f) : The GoM accepted the recommendations.</p>	<p>(a) to (f) The Supreme Court in its various directions passed on 22.9.2006 in W.P.(Civil) No. 310/96 Prakash Singh and Others Vs. Union of India and Others has directed States/UTs for constitution of the Complaints Authorities at the State and District levels for looking into complaints against Police Officers. Soli Sorabjee Committee also recommended the same. It is for the States to take a decision in this regard. It is seen that the majority of the States/ UTs have supported formation of Independent Police Complaint Authorities.</p>

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	<p><i>government servant as its Members. The chairperson and Members of the District Police Complaints Authority should be appointed by the State Government in Consultation with the Chairperson of the State Human Rights Commission. A Government officer should be appointed as Secretary of the District Police Complaints Authority.</i></p> <p>(42)</p>		
43	<p><i>(Para 5.9.15) Independent Complaints Authorities</i></p> <p><i>b) The District Police Complaints Authority should have the powers to enquire into misconduct or abuse of power against police officers up to the rank of Deputy Superintendent of Police. It should exercise all the powers of a civil court. The Authority should be empowered to investigate any case itself or ask any other agency to investigate and submit a report. The Disciplinary</i></p>		

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	<i>Authorities should normally accept the recommendations of the District Authorities.(43)</i>		
44	<p><i>(Para 5.9.15) Independent Complaints Authorities</i></p> <p><i>c) A State Police Complaints Authority should be constituted to look into cases of serious misconduct by the police. The State level Authority should also look into complaints against officers of the rank of Superintendent of Police and above. The State Police Complaints Authority should have a retired High Court Judge as Chairperson and nominees of the State Government, the State Human Right commission, the State Loka Ayukta, and the State Women Commission. An eminent human rights activist should be also be the member of the complaints Authority. The Chairperson and the Member of the Authority (eminent human right activist) should be appointed by the State</i></p>		

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	<p><i>Government based on the recommendations of the State Human Rights Commission. (In case the State Human Rights Commission has not been constituted, then the State Loka Ayukta may be consulted). A government officer should officiate as the Secretary of the Authority. The Authority should have the power to ask any agency to conduct an enquiry or enquire itself. The Authority should also be empowered to enquire into or review any case of Police misconduct, which is before any District Police Complaints Authority, if it finds it necessary in public interest to do so.(44)</i></p>		
45	<p><i>(Para 5.9.15) Independent Complaints Authorities d) It should be provided that if upon enquiry it is found that the complaint was frivolous or vexatious, then the Authority should have the power to impose a reasonable fine on the complainant.(45) Para 5.9.15) Independent</i></p>		

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46 47	<p><i>Complaints Authorities</i> <i>e) The State Police Complaints Authority should also monitor the functioning of the District Police Complaints Authority(46) (Para 5.9.15) Independent Complaints Authorities</i> <i>f) The Complaint Authorities should be given the powers of a civil court. It should be mandated that all complaints should be disposed of within a month (47).</i></p>		
48	<p><i>(Para 5.10.4.) An Independent Inspectorate of Police</i> <i>a) In addition to ensuring effective departmental inspections, an Independent Inspectorate of Police may be established under the supervision of the Police Performance and Accountability Commission to carry out performance audit of police stations and other police officers through inspections and review of departmental inspections. It should render professional advice for improvement of</i></p>	<p><i>(a) to (c) :The GoM did not accept the recommendations contained in (a) and (b). It accepted the recommendation contained in part (c). States may explore the possibility of setting up similar organizations.</i></p>	<p>(a) & (b) An Inspectorate of Performance Evaluation was recommended by Soli Sorabjee Committee. It is for the States to take a decision in this regard.</p>

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	<i>standards in policing and also present an annual report to the Police Performance and Accountability Commission(48)</i>		
49	<i>(Para 5.10.4.) An Independent Inspectorate of Police b) For all cases of deaths during 'encounters' the Independent Inspectorate of Police should commence an enquiry within 24 hours of the incident. The Inspectorate should submit its report to the PPAC and the SPAC.(49)</i>		
50	<i>(Para 5.10.4.) An Independent Inspectorate of Police c) The working of the Bureau of Police Research and Development needs to be strengthened by adequate financial and professional support, so that it could function effectively as an organization for inter alia analysis of data from all parts of the country and establish standards regarding different aspects of the quality of police service.(50)</i>		c) The financial powers have already been delegated to DG, BPR&D vide this Ministry's letter No. 23011/76/2007-PT dated 22.02.2012. Presently, six Directorates function in the BPR&D and each is headed by IG level officer. These are Research, Modernization, Spl. Unit, Training, Administration, National Police Mission. Under the 13 th Finance Commission (2010-15), Rs. 2441 Crore was sanctioned to State Govts. for Police Training. The State Govts. may also project their requirement of funds for police training for the 14 th Finance Commission.
	13. <i>(Para 5.11.8) Improvement of</i>	(a) To (d) :	

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51	<p>Forensic Science Infrastructure – Professionalization of Investigation</p> <p>a) There is need to set up separate National and State Forensic Science Organizations as state-of-the-art scientific organizations. At the state level these organizations should function under the supervision of the Board of Investigation.(51)</p>	<p>The GoM in its 2nd meeting held on 26.02.2013 agreed with the recommendations contained in part (b) & (c). It had further decided that smaller states should have at least one Forensic Lab. The GoM accepted the recommendation contained in part (a) with the observation that the State Forensic Science Organizations should not be placed under the Board of Investigation. As regards part (d), the GoM accepted the recommendation.</p>	<p>a) MHA agrees with the need to strengthen the Forensic Science Organisations, both at the National level and State level. National and State level Forensic Science Laboratories are already in existence. Adequate funds are being provided under the Scheme of Modernization of State Police Forces.</p>
52	<p>b) There is need to expand the forensic facilities and upgrade them technologically. Every district or a group of districts having 30 to 40 lakhs population should have a forensic laboratory. This should be achieved over a period of five years. Government of India should earmark funds for this purpose for assisting the states under the police modernization scheme. All the testing laboratories should be accredited</p>		<p>b) Adequate funds are being provided under the Scheme of Modernisation of State Police forces. Advisories have also been sent, from time to time, to the State Governments to strengthen their Forensic Science establishments. It is also one of the recommendations of the Review Committee.</p>

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53	<p><i>to a National Accreditation Body for maintaining quality standards.(52)</i></p> <p><i>c) The syllabus of MSc Forensic Science should be continuously upgraded in line with international trends.(53)</i></p>		<p>c) MHA agrees with the recommendation.</p>
54	<p><i>d) Necessary amendments should be effected in the CrPC and other laws to raise the level and scope of forensic science evidence and recognize its strength for criminal justice delivery.(54)</i></p>		<p>d) The amendment in the Cr.P.C has already been made in this regard in 2006. Section 53 of Cr.P.C relates to examination of the accused in respect of all offences. It provides that an examination of the accused shall include examination of blood, blood stains, semen, swabs in case of sexual offence and DNA profiling by the use of modern and scientific techniques and such other tests as well. Section 53A provides for detailed examination of person accused of rape by medical practitioners. This examination also includes DNA profiling. Section 164A relates to medical examination of the victim of rape which also includes DNA profiling.</p> <p>2. However, amendment to law is a continuous process. Accordingly, a reference has been made to the Ministry of Law & Justice to request the law commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in laws i.e. Cr.P.C./IPC/Indian Evidence Act. The recommendations of the Law Commission are awaited.</p>
55	<p>(Para 5.12.6.) Strengthening Intelligence Gathering a)The intelligence gathering machinery</p>	<p>(a) to (g) : The GoM accepted the recommendations contained in Paras (a) to (g). It decided, however, that</p>	<p>(a) to (f) MHA supports the proposal.</p>

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	<i>in the field needs to be strengthened and at the same time, made more accountable. Human intelligence should be combined with information derived from diverse sources with the focus on increased use of technology. Adequate powers should be delegated to intelligence agencies to procure/use latest technology.(55)</i>	intelligence officers should be held accountable only if the intelligence is far off the mark.	
56	<i>(Para 5.12.6.) Strengthening Intelligence Gathering b) Intelligence agencies should develop multi-disciplinary capability by utilizing services of experts in various disciplines for intelligence gathering and processing. Sufficient powers should be delegated to them to obtain such expertise (56)</i>		
57	<i>(Para 5.12.6.) Strengthening Intelligence Gathering c) Intelligence should be such that administration is able to use it to act in time by resorting to conflict management or by taking preventing measures (57)</i>		
	<i>(Para 5.12.6.)</i>		

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58	<i>Strengthening Intelligence Gathering d) Instead of monitoring public places by posting a large number of policemen it would be economical as well more effective if devices like video cameras/CCTVs are installed in such places (58).</i>		
59	<i>(Para 5.12.6.) Strengthening Intelligence Gathering e) The beat police system should be revived and strengthened (59)</i>		
60	<i>(Para 5.12.6.) Strengthening Intelligence Gathering f) Informants giving information should be protected to keep their identity secret so that they do not fear any threat to life or revenge. However, they could be given a masked identity by which they could claim their reward at an appropriate time and also continue to act as informants as the situation develops (60)</i>		
61	<i>(Para 5.12.6.) Strengthening Intelligence Gathering g) In case of major breakdown of public order, the State Police</i>		Intelligence is always an estimated expectation of events and not an exact one. As such intelligence officers should be held accountable only if the intelligence is far off

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	<i>Complaints Authority should take appropriate action to fix responsibility on the police officers for lapses in acting upon intelligence or on the intelligence officers in case there has been a failure on their part.(61)</i>		the mark. However, police officers can be held accountable if a reasonably precise input is not acted up properly and promptly. Therefore MHA's view is that if the State Police Complaints Authority has been constituted (see Sl.No.42 of 165) by the State, then it can take action on the police officers if found guilty of not taking proper action on a reasonably precise input.
62	15. (Para 5.13.5) Training of the Police a) <i>Deputation to training institutions must be made more attractive in terms of facilities and allowances so that the best talent is drawn as instructors. The Chief of Training in the state should be appointed on the recommendation of the Police Performance and Accountability Commission.(62)</i>	(a) to (j) : The GoM accepted the recommendations and appreciated the emphasis given by the Commission on training.	a) The depositions to the training institutes are given additional training allowance @ 30% of basic. The deputation period spent in training institutes i.e. Sardar Vallabhai Patel National Police Academy (SVP NPA) & North Eastern Police Academy (NEPA) is also given weightage while considering the extension of tenure in Govt. of India deputation. The setting up of Police Performance & accountability Commission (PPAC) has been discussed in S.No.11 of 165. MHA's view on that recommendation is that the matter should be left to the States.
63	b) <i>The instructors should be professional trainers and a balanced mix of policemen and persons from other walks of life should be adopted.(63)</i>		b) Training of trainers programmes are undertaken regularly in the training institutes. Guest faculties who are expert in their respective fields are invited to impart training.
64	c) <i>Each state should earmark a fixed percentage of the police budget for</i>		c) This is for States to do

