

# Kerala, a police state in the making

## Act Now!

A critique with recommendations for public discussion, and debates in the Kerala Legislative Assembly on the Kerala Police Bill, 2010  
*(Bill no. 331 of the 12th Kerala Legislative Assembly)*

Prepared by:

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## **Introduction:**

On 11 May 2010, a Select Committee appointed by the Kerala Legislative Assembly prepared and published a questionnaire seeking opinions and advice from the general public, jurists and human rights organisations concerning the Kerala Police Bill, 2010. The purpose of the exercise is to receive comments and recommendations concerning the Bill so that the aspirations of the people of Kerala are reflected in the law governing the state police, when the Kerala Legislative Assembly finally enacts the law.

Nervazhi is a registered human rights organisation, based in Thrissur district, Kerala. The Asian Legal Resources Centre (ALRC) is a registered regional human rights organisation based in Hong Kong. The ALRC enjoys a General Consultative Status with the Economic and Social Council of the United Nations and have extensive network of partners in India and other Asian countries.

Nervazhi has considerable experience concerning human rights issues, in particular those related to the functioning of law enforcement agencies in Kerala. Justice institutions, in particular the police, prosecution and the judiciary have been ALRC's area of focus since its inception in 1986 and thus its field of expertise. The ALRC has extensive knowledge about the functioning of police in various Asian jurisdictions, in particular India. The ALRC has assisted the drafting of similar laws in South Asian countries, the latest, a law criminalising torture and custodial death which is currently under the consideration of the Bangladesh parliament.

For preparing the comments and suggesting recommendations to the Bill, Nervazhi and ALRC have consulted experts in the field, including senior police officers serving and retired in India, jurists, academics, journalists and above all the people of Kerala. For this very reason, the comments and recommendations will reflect a combination of expertise emerging from this knowledge base.

We have no claims whatsoever that the following pages contain a comprehensive analysis of the Bill, but we are certain that the Bill, as it stands now has the potential to turn Kerala into a police state. The comments and recommendation are thus made with an intention to prevent this. We have analysed the Bill bearing in mind various human rights cases that we have come across from Kerala in particular and India in general. We have studied the jurisprudence developed internationally concerning law enforcement agencies and their operational standards and the case law developed by the courts in India, the Supreme Court of India in particular, concerning the rights of the citizens while in custody and the duty of the

state as well as that of the law enforcement agencies in dealing with the citizens while engaged in law enforcement duties.

We have held consultations with the general public about the Bill. The use of simple language in the document, understandable to the common person, is thus not an intentional use of any editorial style, but is the result of the effort taken to write down the opinions the ordinary Indian living in Kerala provided us concerning the Bill. It reflects the collective wisdom of the ordinary people, rooted in their experience of dealing with the police as a state institution.

The recommendations also reflect this collective voice of the people of Kerala and their hope that their police can be corrected, provided the law governing the police is also right. Almost everyone whom we have consulted has informed us in various forms that the state of affairs of the Kerala police is deplorable at the moment. They want the new law to be a tool to bring change to this unacceptable status quo.

The ALRC, along with the comments and recommendations is also submitting a model law for the consideration of the Legislature to criminalise torture and extrajudicial executions.

We hope that the recommendations and comments will be duly considered and appropriate changes incorporated in the Bill. We are certain that by incorporating the recommendations in the Bill, the Kerala State Police will be provided with a statutory framework to discharge their duties, thereby contributing to develop India, a country of great people into a mature democracy.

A copy of the comments and recommendations with the copy of the original Bill is sent either by email, fax or post to Honourable Governor of Kerala, Honourable Speaker and all other members of the Kerala Legislative Assembly, Judges of the Supreme Court and the Kerala High Court, the National and State Human Rights Commissions, the Director General of Police - Kerala and all print and electronic media in Kerala.

21 June 2010

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# Comments & Recommendations

## Section 6

*Comment:* It is the constitutional duty of the government to provide all resources, without failure and in a prompt manner, to guarantee the disciplined and effective functioning of the police. To realise the mandates set forth in the preamble to the Bill and to discharge the duties mentioned in Section 3, it is not enough that the government 'may' strive 'subject to resources' provide manpower and infrastructure for the police to function.