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65	<p><i>training purposes.(64)</i></p> <p>d) For each level of functionary, a calendar of training for the entire career should be laid down.(65)</p>		<p>d) Mid-Career Training Programme (MCTP) has been designed and implemented for IPS officers so as to prepare them for next level of competency. The calendar for MCTP training is as follows:</p> <table border="1" data-bbox="930 678 1525 1252"> <thead> <tr> <th data-bbox="930 678 1007 801">S.No.</th> <th data-bbox="1011 678 1161 801">Phases</th> <th data-bbox="1166 678 1334 801">Training for Promotion/Getting annual increment</th> <th data-bbox="1339 678 1525 801">Years of Service</th> </tr> </thead> <tbody> <tr> <td data-bbox="930 801 1007 958">1</td> <td data-bbox="1011 801 1161 958">III</td> <td data-bbox="1166 801 1334 958">SP(Junior Scale) to SP (Junior Administrative Grade)</td> <td data-bbox="1339 801 1525 958">Between 7th to 9th year of service</td> </tr> <tr> <td data-bbox="930 958 1007 1059">2</td> <td data-bbox="1011 958 1161 1059">IV</td> <td data-bbox="1166 958 1334 1059">DIG to IGP</td> <td data-bbox="1339 958 1525 1059">Between 14th to 16th year of service</td> </tr> <tr> <td data-bbox="930 1059 1007 1252">3</td> <td data-bbox="1011 1059 1161 1252">V</td> <td data-bbox="1166 1059 1334 1252">To get annual increment after 28 years of service</td> <td data-bbox="1339 1059 1525 1252">Between 24th-26th year of service</td> </tr> </tbody> </table>	S.No.	Phases	Training for Promotion/Getting annual increment	Years of Service	1	III	SP(Junior Scale) to SP (Junior Administrative Grade)	Between 7 th to 9 th year of service	2	IV	DIG to IGP	Between 14 th to 16 th year of service	3	V	To get annual increment after 28 years of service	Between 24 th -26 th year of service
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66	<p>e) There should be common training programmes for police, public prosecutors and magistrates. There should also be common training programmes for police and executive magistrates.(66)</p>		<p>e) These type of training is being provided by National Institute of Criminology and Forensic Science (NICFS). Some others institutes are also imparting similar training.</p>																
67	<p>f) Training should focus on bringing in attitudinal change in police so that they become more responsive and sensitive to citizens' needs.(67)</p>		<p>f) Regular training focused on bringing attitudinal change is being imparted in various police training institute such as Gender Sensitisation, Community policing etc.</p>																
68																			

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69	<p><i>g) All training programmes must conclude with an assessment of the trainees, preferably by an independent agency.(68)</i></p>		<p>g) At present training programme are assessed by the training institute themselves. Evaluation by independent agency is under consideration.</p>
70	<p><i>h). Modern methods of training such as case study method should be used.(69)</i></p>		<p>h) To be implemented by the States</p>
71	<p><i>i) Impact of training on the trainees should be evaluated by independent field studies and based on the findings the training should be redesigned.(70)</i></p>		<p>i) Under consideration</p>
71	<p><i>j) All training programmes should include a module on gender and human rights. Training programmes should sensitise the police towards the weaker sections. (71)</i></p>		<p>j) Module of gender sensitization, human rights, sensitization towards weaker sections and minorities already included in the basic training syllabus of all ranks in most of the States and remaining States are requested to include the same. (ii) Central Detective Training Schools (CDTSs) are conducting workshops on gender sensitization and Minorities. Funds have also been provided to various academies across the country to conduct similar workshops.</p>
72	<p>16. (Para 5.16.6) Gender Issues in Policing <i>a) The representation of women in police at all levels should be increased through affirmative action so</i></p>	<p>(a) to (c) : The GoM accepted the recommendations. It decided that 33% representation of women in Police should be achieved in the next five</p>	<p>a) The Review Committee on Police Reforms has recommended that at least 10% quota in police force should be earmarked for woman, and woman police should be functionally integrated with the force. The increase can be made in a gradual manner. BPR&D and other training institutions are conducting</p>

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73	<p><i>that they constitute about 33% of the police.(72)</i></p> <p><i>b) Police at all levels as well as other functionaries of the criminal justice system need to be sensitised on gender issues through well structured training programmes.(73)</i></p>	years.	<p>programmes for sensitizing police personnel on Gender issues which is an ongoing process.</p> <p>The Ministry of Home Affairs in its advisory dated 04.09.2009 had requested all States/UTs to increase the percentage of women police to 33% of the total strength. As on 1.1.2012, actual strength of women in police in all States and UTs stood at 84,479. The strength of women police to sanctioned strength of 21,24,596 comes to 3.97% and to actual strength of 15,85,117 comes to 5.33%. An advisory had been issued to the States on the 22nd April 2013, wherein States had been inter-alia requested to make a beginning by the creation of additional posts of women constable/ SIs, and by converting the vacant posts of male constables into the post of women constables. Each police station should have at least 3 women sub-inspectors and 10 women police constables, so that a women help desk is manned round the clock with the objective of reaching a level of thirty percent of strength of women in civil police (excluding the armed battalions). Since this objective cannot be achieved at once – because the recruitments can only be possible against vacancies, as they arise, or against new sanctions. This approach can be followed by the States – of setting intermediate goals, towards reaching the overall objective of presence of thirty percent women in the police force.</p> <p>b) Police, prosecutors and the judicial officers form the triad of the criminal justice system. The Ministry of Home Affairs in their advisory dated 04.09.2009 had requested states to take up the gender sensitization of the police and prosecutors. BPR&D had also been requested to take up the modification of the standard training manuals for the induction courses of constables, ASI and SI and this is</p>

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74	<p><i>c) Citizens groups and NGOs should be encouraged to increase awareness about gender issues in society and help bring to light violence against women and also assist the police in the investigation of crimes against women.(74)</i></p>		<p>work in progress. The Sardar Patel NPA Hyderabad had also included gender sensitization. Sensitization programmes for judicial officers has also been taken up through the respective High Courts.</p> <p>c) BPR&D and other training institutions are conducting training programmes for sensitizing police personnel on Gender issues which is an ongoing process. The Ministry of Home Affairs in their advisory dated 04.09.2009 had requested all States/UTs to explore the possibility of associating NGOs working in the area of combating crime against women. Citizens group and NGOs should be encouraged to increase awareness about gender issues in society and help bring to light violence against women and also assist the police in the investigation of crime against women. Close coordination between the police and the NGOs dealing with the interests of women may be ensured. Ministry of Home Affairs also consults many of the leading Civil Society Organisations on various issues related to Crime against Women and Children.</p>
75	<p><i>17.(Para 5.17.9) Crime against Vulnerable Sections</i></p> <p><i>a) The administration and police should be sensitised towards the special problems of the Scheduled Castes and Scheduled Tribes. Appropriate training programmes could help in the sensitizing process.(75)</i></p>	<p>(a) To (f) : The GoM accepted the recommendations except part (e) relating to deployment of police personnel in police stations on the basis of religious or linguistic minorities.</p>	<p>Ministry of Home Affairs convened a conference of Chief Secretaries and Director Generals of Police on 4th January 2013 at New Delhi where the issue of sensitization of Administration and Police towards SC/ST was extensively discussed. The representatives from the States/UTs submitted their viewpoints in the form of recommendations which are being examined to improve the effectiveness of sensitivity of the Police and Administration. Ministry of Home Affairs in consultation with Ministry of Social Justice and Empowerment had convened a meeting to discuss on effective implementation of SC/ST PoA Act</p>

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			<p>1989 on 17th April, 2012 at New Delhi. The meeting was attended by Chief Ministers and Administrators of some States / UTs, Home Ministers and Minister in Charge of Social Justice of many States / UTs and other representatives. In the meeting it was proposed and adopted that Governmental machinery will be made more responsive and sensitive towards the crime against SCs/STs through various training programmes and sensitization</p> <p>Ministry of Home Affairs in its detailed advisory dated 01st April, 2010 on crimes against SC/ST to all States / UTs has also enumerated vigorous and conscientious enforcement of the statutory provisions and the existing legislations; sensitizing the law enforcement machinery towards crimes against SCs/STs by way of well-structured training programmes, conferences and seminars etc.</p>
76	<p><i>b) The administration and police should play a more pro-active role in detection and investigation of crimes against the weaker sections.(76)</i></p>		<p>As the administrative ministry w.r.t crimes and offences against the SCs/STs it has been a constant endeavour of the Ministry of Home Affairs to encourage a more pro-active role of administration and police with regards to crimes against SCs/STs.</p> <p>In the meeting convened by the Ministry of Home in consultation with Ministry of Social Justice and Empowerment to discuss the effective implementation of SC/ST PoA Act 1989 on 17th April, 2012 at New Delhi, it was agreed upon that States / UTs needs to be more proactive in effective implementation of statutory provisions and existing legislations through various measures enumerated in the Advisory issued by Ministry of Home Affairs on Crime against SCs/STs.</p> <p>Ministry of Home Affairs had issued a detailed advisory dated 01st April, 2010 on crimes against SC/ST to all States / UTs wherein it has enumerated various steps, viz; vigorous and conscientious enforcement of the statutory provisions and the existing legislations; sensitizing the law enforcement machinery towards crimes against SCs/STs by way of well-structured training programmes, conferences and seminars etc.; improving general awareness about legislations on crimes against SCs/STs,</p>

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			<p>develop a community monitoring system to check cases of violence, abuse and exploitation; no delay in the registration of FIR in cases of crimes against SCs/STs; identification of for the economic and social atrocity-prone areas for taking preventive measures; adequate measures for rehabilitation of the victims of atrocities etc.</p> <p>The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes in its fourth report (Year 2006-2007) had, inter-alia, recommended that Ministry of Social Justice and Empowerment, Ministry of Home Affairs, National Commission for Scheduled Castes and National Commission for Scheduled Tribes should meet regularly to devise ways and means to curb offences and ensure effective administration of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In pursuance of this recommendation, a Committee for effective coordination to devise ways and means to curb offences of untouchability and atrocities against Scheduled Castes/Scheduled Tribes and effective implementation of the Protection of Civil rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, under the Chairpersonship of Hon'ble Minister for Social Justice and Empowerment, was set up in March, 2006. Secretary and Joint Secretary of Ministry of Home Affairs are also designated members of the Committee. The Committee has so far held twenty meetings wherein implementation of the two Acts in 24 States and 4 Union Territories has been reviewed.</p>
77	<p>c) Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the</p>		<p>c) As per Seventh Schedule, 'Police' and 'Public Order' are State subjects under the Constitution, and as such the primary responsibility of prevention, detection, registration, investigation and prosecution of crimes, including crimes against SC/ST lies</p>

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	<i>weaker sections should not be downplayed for fear of further disturbances or retribution and adequate preparation should be made to face any such eventuality.(77)</i>		with the State Governments and Union Territory Administrations. The enforcement agencies in the grounds assess the situation and act accordingly to maintain law and order. The States through advisories are, however, constantly reminded of the following:- <ul style="list-style-type: none"> • Their constitutional duty and responsibility on maintaining law and order • Vigorous and conscientious enforcement of the statutory provisions and the existing legislations; including laws to protect the safety and security of SCs/STs
78	<i>d) The administration should also focus on rehabilitation of the victims and provide all required support including counselling by experts.(78)</i>		d) The rehabilitation of the victims of SC/ST atrocities are dealt by Ministry of Social Justice and Empowerment. However, Ministry of Home Affairs had issued a detailed advisory dated 01 st April, 2010 on crimes against SC/ST to all States / UTs wherein it has enumerated the following : (i) Improving the effectiveness of schemes developed for the welfare and rehabilitation of SCs/STs who are victims of crime (ii) The State Government must ensure adequate measures for the economic and social rehabilitation of the victims of atrocities. The scale of relief to the family of a SC/ST person killed in a case of atrocity needs to be revised, particularly in cases where the deceased was an earning member of the family or physically fit to earn. The States which have not prescribed any scale of monetary relief and rehabilitation facilities to SC/ST victims of atrocities may do so without further delay.
79	<i>e) As far as possible the deployment of police personnel in police stations with significant proportion</i>		e)Ministry of Home Affairs had issued a detailed advisory dated 01 st April, 2010 on crimes against SC/ST to all States / UTs wherein it has enumerated the following: In police stations located in areas with

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80	<p><i>of religious and linguistic minorities should be in proportion to the population of such communities within the local jurisdiction of such police station. The same principle should be followed in cases of localities having substantial proportion of Scheduled Castes and Scheduled Tribes population.(79)</i></p> <p><i>f) Government must take concrete steps to increase awareness in the administration and among the police in particular, regarding crimes against children and take steps not only to tackle such crimes, but also to deal with the ensuing trauma.(80)</i></p>		<p>substantial population of SCs/STs proper representation must be given to SC/ST police personnel in postings to such police stations to gain the confidence of the SC/ST community. However, it is not advisable to deploy police personnel on the basis of religious or linguistic minorities.</p> <p>f) As per Seventh Schedule, 'Police' and 'Public Order' are State subjects under the Constitution, and as such the primary responsibility of prevention, detection, registration, investigation and prosecution of crimes, including crimes against children lies with the State Governments and Union Territory Administrations. However, the Union Government attaches highest importance to the matter of prevention and control of crime against women and children. Ministry of Home Affairs has sent a detailed advisory dated 4th September, 2009 to all State Governments/UTs, wherein they have been, inter-alia, advised to adopt appropriate measures for swift and salutary punishment to the persons found guilty of violence against children, improve the quality of investigations, minimize delays in investigations of crime against women and children, set up 'Crime against Women Cells' in districts. Some States/UTs have also set up 'All Women Police Stations' at district level and 'Mahila/Children Help Desk' at police station level.</p> <p>Another detailed advisory, regarding crimes against children, dated 14th July, 2010 has been sent by the Central Government to all</p>

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			<p>State Governments and UT Administrations wherein States/UTs have been advised to ensure all steps for improving the safety conditions in schools/institutions, public transport used by students, children's parks/play grounds, residential localities/roads etc. It has also been advised that the crime prone areas should be identified and a mechanism be put in place to monitor infractions in such areas for ensuring the safety and security of students, especially girls.</p> <p>Other advisories issued in this regard: In adherence to Supreme Court's Judgment on issue of monitoring implementation of Juvenile Justice (Care and Protection of Children) Act, 2000, Sampurna Behura vs. Union of India & Ors dated 12th October, 2011 Ministry of Home Affairs has issued an advisory dated 2nd December, 2011 on appointment of at least one officer with proper aptitude, training and orientation as the 'juvenile or the child welfare officer' who will handle the juvenile or the child in co-ordination with the police at every police station within the State at the earliest</p> <p>Advisory on Preventing & Combating Cyber Crime against Children dated 04th January, 2012, wherein it was advised to States / UTs to specifically combat the crimes in forms of cyber stalking, cyber bullying, child pornography and exposure to sexually explicit material etc.</p> <p>Advisory on missing children-measures needed to prevent trafficking and trace the children-regarding dated 31st January, 2012 wherein it was specifically advised to the States / UTs to prevent children from being victims of any heinous or organized crime such as, victims of rape, sexual abuse, child pornography, organ trade etc. The advisory</p>

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			<p>also envisages computerization of records, DNA profiling, involvement of NGOs and other organizations, community awareness programmes etc. to facilitate the tracing of missing children.</p> <p>Advisory on mandatory filing of FIR in case of Missing Children dated 25th June 2013 wherein the States / UTs have been asked to train and sensitize the police on mandatory filing of FIR in case of child gone missing.</p>
81	<p>(Para 5.18.9) National Security Commission a) There is no need for a National Security Commission with a limited function of recommending panels for appointment to Chiefs of the Armed Forces of the Union. There should be a separate mechanism for recommending the names for appointment as Chief of each one of these forces, with the final authority vesting in the Union Government. (81)</p>	<p>(a) : The GoM had considered the recommendation in the 2nd meeting held on 26.02.2013 and accepted the recommendation.</p>	<p>(a) Keeping in view the orders of Supreme Court, a Committee on National Security and Central Police Personnel Welfare has been constituted under the chairmanship of Home Minister. The terms of reference of the Committee is to prepare panels for appointment of DGs of CPMFs, to consider issues pertaining to service conditions of Central Police personnel and any other matter. The Committee is functional and is making suitable recommendations to the Central Govt. As regards tenure of Chiefs of CPMFs, Govt.'s endeavor is to ensure a considerably long tenure for them and they are generally getting two years or more.</p> <p>Comments of Ministry of Defence</p> <p>It is the considered opinion of Ministry of Defence that there is no need to create a separate mechanism as the current mechanism of preparation of panel (zone of consideration) is objective & unbiased and is functioning well. Final decision regarding selection of Service Chiefs is taken by the Appointment Committee of Cabinet (ACC).</p>
82	<p>19. (Para 5.19.6) Union-State and Inter-State Cooperation and Coordination a) The Ministry of Home Affairs should proactively and in consultation with the states, evolve formal institutions and</p>	<p>(a) : GoM decided to defer the matter and requested MHA and Inter-State Council to expedite this.</p>	<p>Accepted and is already in process in the form of MAC-SMAC. This can be further strengthened by connecting not only up to district level but even down below.</p> <p>The Commission on Centre-State Relations headed by Justice M. M. Punchhi, Retd. Chief Justice of India has made two</p>

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	<p><i>protocols for effective coordination between the Union and the states and among the states. These protocols should cover issues like information/intelligence sharing, joint investigation, joint operations, inter-state operations by a state police in another state, regional cooperation mechanisms and the safeguards required.(82)</i></p>		<p>recommendations under recommendation nos. 9.3.04 and 9.8.01 which are reproduced below:-</p> <p>9.3.04 In conclusion, the Commission has the following recommendations:</p> <p>(i) National Investigation Agency (NIA) has an important role to perform and all necessary steps need to be taken to strengthen the Agency through the requisite amendments in the NIA Act. For this purpose, all crimes related to terrorism, such as terrorism, production and distribution of Fake Currency Notes (FCNs), espionage, smuggling of arms and ammunition money laundering, drug trafficking, organized crime, hijacking and assassination/assassination attempts on the life of iconic figures/ political leadership, cyber crimes, crime related to acquisition of radio-active and poisonous substances, bio-terrorism, Narco terrorism, i.e. drug trafficking money used for organizing terrorist operations, etc., should be brought into the ambit of the NIA Act. NIA will have the jurisdiction in all these types of crimes on the presumption that they are terrorism related, unless proven otherwise. The burden of proving that the crime committed is not terrorism related will lie solely with the accused. This is a new area of governance and crime management. The benchmarks of Centre-State cooperation and the understanding set now in its implementation should be such that they can stand the test of time and be an effective tool for handling terrorism and other related organized crimes while still enjoying the full trust of the States.</p> <p>(ii) Notwithstanding the above and as suggested in the preceding paragraphs, a structure at the National level, be it National Counter Terrorism Centre (NCTC) or any</p>

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			<p>such designated entity, should be reacted, which may subsume the NIA too along with other concerned Agencies/Organizations in its overall character. The Commission feels that the time is right to break from the traditional models and create this structure which should be fully empowered and responsible for the internal security of the country and should, accordingly, be equally accountable. The commission would like to reiterate that in the creation of such a structure the role of the States should be clearly delineated as without that the Central structure may not be able to achieve the desired level of success.</p> <p>(iii) The Commission as articulated its view point in para 9.3.0.2 on the issue of admissibility of 'Confession made before the police' by the accused in terrorism related cases which is crucial to the fight against terror. A consensus must emerge between the Centre and the States on this issue. The case both, for and against, has been spelt out clearly by the respective votaries. The several joint consultative machineries that we have advocated in our report should be utilized for the purpose of coming to a consensus in the matter.</p> <p>9.8.01 The management of crime in the modern context is too complex and challenging a task to be left to the conventional tools and systems under the civil police, inadequately administered by different provincial and local governments. For a large country with a diverse population on a fast track of economic development, peace and security are essential pre-requisites for which governments at all levels have a joint and separate responsibility. Unfortunately this collaborative approach in crime management could of Entries (1) & (2) of the State List that the Union Government</p>