*Recommendation:* The current wording in Section 6 (1) in the Bill does not imply the mandatory nature of state responsibility to provide without failure all resources, financial and logistical for the police to function. Viewed from the reality that lack of resources has been an important impediment for the proper functioning of the police, and the police being a vital state institution for guarantying democracy and fundamental rights to the people, the wording in Section 6 (1) must be changed to:

*"The government shall ensure that every police station has appropriate manpower and infrastructure facilities to provide police services to all who need the same."*

## Section 7

*Comment:* It is the right of every citizen to receive efficient police service at all times. It must not be left to the police or to the government to decide the efficiency and quality of service rendered by the police depending upon the conditions prevailing at the time when the service is required.

*Recommendation:* Section 7 must be changed to:

*"All citizens are entitled to efficient police services from every police station and police officers at all times."*

## Section 8

*Comment:* In view of the comments and the recommendations made above concerning Section 7 it is the right of every citizen to have a peaceful entry to every police station for lawful purposes. Words like 'reasonability' and 'practicability' must not be left to the interpretation of each police officer that will be bound by this law, since it can vary from person to person.

*Recommendation:* Accordingly, Sub-section (1) of shall be amended as:

*"All persons shall have the right to peaceful entry to any police station for obtaining lawful services and the right to be received at all times."*

*Comment:* When it is the right of every citizen to lawfully enter any police station for lawful purposes and meet any police officers, it must not be left to the police officer to decide or to impose restriction upon the citizen whom he shall meet. A police officer, irrespective of the rank is a government servant appointed to serve the public.

*Recommendation:* In view of the comment above, Sub-section (2) shall be amended as:

*"Any member of the public shall have the right to meet the officer in charge of a police station."*

## **Section 11**

*Comment:* The establishment of a 'Special Police Station' in any place at all times must be a matter of public knowledge. Establishment of such 'out of the ordinary' police stations' are often misused by the police to run illegal torture cells and interrogation houses in India, and Kerala cannot be an exception.

*Recommendation:* An additional Sub-section (7) shall be included to Section 11 to incorporate the following:

*"The State Police Chief shall by a public notification notify the public the place and period of the establishment of Special Police Stations."*

## **Section 12**

*Comment:* Section 12 requires a thorough editing since due to wrong use of punctuations it now appears that it is only required for the police station to maintain a general diary from time to time, as opposed to what is required which is: *"Every police station shall keep a general diary, in such form as shall be prescribed from time to time by the government ..."*. Also the changes must be made to read the section as *"... charges preferred, the names of the complainants and the names of the persons ..."*



## Section 17

*Comment:* Similar to the State Police Chief, a person to be appointed as the District Police Chief must not also have any charge pending against him/her at the time of appointment.

*Recommendation:* An addition to Sub-section 17 (2) should be incorporated in section 17 to read:

*"The District Police Chief shall not be an officer lower in rank than of a Superintendent of Police and shall not have a charge pending against the person appointed in any Court or Tribunal or Departmental agency on a charge filed on behalf of the state."*

## Section 24

*Comment:* It is the mandatory obligation of the state government to constitute a State Security Commission. The Commission must be set up according to the directions issued by the Supreme Court in the Prakash Singh & Ors. V. Union of India and Ors, in Civil Writ Petition 310/1996 *vide* judgment dated 22/09/2006. The judgment, against which the state governments, including the Government of Kerala filed a revision, which was summarily dismissed is binding upon all state governments in India and Government of Kerala is no exception. Accordingly, *"the recommendations of the Commission shall be binding on the State Government."* (page 8 of the judgment).

Sub-section 4 and 5 of the Bill contravenes this mandatory obligation of the State Government and can be read having powers conferred upon the State Government to nullify the recommendations of the Commission and therefore its very purpose.

*Recommendation:* Sub-sections 4 and 5 must be deleted.