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			<p>has no responsibility on matters of internal security despite the clear mandate under Article 355. Recent developments in different parts of the country have convinced the Nation that crime control requires new approaches and tools with an institutional framework with joint involvement of Governments at all three levels. It is in this context, the Commission is recommending in the following paragraphs new institutional mechanisms both for policy development as well as for law enforcement. In this regard, the Commission had the advantage of looking at the recommendations of a series of Committees set up by the Union Home Ministry in the recent years. However, before the proposed institutional mechanisms are discussed it is important to point out that since already substantial material on this subject is available with the Government, by way of reports of different Commissions and Committees, we feel that as a first step the Government may institute immediately, a review and a monitoring mechanism; firstly to conclude as to which all recommendations made by the Commissions/Committees are to be accepted and then to put the same into an implementation schedule. The three recent Reports, i.e., the Second Administrative Reforms Commission Report on Public Order of June, 2007, the Report of the Committee on Draft National Policy on Criminal Justice of July, 2007 and the Judicial Impact Assessment Committee Report (2008) have examined the related issues in an all inclusive manner comprehensively and could be given greater attention. It will be important that the States are involved ab initio and are members of the proposed review and monitoring mechanism so that their difficulties and demands for the purpose of implementation, if any, can be articulated by them at the initial stage itself. It is also important that the implementation schedule is</p>

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			<p>kept within a reasonable time frame.</p> <p>In addition to the above, we will recommend that constitution of the following three institutional mechanisms may be considered for the effective administration of Criminal Justice System:</p> <p>(a) A Standing Commission on Criminal Justice and Internal Security: Given the constantly changing crime scenario within the country and outside impacting on the security situation, there is a need for a Standing Commission at the National level on Criminal Justice and Internal Security involving experts from the field of law, criminology, public administration, information technology, finance, defense services and management. The Commission may be set up on the lines of the Law Commission for a three year term under an Executive order and can include part-time members. The mandate of the Commission may include advising the Government on long-term and short term policies on crime control and management, presenting an annual report to Parliament on status of internal security and criminal justice administration and providing guidelines for central assistance to States in the matter of crime control and management. It may also advise on international co-operation in social defense and crime management.</p> <p>(b) Department of Criminal Justice at the Centre and in the States:</p> <p>(i) Criminal justice involves a number of activities spread over various departments of governance. Policing including crime prevention measures, traffic control, forensic laboratories and investigation of crimes are usually with the Home Ministry. Prosecution agency and the criminal courts are looked</p>

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			<p>after by the Law Ministry. Prisons, Correctional institutions including juvenile justice are under the Ministry of Social Welfare. The increasing manipulation of financial systems by criminal elements including customs control and narcotics traffic is under the jurisdiction of the Ministry of Finance. There is very little co-ordination among these departments often leading to delay and defeat of criminal justice.</p> <p>ii) Crime statistics and criminal data base need improvement for ensuring intelligent policy development on internal security issues. The emergence of cyber technology has compounded matters making many existing arrangements redundant and outdated. It is in this context, the Commission welcomes the recommendation for a full – fledged Department for Criminal Justice under a Secretary reporting directly to the Home Minister on criminal justice issues. The Department will monitor implementation of criminal justice policies, maintain an up to date data base on crime and criminal justice administration, undertake sponsored projects and research on identified issues, propose legislative proposals and co-ordinate with State Governments on the one hand and concerned departments at the Centre on the other.</p> <p>(iii) Similar departments in each State will enable criminal justice policy development and administration a real chance to face up to the emerging challenges in crime control and management. The Department should be responsible to catalyze the implementation of the recommendations of a large number of Government appointed Committees and Commissions on the subject of criminal justice reforms.</p>

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			<p>(c) A Bureau of Crime Prevention, Criminal Statistics and Criminal Justice Planning:</p> <p>(i) An expert group of law enforcement personnel from the States and the Centre should be charged with the responsibility of crime mapping, community involvement in crime prevention, collecting and collating criminal statistics and criminal justice planning at State, Regional and National levels. The Bureau may work as an independent forum under the Department of Criminal Justice in the Union Government.</p> <p>(ii) Together with the anti-terror outfit being set up by the Union Home Ministry, the proposed institutional structures should be able to organize crime control and management at least for the immediate future. The idea is not to let internal security anywhere in the country to go out of control so as to endanger national security. The idea is also not to create a situation in which the Defence Forces are compelled to be deployed for internal security management.</p> <p>The recommendations made by the 2nd Commission on Centre-State Relations are being examined by the Inter-State Council Secretariat in consultation with the stakeholders and will be placed before the Standing Committee of ISC and Inter-State Council in its next meetings.</p>
83	<p>(Para 6.1.2.4.) Measures to be Taken during Peace Time</p> <p>a) The administration should be responsive, transparent, vigilant and fair in dealing with all sections of society. Initiatives</p>	<p>(a) to (f) :</p> <p>The GoM accepted the recommendations</p>	<p>a)The above recommendation has not been contested by the State Govt. State Govt. CAN issue appropriate order/ directions for implementing same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the</p>

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	<i>such as peace committees should be utilized effectively to ease tensions and promote harmony.(83)</i>		State Govts. in 2008.
84	(Para 6.1.2.4.) Measures to be Taken during Peace Time b) The internal security plan/riot control scheme should be updated periodically in consultation with all stakeholders and in the light of previous episodes. The role of all major functionaries should be clearly explained to them (84)		b) to (d) All States/ UTs prepare district wise Internal Security Plans and send these to this Ministry, which are shared with IB, whenever required. The above recommendation has not been contested by the State Govt. State Governments can issue appropriate order/directions for implementing same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the State Govts. in 2008.
85	(Para 6.1.2.4.) Measures to be Taken during Peace Time c) A micro analysis should be carried out in each district to identify sensitive spots and this should be regularly reviewed and updated(85)		
86	(Para 6.1.2.4.) Measures to be Taken during Peace Time d) The intelligence machinery should not slacken during normal times and credible intelligence should be gathered from multiple sources.(86)		
	(Para 6.1.2.4.) Measures to be Taken during Peace Time		(e)MHA is concerned with administration of Arms Act, 1959. The provisions of this Act

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87	e) <i>Regulatory laws such as the Arms Act, 1959, Explosives Act, 1884 and Municipal Laws related to construction of structures should be enforced rigorously (87).</i>		are being followed rigorously. As far as Explosive Act, 1884 is concerned, D/o Industrial Policy and Promotion (Ministry of Commerce & Industry) is the administrative Ministry/ Department.
88	(Para 6.1.2.4.) <i>Measures to be Taken during Peace Time</i> f) <i>Public agencies should follow a zero tolerance strategy in dealing with violations of laws (88)</i>		
89	(Para 6.1.3.1.3) <i>Security Proceedings</i> a) <i>The use of preventive measures in a planned and effective manner needs to be emphasized. Training and operational manuals for both Executive Magistrates and police need to be revised on these lines(89)</i>	a) & (b) : The GoM accepted the recommendations for implementation by the States.	a) & (b) When this recommendation was submitted to CGAR, the MHA had furnished the following comments:- An advisory has been issued to all States/ UTs on 24.09.2007 to take necessary action on the recommendations made by ARC.” After considering these views the CGAR had accepted the recommendations and recommended that this may be pursued with the State Govts. This recommendation is basically to be implemented by States and most of the States have supported this recommendation.
90	(Para 6.1.3.1.3) <i>Security Proceedings</i> b) <i>Regular supervision and review of these functionaries by the DM and the SP respectively should be done to focus attention on effective use of these provisions. For the purpose, a joint</i>		

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	<i>review on a periodic basis by the DM and SP should be done (90).</i>		
91	<p>22. (Para 6.1.3.2.7) Addressing Property Disputes to Prevent Disruption of Public Order</p> <p><i>a) An Explanation may be inserted below Section 145 of the Code of Criminal Procedure clarifying that when from the evidence available with the Executive Magistrate it is clear that there is an attempt to dispossess a person or where a person has been illegally dispossessed of his property within sixty days of filing the complaint and that such acts cause a reasonable apprehension of a breach of the peace, such magistrate can pass an order contemplated in sub-section (6) of the aforesaid Section notwithstanding pendency of a civil case between the parties involving the same property.(91)</i></p>	<p>(a) to (d) :</p> <p>The GoM accepted the recommendation and asked Ministry of Law to examine whether timeframe of one year may be incorporated in CrPC for disposal of cases under Section 145.</p>	<p>a) Provisions already exists in Section 145 of Cr.P.C. for such purposes. Further clarification and explanations could be considered together with other amendments to the Cr.PC whenever taken up. In this regard a reference has been made to the Ministry of Law & Justice to request the law commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in laws i.e. Cr.P.C./IPC/Indian Evidence Act. The recommendations of the Law Commission are awaited.</p>
92	<p><i>b) A timeframe of six months may be stipulated for</i></p>		<p>b) The matter of property disputes are addressed under the provision of the Code of Civil Procedure, 1908 which is being administered by Department of Legal Affairs.</p>

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93	<p><i>concluding the proceedings.(92)</i></p> <p>c) Specific but indicative guidelines may be issued by the Ministry of Urban Development to the State Governments to lay down the minimum standards for maintenance of land records in urban areas including municipal ward maps so as to minimize possibility of disputes about possession and boundary of immovable property.(93)</p>		<p>COMMENTS OF M/O URBAN DEVELOPMENT</p> <p>c) To further facilitate implementation of robust system of property title certification system in Urban Areas, the MOUD had initiated a national level programme titled Project PLATINUM (Partnership for Land Title Implementation for Urban Management) that focused on implementing of security of title in urban areas of the country. Under this programme extensive deliberations were held with concerned stakeholders and guidelines on property titling have been formulated. The same have been circulated to all the States in the form of an advisory. These can also be accessed at http://urbanindia.nic.in/programme/lsg/Project_Platinum.htm. Further, Introduction of Land title certification system in ULBs; Introduction of computerized process of “Registration of land property” and “Revision of Building Bye laws – streamlining the Approval process” are reforms under the JNNURM.</p>
94	<p>d) Detailed guidelines already exist in almost all states to periodically update land records in rural areas. Strict compliance of such guidelines needs to be ensured as out of date land records contribute to disputes and resultant breaches of peace.(94)</p>		<p>d) With a view to assisting the States/ UTs in the task of computerization of land records and strengthening their revenue administration and training infrastructure for survey and settlement, two centrally sponsored schemes, e.g. (i) Computerization of Land Records (CLR) and, (ii) strengthening of Revenue Administration and Updating of Land Records (SRA&ULR) were being administered by the Department of Land Resources (DoLR) up to 2007-08. During 2008-09, these two aforesaid erstwhile schemes were merged into one modified scheme in the shape of National Land Records Modernization Programme(NLRMP), combining the key components of the two schemes and rationalizing them into one integrated and enhanced scheme.</p> <p>The NLRMP is being implemented in a methodical manner and all the districts in the</p>

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			<p>country are expected to be covered by the end of the 12th Plan.</p> <p>Implementation of the NLRMP will lead to real time and up-to-date land records. This will certainly lead to reduction in the disputes related to property.</p>
95	<p>23. (Para 6.1.4.5) Regulating Processions, Demonstrations and Gatherings</p> <p><i>a) Based on the experience with major riots and the recommendations of various Commissions of Inquiry and pronouncements of the Supreme Court and the High Courts, fresh and comprehensive guidelines may be drawn up for regulation of processions, protest marches and morchas.(95)</i></p>	<p>(a) to (c) The GoM accepted the recommendations in part (a) and (b) and decided that as regards part (c), the recommendation may be accepted in principle and left to the States for implementation.</p>	<p>a) The regulation of processions, demonstrations and gatherings is done by the Police under the Police Act 1860 and where States have enacted their own Police Act have already made necessary provision for the same. In addition, the Police are also guided by the Police Regulations which set out the modalities for the grant of permission for processions, demonstrations and gatherings in public places. The Ministry of Home Affairs can setup a group of experts to issue fresh guidelines in keeping with the current requirements and stipulations of various court orders. Since 'Police' and 'Law and Order' are the domain of State and none of the State has opposed to the recommendation.</p>
96	<p><i>b) The guidelines should include preparatory steps (through intelligence sources), serious consultation and attempts to arrive at agreement with the groups/ communities involved, regarding route, timing and other aspects of procession. They should also cover</i></p>		<p>b) The regulation of processions, demonstrations and gatherings is done by the Police under the Police Act 1860 and where States have enacted their own Police Act have already made necessary provision for the same. In addition, the Police are also guided by the Police Regulations which set out the modalities for the grant of permission for processions, demonstrations and gatherings in public places. The Ministry of Home Affairs can setup a group of experts to issue fresh guidelines in keeping with the current requirements and stipulations of various court orders. Since 'Police' and 'Law</p>

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97	<p><i>prohibition of provocative slogans or acts as well as carrying of lethal weapons. It should be specifically stated in the guidelines that all processions or demonstrations should be dealt with the same degree of fairness and firmness.(96)</i></p> <p><i>c) Organisations and persons found guilty of instigating violence should be liable to pay exemplary damages. The damages should be commensurate with the loss caused by such violence. The law should provide for distribution of the proceeds of damages to the victims of such violence.(97)</i></p>		<p>and Order' are the domain of State and none of the State has opposed to the recommendation.</p> <p>c) Currently there is no legal provision for the imposition of damages and recovery of reparations for damage caused. The existing Police Act only provides for the impositions of fines on community and technically damages can only be litigated as a tort i.e a civil wrong. This would require a new law which would need to be examined, as tribunal(s) would need to be setup to quickly decide and dispose the matter.</p>
98	<p>(Para 6.1.5.3.) Imposition of Prohibitory Orders</p> <p><i>a) Prohibitory orders once imposed, should be enforced effectively. Videography should be used in sensitive areas(98)</i></p>	<p>(a) : GoM accepted the recommendations and left to the States for implementation</p>	<p>Prohibitory orders issued under either section 133, 144 or 145 of the Cr.P.C should be enforced by the Police rigourously. The suggestion of videography of the disputed site is accepted and in addition setting up of CCTVs for 24X7 surveillance has been suggested.</p>
	<p>(Para 6.1.6.6.) Measures to be taken</p>	<p>(a) to (g) : The GoM accepted the</p>	<p>The above recommendations has not been contested by the State Govt. State Govt.</p>

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99	<i>once a Riot has Started a) If violence erupts, then the first priority should be to quickly suppress the violence. In cases of communal violence, the situation should be brought under control by effective use of force (99)</i>	recommendations in principle and left them to the States for implementation	may issue appropriate order/ directions for implementing the same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the State Govts. in 2008.
100	<i>(Para 6.1.6.6.) Measures to be taken once a Riot has Started b) Prohibitory orders must be enforced rigorously.(100)</i>		Prohibitory orders issued under either section 133, 144 or 145 of the Cr.P.C should be enforced by the Police rigorously.
101	<i>Para 6.1.6.6.) Measures to be taken once a Riot has Started c) If the situation so warrants, the forces of the Union and the Army should be requisitioned and used without any reluctance or delay. (101)</i>		(c) to (e) The above recommendations has not been contested by the State Govt. State Govt. may issue appropriate order/ directions for implementing same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the State Govts. in 2008.
102	<i>(Para 6.1.6.6.) Measures to be taken once a Riot has Started d) The Commissioner of police or the District magistrate and the Superintendent of Police should be given a free hand to deal with the situation in accordance with law (102)</i>		
	<i>(Para 6.1.6.6.) Measures to be taken</i>		

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103	<i>once a Riot has Started</i> e) <i>The media should be briefed with correct facts and figures so that there is no scope for rumour mongering.(103)</i>		
104	(Para 6.1.6.6.) <i>Measures to be taken once a Riot has Started</i> f) <i>The Police needs to be equipped with state-of -the-art crowd dispersal equipments(104)</i>		The State Police needs to ascertain its requirements, and may be helped under Police Modernisation Scheme for getting funds as well as in procurement of the equipment. The above recommendations has not been contested by the State Govt.
105	(Para 6.1.6.6.) <i>Measures to be taken once a Riot has Started</i> g) <i>The District Magistrate should ensure that essential supplies are maintained and relief is provided, especially in vulnerable areas and particularly during prolonged spells of 'curfew'(105)</i>		The above recommendations has not been contested by the State Govt. State Govt. may issue appropriate order/ directions for implementing same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the State Govts. in 2008.
106	(Para 6.1.7.9) <i>Measures to be Taken Once Normalcy has been Restored</i> a) <i>No sanction of the Union Government or the State Government should be necessary for prosecution under Section 153(A). Section 196 Cr PC should be amended accordingly.(106)</i>	(a) to (f) : The GoM accepted the recommendations. Ministry of Law may examine whether time limits for completion of inquiry can be included in the relevant Act.	a) A reference has been made to the Ministry of Law & Justice to request the law commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in laws i.e. Cr.P.C./IPC/Indian Evidence Act.

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107	<p><i>(Para 6.1.7.9) Measures to be Taken Once Normalcy has been Restored</i></p> <p><i>b) Prosecution in cases related to rioting or communal offences should be not sought to be withdrawn. (107)</i></p>		<p>b) The actual implementation will have to be left to States, because it is a 'Law and Order' matter.</p>
108	<p><i>(Para 6.1.7.9) Measures to be Taken Once Normalcy has been Restored</i></p> <p><i>c) Commissions of Inquiry into any major riots/violence should give their report within one year.(108)</i></p>		
109	<p><i>(Para 6.1.7.9) Measures to be Taken Once Normalcy has been Restored</i></p> <p><i>d)The recommendation made by a Commission of Inquiry should normally be accepted by the Government and if the Government does not agree with any observation or recommendation contained in the report of the Commission, it should record its reasons and make them public(109)</i></p>		
110	<p><i>(Para 6.1.7.9) Measures to be Taken Once Normalcy has been Restored</i></p> <p><i>e) All riots should be documented properly and analyzed so that</i></p>		<p>e)The above recommendations has not been contested by the State Govt. State Govt. may issue appropriate order/ directions for implementing same, if not already done. Incidentally, most of the issues also find mentioned in the revised guidelines on</p>

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	<i>lessons could be drawn from such experiences(110)</i>		communal harmony issued by MHA to all the State Govts. in 2008.
111	(Para 6.1.7.9) Measures to be Taken Once Normalcy has been Restored f) There is need for adequate follow up to ensure proper rehabilitation of victims(111)		f) The above recommendations has not been contested by the State Govt. may issue appropriate order/ directions for implementing same, if not already done. Incidentally, most of the issues also find mention in the revised guidelines on communal harmony issued by MHA to all the State Govts. in 2008.
112	(Para 6.2.4) Accountability of Public Servants Charged with Maintaining Public Order a)The State Police Complaints Authority should be empowered to identify and fix responsibility in cases of glaring errors of omission and commission by police and Executive Magistrates in the discharge of their duties relating to the maintenance of public order (112)	(a) ∴ The GoM accepted the recommendation in principle and left its implementation to the States	It is seen that the majority of the States/ UTs have supported that State Police Complaint Authority should be empowered to identify and fix responsibility in cases of glaring errors or omission and the maintenance of Public Order. The State level Police Complaints Authority has been envisaged in Sl.No.44 of 165. It is linked with Distt. Level Police Complaints Authority which has been envisaged in SL.No.42 of 165. Both these recommendations are acceptable in principle but as 'Police' is a State subject, the matter should be left to the states to implement it to the extent possible.
113	(Para 6.3.15) The Executive Magistrates and the District Magistrate a)The position of the District Magistrate vis-à-vis the Police, and as a coordinator and facilitator in the district needs to be strengthened. The District Magistrate	(a) & (b) : GoM accepted the recommendations in principle and left its implementation to the States.	The pre-eminent position of the District Magistrate to oversee the public order as well as conduct elections, handle natural calamities, tackle persistent public issue continues in addition to his role under the Cr.P.C as well as other Special Acts. This suggestion which emanates from section 14 of the Model Police Act which has been circulated to the States for adoption has been adopted by most of the States which have brought out their own Police Acts.