## Section 29

*Comment:* According to the laws in India, the police have no legal right to 'punish'. On the contrary, 'punishment' in any form or a threat to punishment can be illegal and subject to criminal prosecution. In a mature legal setup, punishments by law enforcing agencies can amount to torture, a crime having universal jurisdiction and considered to be as evil as slavery and genocide. There is no reason why Kerala Police must be an exception.

*Recommendation:* Sub-section (2) must be amended as follows:

*"They shall not, unless it is necessary to achieve any lawful purpose, use force or threaten use of force or any legal action."*

*Comment for including an additional Sub-section:* Maintaining good manners and good health must not be the singular responsibility of the state police officer. It is a requirement to maintain discipline among the officers and a primary necessity to keep a vital public service in good shape. This implies in addition to the officers requiring to maintain good manners and in good physical state at all times, the government must ensure that the working conditions of the officers meet standards that would allow the officers to be in good mental and physical state.

The government must also guarantee that there are adequate arrangements made to provide periodic training, physical, scientific and psychological, to the officers. For this the very notion of viewing police as just 'the arm of the state to enforce law by force and to maintain discipline' must change. Police in many parts of the world that face manmade and natural calamities and threats much more than in Kerala have changed from being a stick or weapon wielding uniformed arm of the state to that of a people friendly service provider and an agency the common citizen trusts and does not fear to approach. This was possible by gradually educating and encouraging the police to deal with citizens with respect, to undertake investigations scientifically, ensuring timely prosecution of the crimes the police investigate and by providing employee friendly' service packages, including conditions of service and other benefits.

Today, for various reasons the metal state of Kerala Police is that of an internally demoralised force. It is not unique to Kerala Police as it is a common character of the police in all other states in India and even in the neighbouring countries. This must change. Expecting the police to be the functioning to the best of their ability without adequate service packages including working conditions is like expecting to row a boat on dry sand. Poor working conditions, like in any job demoralises the employee. Changes to the service conditions, including training facilities of the police have to be improved. To begin with the willingness of the government to provide good working conditions to the police must be reflected in the law. Thus the following Sub-section must be incorporated into the section that reads:

*"(7) It shall be the duty of the State Government to provide the best working conditions for the police, in terms of salary, allowances, training and deployment. The State Security Commission shall make periodic directions to the Government with a view to improve the working conditions of the police, their training and deployment."*

## Section 30

*Recommendation:* In the light of the comment and recommendation above Sub-Section (4) may be amended as follows:

*"Government shall institute a system of incentives and infrastructure facilities to promote good mental and physical health of the Police Officers."*

## Section 31

*Comment:* By being in custody, a person's right to dignity and privacy is not surrendered to the police. Even a convict has an inalienable right to dignity and privacy. Parading a suspect in public is a cruel and inhuman practice currently followed by the police. It is a form of extrajudicial punishment.

Punitive jurisprudence have changed world over and it is only in places where the development of law and practice is still stuck in the medieval mindset, public parading and punishment of suspects is practiced today. Such form of punishments impairs the possibility of a person to change or reform. It traumatises a person, often beyond the point of recovery. Parading a suspect or convict in public is counterproductive for correction. This practice has to end in India and Kerala can be a model.

*Recommendation:* For the above reasons, Sub-section (3) shall be amended to read:

*"Persons in custody shall not be paraded or photographed for the purpose of publication in press or visual media. The police shall take all measures to guarantee and respect the privacy and dignity of a person in custody, even if the person is a convict."*

## Section 32

*Comment:* A police officer and the police department is a 'state agent/agency' and by virtue of this status, all acts of the police must be accountable. Recordkeeping is a primary step to accountability. No action of the police is at anytime non-recordable and any attempt to breach this vital duty is prone to misuse by the police and anyone in control of the police.

Being a state agency, the police by law cannot commit an illegal act with impunity and if there are no illegal acts committed by the police there must

be no hesitation for the police to keep records of its actions. Additionally, the criminal law of India mandates law-enforcing agencies to maintain activity records as these records forms vital part of the crime adjudication process.