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	<p><i>should be empowered to issue directions under the following circumstances:</i></p> <ul style="list-style-type: none"> <i>i. promotion of land reforms and settlement of land disputes;</i> <i>ii. extensive disturbance of public peace and tranquility in the district (The decision of the DM as to what constitutes extensive disturbance of public peace should be final);</i> <i>iii. Conduct of elections to any public body;</i> <i>iv. handling of natural calamities and rehabilitation of the persons affected thereby;</i> <i>v. situations arising out of any external aggression or internal disturbances;</i> <i>vi. any similar matter, not within the purview of any one department and affecting the general welfare of the public of the district;</i> <i>vii. removal of any persistent public grievance (as to what constitutes persistent public grievance, the decision of the DM shall be final); and</i> 		

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	<i>viii. whenever police assistance is required to enforce/implement any law or programme of the government(113)</i>		
114	(Para 6.3.15) The Executive Magistrates and the District Magistrate b) These directions shall be binding on all concerned. Directions in respect of item No. ii should normally be issued in consultation with the Superintendent of Police (114)		It is accepted that teamwork with the Superintendent of Police during disturbances of public order are crucial to tackle such incidents and it is recommended that all directions issued should as far as possible be done by consulting and keeping the Superintendent of Police informed. Be that as it may, the District Magistrate as the head of the district would need to balance the possible impact of various options and act decisively.
115	(Para 6.4.2) Capability Building of Executive Magistrates a) All officers likely to be posted as Executive Magistrates should be specially trained in the relevant laws and procedures and should be eligible for posting only after qualifying in an examination.(115)	(a) & (b) : GoM accepted the recommendations	(a) & (b) The State Governments have to do the needful as these issues fall under their competence in respect of Provincial Civil Service officers and so far as All India Service officers are concerned, DOPT should take care of their training needs.
116	(Para 6.4.2) Capability Building of Executive Magistrates b) On the lines of a police manual, each state should also evolve a Manual for Executive Magistrates. (116)		
117	(Para 6.5.7) Inter-Agency Coordination a) In a District, the District Magistrate	(a) & (b) : The GoM accepted the recommendations to	

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	<p><i>trends of various types of offences and link these to a system of incentives and penalties for the officials working in these agencies. It should be combined with initiatives to involve the community in crime prevention measures.(120)</i></p>		
<p>121</p> <p>122</p> <p>123</p>	<p>32. (Para 7.3.7) Facilitating Access to Justice - Local Courts</p> <p>a) A system of local courts should be introduced as an integral part of the judiciary. There should be one such court for a population of 25,000 in rural areas (this norm could be modified for urban areas).(121)</p> <p>b) The local courts should have powers to try all criminal cases where the prescribed punishment is less than one year. All such trials should be through summary proceedings.(122)</p> <p>c) The judge of the local court should be appointed by the District and Sessions Judge in consultation with his/her two senior-most</p>	<p>(a) to (e) : The GoM had considered the recommendation in the 2nd meeting held on 26.02.2013 and accepted the recommendations in principle.</p>	<p>(a) to (e) : Government has introduced the "Gram Nyayalaya Bill" in the Parliament, which, when passed, would substantially take care of the ARC recommendations.</p>

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124	<p><i>colleagues. Retired judges or retired government officers (with appropriate experience) could be appointed.(123)</i></p> <p><i>d) These courts may function from government premises and could also be in the form of mobile courts.(124)</i></p>		
125	<p><i>e) These local courts may be constituted by a law passed by the Parliament to ensure uniformity.(125)</i></p>		
126	<p>(Para 7.5.1.11) Citizen Friendly Registration of Crimes</p> <p>a) Registration of FIRs should be made totally citizen friendly. Technology should be used to improve the accessibility of police station to the public. Establishing call centers and public kiosks are possible options in this regard(126)</p>	<p>(a) to (d) : The GoM accepted the recommendations contained in parts (a) (b) & (d) in principle and left their implementation to the States. On part (c), it observed that a comprehensive report covering all aspects of criminal law is under consideration of the Law Commission. It decided that the report of the Law Commission may be awaited and MHA may get it expedited</p>	<p>Ministry of Home Affairs has issued a comprehensive Advisory on prevention of crime on 16th July 2010 to all the State Governments and UT Administrations, wherein inter-alia directed that a Reception Officer (of the rank of Head Constable) must be available round the clock in every Police Station. Equal and fair treatment must be given to every petitioner/ complainant irrespective of his/her status, class or creed and a proper receipt should be given for every complaint forthwith. The disposal of the complaint should normally be ensured within two days by holding an on the spot enquiry in the ward/village concerned. Wherever found appropriate, the complaint should be converted into an FIR.</p> <p>An Advisory regarding registration of FIR irrespective of territorial jurisdiction has also been issued on 10th May 2013, wherein inter-alia suggested that State Police shall</p>

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			register an FIR upon receipt of information of the commission of a cognizable offence. Further, it is found that the subject matter relates to the jurisdiction of some other police station, the FIR may be appropriately transferred to the concerned police station.
127	<i>(Para 7.5.1.11) Citizen Friendly Registration of Crimes b) Police station should be equipped with CCTV cameras in order to prevent malpractice, ensure transparency and make the police more citizen-friendly. This could be implemented in all police stations within a time frame of five years. (127)</i>		
128	<i>(Para 7.5.1.11) Citizen Friendly Registration of Crimes c) Amendments to the Cr P C should be made as suggested by the National Police Commission.(128)</i>		c) Amendment in Law is a continuous process. A reference has been made to the Ministry of Law & Justice to request the Law Commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in various laws taking into account the recommendations made by the Malimath Committee and Madhav Menon Committee and other commissions/committees in this regard.
129	<i>(Para 7.5.1.11) Citizen Friendly Registration of Crimes d) The performance of Police station should be assessed on the basis of the cases successfully detected</i>		d)Ministry of Home Affairs has issued a comprehensive Advisory on prevention of crime on 16th July 2010 to all the State Governments and UT administrations in this regard.

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	<i>and prosecuted and not on the number of cases registered. This is necessary to eliminate the widely prevalent malpractice of 'burking' of cases.(129)</i>		
130	(Para 7.5.2.4) Inquests a)All State Governments should issue Rules prescribing in detail the procedure for inquests under Section 174 CrPC.(130)	(a) The GoM accepted the recommendation and noted that the MHA has issued a comprehensive Advisory to all States/UTs on prevention of crime on 16.07.2010.	Ministry of Home Affairs has issued a comprehensive Advisory on prevention of crime on 16th July 2010 to all the State Governments and UT Administrations in this regard.
131	Para 7.5.3.13) Statements Made before Police Officer a) Section 161 and 162 of CrPC should be amended to include the following. i. The statement of witnesses should be either in narrative or in question and answer form and should be signed by the witness. ii. A copy of the statement should be handed over to the witness immediately under acknowledgement. iii. The Statement could be used for both corroboration and contradiction in a Court of Law(131)	(a) & (b) : The GoM did not accept the recommendation contained in part (a). It accepted only part (b) of the recommendation relating to audio or video recording of statements of all important witnesses.	Clause 13 of the Code of Criminal Procedure (Amendment) Bill, 2006 sought to substitute section 162 Cr.P.C. Section 162 provides that the statement to the police is not to be signed. This proposal sought to substitute sub-section (1) of section 162 to provide that the statement made by any person to a police officer in the course of an investigation shall, if reduced into writing, be signed by the person making it and a copy of the statement as recorded shall be given forthwith free of cost by the police officer to the person who made the statement. This was to ensure that the witnesses do not change their stand in the course of time. If a person signs the statement he made to the police, it will become difficult for him to retract. 2. The Parliamentary Standing Committee on Home Affairs, however, opposed the proposal. Subsequently, the Cabinet also decided that the proposed stipulation in Section 162(1) Cr.P.C relating to signing of statement may be removed. Therefore, the said proposal was deleted

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			from the Bill. The Bill became the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009) and has been enforced.
132	35. (Para 7.5.3.13) Statements Made before a Police Officer b) The statements of all important witnesses should be either audio or video recorded.(132)		The existing section 161 (Examination of witnesses by police) of the Code of Criminal Procedure, 1973 inter alia, provides that the statement made under sub-section (3) may also be recorded by audio-video electronic means.
133	(Para 7.5.4.10) Confession before Police a) Confessions made before the police should be admissible. All such statement should be video-recorded and the tapes produced before the court. Necessary amendments should be made in the Indian Evidence Act.(133)	(a) to (d) : The GoM did not accept the recommendations.	Clause 13 of the Code of Criminal Procedure (Amendment) Bill, 2006 sought to substitute section 162 Cr.P.C. Section 162 provides that the statement to the police is not to be signed. This proposal sought to substitute sub-section (1) of section 162 to provide that the statement made by any person to a police officer in the course of an investigation shall, if reduced into writing, be signed by the person making it and a copy of the statement as recorded shall be given forthwith free of cost by the police officer to the person who made the statement. This was to ensure that the witnesses do not change their stand in the course of time. If a person signs the statement he made to the police, it will become difficult for him to retract. The Parliamentary Standing Committee on Home Affairs, however, opposed the proposal. Subsequently, the Cabinet also decided that the proposed stipulation in Section 162(1) Cr.P.C relating to signing of statement may be removed. Therefore, the said proposal was deleted from the Bill. The Bill became the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009) and has been enforced. Moreover, this may be misused by the police as has been stated by the State of Haryana

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			etc.
134	<p>36. (Para 7.5.4.10) Confessions before Police</p> <p>b) The witness/accused should be warned on video tape that any statement he makes is liable to be used against him in a court of law, and he is entitled to the presence of his lawyer or a family member while making such a statement. If the person opts for this, the presence of the lawyer/family member should be secured before proceeding with recording the statement.(134)</p>		<p>b) Clause 13 of the Code of Criminal Procedure (Amendment) Bill, 2006 sought to substitute section 162 Cr.P.C. Section 162 provides that the statement to the police is not to be signed. This proposal sought to substitute sub-section (1) of section 162 to provide that the statement made by any person to a police officer in the course of an investigation shall, if reduced into writing, be signed by the person making it and a copy of the statement as recorded shall be given forthwith free of cost by the police officer to the person who made the statement. This was to ensure that the witnesses do not change their stand in the course of time. If a person signs the statement he made to the police, it will become difficult for him to retract.</p> <p>The Parliamentary Standing Committee on Home Affairs, however, opposed the proposal. Subsequently, the Cabinet also decided that the proposed stipulation in Section 162(1) Cr.P.C relating to signing of statement may be removed. Therefore, the said proposal was deleted from the Bill. The Bill became the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009) and has been enforced. Moreover, this may be misused by the police as has been stated by the State of Haryana etc.</p> <p>Section 41D (Right of arrested person to meet an advocate of his choice during interrogation) of the Cr.P.C however, provides that the arrestee shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.</p>