*Recommendation:* For the above reasons Sub-section (2) shall be amended as:

*"Under all circumstances in every case, a police officer, performing any act which is likely to endanger or adversely affect a person's fundamental liberties, property or reputation of a person, shall maintain records of all of the officer's actions as may be prescribed by any law governing the performance of such act or by the State Police Chief."*

*Comment:* The Indian Evidence Act, 1972 the Criminal Procedure Code, 1973 as well as the Criminal Rules of Practice, 1982 mandates all crime investigating agencies to provide all evidence against an accused in court in the trial, irrespective of the fact whether the production of such evidence may adversely affect the prosecution case or not. In addition under the provisions of the Right to Information Act, 2005 all actions of a public office and servant must be provided to the information seeker under the Act, unless the disclosure of such information is exempted under the Right to Information Act, 2005.

Refusal to divulge information by the police unless it is exempted by any of the above law is illegal and unwarranted. Such a provision can lead to misuse of authority, intrusion into the privacy and the breach of fundamental rights of a citizen.

*Recommendation:* For the above reasons Sub-section (3) shall be amended as follows:

*"The State Police Chief or any police officer shall deny the furnishing of information to any person concerning any acts committed by the police, unless such information sought for is exempted by the Right to Information Act, 2005."*

## **Section 34**

*Comment:* While a complaint can be made to a police officer by various means, including the complainant remaining anonymous, it shall be the duty of the police officer receiving the complaint, to record the complaint and investigate it. It must be mandatory for the police officer to record the complaint including the manner in which the officer received it. It shall also be the responsibility of the officer to record with reasons what actions have been initiated upon the complaint and its result.

Upon receipt of a complaint through any means, including written or oral, it shall be the right to the complainant, to receive an acknowledgment for the fact that a complaint has been lodged with the police. It shall be duty of the police officer to give such written acknowledgment to the complainant.

If a police officer decides to take no action upon receiving a complaint that also has to be recorded by the officer. If the complainant has provided the complaint either orally or by other means where the identity of the complainant is made available to the police officer, it shall be thus the duty of the police officer to inform the complainant in writing whether the officer has investigated the complaint and why no action has been taken and the complaint is dropped. Such information has to be provided to the complainant regarding the action taken upon the complaint, in addition to the written acknowledgement for the receipt of the complaint within 48 hours from the time of receipt of the complaint.

*Recommendation:* In view of the comments above Section 34 shall be amended as follows:

*"Section 34 (1) A complaint to the police officer may be made orally, or in writing or by gestures or signals or by digital or electronic means. A police officer receiving the complaint shall investigate the complaint immediately.*

*(2) The complainant has a right to receive a written acknowledgment for the filing of the complaint from the police officer receiving the complaint within 48 hours from the filing of the complaint. A person filing a complaint by personally presenting at the police station or through the complainant's authorised representative has a right to receive such acknowledgement immediately. For the purposes of issuing an acknowledgment, the police officer may require the complainant or the complainant's representative to provide the police officer the complainant's or the representative's identification details, which may either be a contact address, or the details in any identity document that is issued by the government in the name of the complainant. It shall be the right of the complainant however to refuse it and to remain anonymous.*

*(3) Upon receipt of a complaint, the police officer shall record all details of the complaint in the record maintained at the police station where the officer serves within 24 hours of the receipt of the complaint.*

*(4) The police officer shall investigate the complaint and take appropriate actions against the complaint, including the decision to drop the complaint.*

*(5) For all actions mentioned in Sub-section (5) above the officer shall provide written information to the complainant informing the complainant what actions the officer has*

*taken upon the complaint and the reasons for the same. Such written information shall be provided to the complainant within 72 hours from the receipt of the complaint."*

## **Section 35**

*Comment:* One of the several reasons why persons fail to volunteer as witnesses in cases involving the police is the present practice where the police officers summon witnesses to the police station. Often this procedure has been misused to the detriment of the crime prevention and eventually a criminal trial. Cases are common where police officers summon a person to the police station repeatedly in the pretext of gathering evidence or recording statement. This practice must end.