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135	<p>c) The accused should be produced before a magistrate immediately thereafter, who shall confirm by examining the accused whether the confession was obtained voluntarily or under duress.(135)</p>		<p>c) Cr.P.C was amended in 2009 to provide under section 164 (1) of Cr.P.C. for recording any confession or statement by audio-video electronic means in the presence of the advocate of the person accused of an offence.</p> <p>Since the admissibility of the confession before the police has not been agreed to, this recommendation may not be agreed to. The exception made in cases of terrorists should not be applicable to all accused or all types of offences as it may seriously erode the provisions of article 21 of the Constitution and section 24 and 25 of the Indian Evidence Act and may contravene the provisions of article 14 of the Constitution as observed by the Law Commission of India in its 185th report</p> <p>d) Since the admissibility of the confession before the police has not been agreed to.</p>
136	<p>d) The above-mentioned recommendations should be implemented only if the reforms mentioned in Chapter 5 are accepted (136)</p>		
137	<p>37. (Para 7.7.1.10) The Judge's Obligation to Ascertain the Truth a) It is necessary to amend Section 311 CrPC and impose a duty on every court to suo motu cause production of evidence for the purpose of discovering the truth, which should be the ultimate test of the criminal justice</p>	<p>(a): The GoM decided to defer the decision till the receipt of the Report of the Law Commission. The GoM asked MHA to get it expedited.</p>	<p>The Malimath Committee vide Recommendation No.3 recommended to substitute section 311 Cr.P.C. on the following lines :-</p> <p>"Any Court shall at any stage of any inquiry, trial or other proceeding under the Code, summon any person as a witness or examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined as it appears necessary for discovering truth in the case".</p> <p>A reference has been made to the Ministry of Law & Justice to request the law commission of India to give a comprehensive</p>

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	<i>system. Suitable amendments to the Indian Evidence Act, 1872 may also be made to facilitate this.(137)</i>		report covering all aspects of Criminal Law so that comprehensive amendments can be made in various laws taking into account the recommendations made by the Malimath Committee and Madhav Menon Committee and other commissions/committees in this regard. The recommendations of the Law Commission are awaited.
138	38. (Para 7.7.2.14) Right to Silence a) Regarding grave offences like terrorism and organised crimes, in the case of refusal by the accused to answer any question put to him, the court may draw an inference from such behaviour. This may be specifically provided in the law.(138)	(a) & (b) : The GoM had considered the recommendation in the 2 nd meeting held on 26.02.2013 and did not agree to the recommendation.	a) The issue of enactment of a Special Law for tackling/ dealing with certain offences viz. terrorism/ organized crimes, is under reference to Centre State Commission. The Unlawful Activities (Prevention) Amendment Act (UAPA), 2008 has been enacted to reinforce the legal and punitive provisions of law to combat terrorism. However, the provision for Right to Silence as recommended by ARC has not been incorporated in UAPA, 2008. Besides, this issue is also being examined in this Ministry. Once it is finally decided to make a Special Law as mentioned above, the provision for Right to Silence as recommended by ARC could be considered for incorporation therein.
139	(Para 7.7.3.6) Perjury (a) The penalties provided under Section 344 Cr.P.C for those found guilty of perjury after a summary trial should be enhanced to a minimum of one year of imprisonment.(139)	a) & (b) Regarding part (a), the GoM decided that MHA may take up enhancing the sentence for perjury from three months to one year with M/o Law. Regarding part (b), the GoM accepted the recommendation.	Clause 36 of the Code of Criminal Procedure (Amendment) Bill, 2006 sought to provide summary procedure for trial of witnesses deposing contrary to the statement recorded under sub-section (2) of section 164B [proposed new section). Vide this provision, punishment for perjury was proposed to be increased to imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine. It was also proposed that the Prosecution side can also make a complaint against witness who retracts from his statement so that he may be tried for perjury. The matter was considered and it was decided not to accept the proposed

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			amendment. The Bill has been passed by the Parliament and became Code of Criminal Procedure (Amendment) Act, 2008.
140	<i>(Para 7.7.3.6) Perjury (b) It should be made incumbent upon the Courts to ensure that existing perjury laws providing for summary trial procedure are unfailingly and effectively applied by the trial courts, without awaiting the end of the main trial.(140)</i>		
141	<i>40. (Para 7.7.4.6) Witness Protection a) A statutory programme for guaranteeing anonymity of witnesses and for witness protection in specified types of cases, based on the best international models should be adopted early.(141)</i>	(a) The GoM accepted the recommendation.	The Law Commission of India in its 198 th Report on "Witness Identity Protection and Witness Protection Programmes" recommended comprehensive measures to provide protection to the witnesses. The Report was referred to the State Governments and Union Territory Administrations for their views/comments. The comments of the some of the major State Governments like Andhra Pradesh, Gujarat, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal have not been received so far. A decision in the matter will be taken after receipt of the comments from majorities of the State Governments.
142	<i>41. (Para 7.7.5.6) Victim Protection a) A new law for protecting the rights of the victims of the crimes may be enacted. The law should include the</i>	(a): The GoM accepted the recommendation.	i) to (iii) Section 24 (8) of Cr.P.C. inter alia provides that the court may permit the victim to engage an advocate of his choice to assist the prosecution. Section 372 of Cr.P.C. inter alia provides that the victim shall have a right to prefer an appeal against any adverse order

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	<p><i>following salient features:</i></p> <p><i>i. Victims should be treated with dignity by all concerned in the criminal justice system.</i></p> <p><i>ii. It shall be the duty of the police and the prosecution to keep the victim updated about the progress of the case.</i></p> <p><i>iii. If the victim wants to oppose the bail application of an accused he/she shall be given an opportunity to be heard. Similarly, for release of prisoners on parole, a mechanism should be developed to consider the views of the victims.</i></p> <p><i>iv. A victim compensation fund should be created by State Governments for providing compensation to the victims of crime.(142)</i></p>		<p>passed by the court.</p> <p>(iv) In Cr.P.C, section 357 A was inserted in 2009 to provide for preparation of Victim Compensation Scheme.</p>
143	<p>(Para 7.7.6.6) Committal Proceedings</p> <p>(a) Committal proceedings should be reintroduced where the magistrate should have powers to record the evidence of</p>	<p>(a): The GoM decided that the views of Ministry of Law should be taken by MHA.</p>	<p>The Code of Criminal Procedure (Amendment) Bill, 2006 sought to insert section 164B in Cr.P.C providing for recording of a confession and statement to address the recommendations.</p> <p>However, the same could not be accepted during the passing of the Bill. Later the Bill became Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009).</p>

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	<i>prosecution witnesses. Suitable amendments may be carried out in Chapter XVI of the Code of Criminal Procedure.(143)</i>		
144	43. (Para 7.8.5) Classification of Offences a) A comprehensive reclassification of offences may be done urgently to reduce the burden of work for both the Courts and the Police. A mechanism for ensuring regular and periodic review of offences should also be put in place to make such reclassification an ongoing and continuing exercise.(144)	(a) & (b) : The GoM decided that the recommendations of the Law Commission may be awaited. It directed MHA/Ministry of Law to expedite the finalization of recommendations.	a) Report of the Committee on Draft National Policy on Criminal Justice has, inter alia, recommended for multiple criminal codes based on rational classification. The Report recommended fourfold codes viz. (i) social welfare offence code, (ii) correctional offences code, (iii) penal code and (iv) economic offences code. A reference has been made to the Ministry of Law & Justice to request the Law Commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in laws i.e. Cr. P.C./IPC/Indian Evidence Act taking into account the recommendations made by the Malimath Committee and Madhava Menon Committee and other Commissions/ Committees in this regard. The recommendations of the Law Commission are awaited.
145	b) The objective of this exercise should be to ensure that crimes of a petty nature including those which require correctional rather than penal action should be taken out of the jurisdiction of the police and criminal courts so that they are able to attend to more serious crimes. Such offences should, in		b)A reference has been made to the Ministry of Law & Justice to request the Law Commission of India to give a comprehensive report covering all aspects of Criminal Law so that comprehensive amendments can be made in laws i.e. Cr. P.C./IPC/Indian Evidence Act to make them in sync with the sociological changes which are taking place in the society. The recommendations of the Law Commission are awaited.

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	<i>future be handled by the local courts.(145)</i>		
146	<p>(Para7.9.7) Sentencing Process a) The Law Commission may lay down 'Guidelines' on sentencing for the 'Trial Courts in India so that sentencing across the country for similar offences becomes broadly uniform(146)</p>	<p>(a) & (b) : The GoM had considered the recommendation in the 2nd meeting held on 26.02.2013 and decided that the Report of the Law Commission may be awaited.</p>	<p>Report of the Committee on Draft National Policy on Criminal Justice has recommended that there has to be a substantial increase in the range and variety of punishments to provide for more choices in sentencing. The quantum of punishment, particularly of fine, requires revision given the contemporary value of money and the impact of inflation. Disparities in sentencing need to be reduced by evolving appropriate statutory guidelines in respect of each type of punishment, which should be periodically revised at the instance of the proposed Board of Criminal Justice. It is also desirable to have a Sentencing Board of three judges including the trial judge, for determining punishments in select offences punishable with life imprisonment or death, to ensure objectivity. The Sentencing Board will also help the objective application of the "rarest of rare" doctrine in death sentence. The policy of fixing mandatory minimum sentences should be discontinued as it does not serve any social purpose in actual practice. Probation should be invoked more often, particularly where short-term imprisonment is to be awarded. Corrective labour under supervision and the open jail system should become part of sentencing alternatives. Remissions of term of imprisonment and parole have to be regulated strictly according to statutorily prescribed norms and procedures. Criminal Law and Criminal Procedure are on the Concurrent List of the Seventh Schedule to the Constitution of India and these laws are administered by the State Governments. Accordingly, the report has been forwarded to State Govts. and Union Territory Administrations for their comments/views. The recommendation relating to Law Commission laying down guidelines on sentencing process has been brought to the notice of the Deptt. of Legal Affairs for their response.</p>
	(Para7.9.7)		National Judicial Academy(NJA), a Society

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147	<p>Sentencing Process b) Simultaneously, the training for trial court judges should be strengthened to bring about greater uniformity in sentencing.(147)</p>		<p>fully funded by Government of India, came into existence from 17th August, 1993. One of the objectives of the Academy is to provide training and continuing education to judicial officers and ministerial officers of the Court.</p> <p>NJA is already providing training to judicial officers across the country in addition to the programmes being conducted by State Judicial Academies. Further, it also imparts training in emerging new forms of crime like cyber crimes etc.</p> <p>This specific recommendation of ARC has also been communicated to NJA.</p>
148	<p>(Para 7.10.14) Prison Reforms a) The Union and state Governments should work out, fund and implement at the earliest, modernization and reforms of the Prison System as recommended by the All India Committee on Jail Reforms (1980-83).(148)</p>	<p>(a) to (c) : The GoM accepted the recommendations contained in part (a) and (b) and directed MHA to send a proposal to Ministry of Finance to enhance the Finance Commission grant for prison reforms. The GoM decided that part (c) of the recommendations may be left to the States for implementation.</p>	<p>(a) On the basis of Benchmarks/Key Performance Indicators with regard to prisons infrastructure/facilities for inmates in States/UTs, this Ministry is under process to roll out the 2nd Phase of Modernisation of Prison Scheme on a fast track basis. Most of the States/UTs have furnished their proposals in this regard.</p>
149	<p>(Para 7.10.14) Prison Reforms b) The attendant legislative measures should also be expedited.(149)</p>		<p>b) The Mulla Committee recommendations were forwarded to the State Governments for appropriate action. Prison administration is governed by the respective State Governments under the provisions of the Indian Prisons Act, 1894. Under this Act, various State Governments have framed their own jail manuals. One of the recommendations of the Mulla Committee was to bring the subject of prisons and allied</p>

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			<p>institutions into the Concurrent List. The Committee also recommended that in case this is not possible, the Central Government should prepare a Model Bill for adoption of the States/Union Territories. According to Article 246(3), the Legislature of any State has the exclusive power to make laws for such State or any part thereof with respect to any of the matter enumerated in the State List.</p> <p>However, Article 252 of the Constitution provides that two or more States may by Resolution in their respective State Legislatures authorize Parliament to enact a Central legislation on a State subject. The Union of India thus considers enactment of a law relating to prisons only on receipt of requests from two or more States. The Central Government drafted a Model Prison Management Bill and circulated it to the State Governments with the request to pass Resolutions under Article 252 of the Constitution for enactment of a new Prisons Act to replace the existing Prisons Act, 1894. However, not having received the requisite response from the State Governments, the Government of India prepared a Model Prison Manual which was circulated to the States in 2003 for adoption/guidance.</p> <p>The manual aims at bringing in basic uniformity in laws, rules and regulations governing every aspect of prison administration and management, lays down the framework for both sound custody and treatment of prisoners, rationalizes prison practices, spells out minimum standards of institutional services for the care, protection, treatment, education, training and resocialisation of incarcerated offenders and forges constructive linkages between prison programmes and community based welfare instructions for achieving the objective of reformation and rehabilitation of prisoners.</p> <p>This manual is an exhaustive document and has been prepared after wide consultations with the State Governments. It is, however, learnt that only a few States/UTs viz. Arunachal Pradesh, Andaman & Nicobar, Bihar, Goa and Sikkim have so far adopted the model prison manual, while Kerala have</p>

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			incorporated the guidelines in their existing manual.
150	<p>(Para 7.10.14) Prison Reforms c) Rules regarding Parole and Remission need to be reviewed. An Advisory Board with a retired judge of the High Court, the DGP and the Inspector General of Prisons should be set up to make recommendation on parole. The recommendations made by the Board should normally be accepted. In case of difference, State Government should obtain the advice of the board again, stating its own views in writing. A similar or the same Board may deal with cases of remissions.(150)</p>		<p>c) This is a function which is currently administered by the Home Department of a State through a body/board constituted by them. Hence the decision of the Home Department is final.</p>
151	<p>(Para 8.2.15) Obligations of the Union and States a) A law should be enacted to empower the Union Government to deploy its Forces and to even direct such Forces in case of major public order problems which may lead to the breakdown of the constitutional</p>	<p>(a) & (b) : The GoM did not accept the recommendations.</p>	<p>MHA has no objection on the recommendation, subject to the condition that enactment of such a law should be done with the concurrence of all the States/ UTs.</p>

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	<i>machinery in state. However, such deployment should take place only after the state concerned fails to act on a 'direction' issued by the Union under Article 256 of the Constitution. All such deployments should be only for a temporary period not exceeding three months, which could be extended by another three months after authorization by Parliament.(151)</i>		
152	<i>(Para 8.2.15) Obligations of the Union and States b) The law should spell out the hierarchy of the civil administration which would supervise the Forces under such circumstances.(152)</i>		MHA has no objection on the recommendation, subject to the condition that enactment of such a law should be done with the concurrence of all the States/ UTs.
153	<i>(Para 8.3.14) Federal Crimes a) There is need to re-examine certain offences which have interstate or national ramification and include them in a new law. The law should also prescribe the procedure for investigation and trials of such offences. The following offences may be included in this category: i. Organised Crime</i>	(a) to (c) : The GoM did not accept the recommendation.	The offences related to terrorism (including financing of terrorism) and offences related to Acts Threatening National Security (especially with regard to Officials Secret, espionage and entering into prohibited places) can be tackled through the UAPA, 1967 (with its latest amendment in 2013) which is a comprehensive legislation to combat terrorism. Hence, there is no need to enact a new law. Officials Secret Act, 1923 is an adequately stringent legislation. There is no need to enact a new law at present.

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	<p><i>(examined in paragraph 8.4)</i></p> <p><i>ii. Terrorism</i></p> <p><i>iii. Acts threatening National security</i></p> <p><i>iv. Trafficking in arms and human beings.</i></p> <p><i>v. Sedition</i></p> <p><i>vi. Major crimes with inter-state ramifications</i></p> <p><i>vii. Assassination of (Including attempts on) major public figures</i></p> <p><i>viii. Serious economic offences.(153)</i></p>		
154	<p><i>(Para 8.3.14) Federal Crimes</i></p> <p><i>b) A new law should be enacted to govern the working of the CBI. This law should also stipulate its jurisdiction including the power to investigate the new category of crimes.(154)</i></p>		
155	<p><i>(Para 8.3.14) Federal Crimes</i></p> <p><i>c) The empowered committee recommended in the Commission's Report on 'Ethics in Governance' (Para 3.7.19) would decide on cases to be taken over by the CBI.(155)</i></p>		
156	<p><i>Para 8.4.17) Organised Crime</i></p> <p><i>a) Specific provisions to define organized crimes should be included in the new law governing 'Federal Crimes'. The</i></p>	<p>(a) The GoM did not accept the recommendation.</p>	<p>The Ministry of Home Affairs is not considering enacting any new law governing the 'Federal Crimes'. Therefore, the question of defining the 'Organised Crime' in the manner suggested by ARC would not arise.</p>

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	<i>definition of organized crime in this law should be on the lines of the Maharashtra Control of Organised Crime Act, 1999.(156)</i>		
157	<i>(Para 8.5.17) Armed Forces (Special Powers) Act, 1958 a) The Armed Forces (Special Powers) Act, 1958 should be repealed. To provide for an enabling legislation for deployment of Armed Forces of the Union in the North-Eastern states of the country, the Unlawful Activities (Prevention) Act, 1967 should be amended by inserting a new Chapter VI A as recommended by the Committee to Review the Armed Forces (Special Powers) Act, 1958. The new Chapter VI A would apply only to the North-Eastern states.(157)</i>	a):The GoM had considered the recommendation in the 2 nd meeting held on 26.02.2013 and did not accept it.	<p>The report of Justice B.P. Jeevan Reddy Committee on review of the Armed Forces (Special Powers) Act, 1958, is being examined by Ministry of Home Affairs. A decision in the matter is yet to be taken.</p> <p>The security situation in the North East is still serious enough to warrant special powers to the Armed Forces and as such the AFSPA cannot be repealed at this juncture. Hence, the ARC recommendation “to repeal the Act and to amend the Unauthorized Activities (Prevention) Act 1967 suitably” cannot be accepted.</p> <p>However, since AFSPA is seen as a symbol of oppression, a few sections of the Act have to be modified to make it more humane. On the proposal for such an amendment, the Ministry of Defence expressed its stand which were/are at variance with MHA’s views. The items in brief and the views of the Ministries are attached. The Cabinet Secretariat has advised to have a consensus before placing the draft amended AFSPA before CCS for approval.</p>
158	<i>(Para 9.1.5) The Role of Civil Society a) Citizens should be involved in evaluating the quality of service at police stations and other police offices(158)</i>	(a) to (c) : The GoM decided that the implementation of the recommendations may be left to the States.	a) Similar provisions of community participation for Metropolitan cities (Sec. 102) and Community Liaison Groups in rural areas (Sec. 85 & 86) exist in the Model Police Act, drafted by Soli Sorabjee Committee, which has been sent to State Governments for appropriate consideration.

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159	<i>(Para 9.1.5) The Role of Civil Society b) Government should incentivize citizens' initiatives.(159)</i>		b) Similar provisions of community participation for Metropolitan cities (Sec. 102) and Community Liaison Groups in rural areas (Sec. 85 & 86) exist in the Model Police Act, drafted by Soli Sorabjee Committee, which has been sent to State Governments for appropriate consideration.
160	<i>(Para 9.1.5) The Role of Civil Society c) Formal mechanisms should be set up at the cutting edge level to involve citizens/citizen's groups in various aspects of public order management.(160)</i>		c) Similar provisions of community participation for Metropolitan cities (Sec. 102) and Community Liaison Groups in rural areas (Sec. 85 & 86) exist in the Model Police Act, drafted by Soli Sorabjee Committee, which has been sent to State Governments for appropriate consideration.
161	<i>51. (Para 9.2.7) The Role of the Media in Public Order a) The Administration must make facts available to the media at the earliest about any major development, particularly activities affecting public order. (161)</i>	<i>(a) to (e) :</i> The GoM decided that implementation of the recommendations may be left to the States..	
162	<i>b) In order to have better appreciation of each other's view points there should be increased interaction between the Administration and the media. This could be inter alia in the form of joint workshops and trainings. (162)</i>		
163	<i>c) The Administration should designate</i>		

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164	<p><i>points of contact at appropriate levels (a spokesperson) for the media which could be accessed during whenever required. (163)</i></p> <p><i>d) Officers should be imparted training for interaction with the media. (164)</i></p>		
165	<p><i>e) A cell may be constituted at the district level which may analyse media reports about matters of public importance. (165)</i></p>		