*Recommendation:* Accordingly changes must be incorporated to Sub-section (2) as follows:

*"All witnesses shall be approached by the police officer at their normal places of residence or work. No one shall be summoned to the police station for the purposes of recording a witness statement."*

*Comment:* It shall not be the lawful duty of any police officer to curtail the freedom of movement or privacy of any person. Limitations on these two rights can only be enforced upon by a court and a police officer at no time must be given a quasi judicial authority, particularly those that may result in the infringement of individual freedoms.

*Recommendation:* For the reasons stated above, Sub-section (3) shall be deleted.

## **Section 36**

*Comment:* While it is required for the police officer to demand the identity of a person as an essential tool for crime prevention and for the maintenance of law and order, such a tool must be used with caution since such a tool has the potential to enable a police officer to interfere into a citizen's life and privacy for unlawful purposes, or at the least for causing nuisance. Hence two qualifiers are essential to define this authority so that it is used with caution. They are the rank of the police officer and the officer's reason to demand identity of a citizen, which is when the officer suspects that the person to whom a demand is made by the police officer, is suspected to have committed a crime or is to commit a crime.

*Recommendation:* For the reasons stated above to apply caution to the use of such authority, Section 36 shall be amended as follows:

*"Section 36 (1) Every person shall disclose the person's identity when so required by a police officer, not below the rank of an Inspector of Police. The police officer requiring a person to disclose the identity shall do so only if the police officer is of the opinion that the person is likely to commit a crime or is suspected to be in the process of committing a crime.*

*(2) Such police officer may take reasonable steps necessary to get the identity of the person established and for this purpose, the police officer may make such or write down such records of personal identity as may be necessary in each case. However, the police officer so recording the personal details of a person shall give in writing to the person whose identity is being questioned the officer's reason for demanding such personal details.*

*(3) No person shall be arrested or kept in custody in any manner under this section merely for the reason that the identity given by such person requires to be verified."*

## **Section 37**

*Comment:* Privacy is the right of a citizen and it is the responsibility of the state guarantee and protects it. Police being a state agency, it shall be the duty of every police officer to protect a citizen's right to privacy and property. Therefore the police have no reason to intrude into the privacy of a citizen, unless such intrusion is necessitated to prevent a crime, or to protect another person or property. The procedure for this is mentioned in the Criminal Procedure Code, 1974. The Kerala Police Act cannot override the provisions in the Criminal Procedure Code.

*Recommendation:* Section 37 for the reasons stated above shall be amended as follows:

*"No police officer shall have access to a private place unless following the procedures mentioned in the Code of Criminal Procedure 1974."*

## **Section 40**

*Comment:* An educational institution is a place for students and teachers. The police have no role to play inside an educational institution, unless the head of the institution requires police help.

*Recommendation:* In light of the above comment, in Sub-section (2) "*including educational institutions*" shall be deleted.

## **Section 45**

*Comment:* The police while an important arm of the state to maintain law and order, it must remain an executing arm of the state and must not in any circumstances bestowed with any decision-making powers, particularly when an area is declared 'disturbed' by the government. As of now, the Criminal Procedure Code, 1974 empowers the Executive Magistrate with certain powers to limit individual freedom under Section 144 to maintain peace and prevent large-scale violence. It must be left as is and the authority of the Executive Magistrate shall not be delegated to a Station House Officer in any circumstances.

*Recommendation:* For the reasons stated above, Sub-section (2) shall be amended to read:

*"When an area is declared to be a disturbed area, the Station House Officer may, under written instructions and the supervision of the Executive Magistrate entertaining jurisdiction over the area, in the interest of maintenance of law and order,-*

*(a) ... same as in the draft Bill*

*(b) ... same as in the draft Bill*

*(c) ... same as in the draft Bill*

*(d) ... same as in the draft Bill"*

## **Section 46**

*Comment:* Studies conducted by the ALRC and Nervazhi, suggests that mistreatment of persons by the police happens the most while they are detained in custody. This is no exceptional behaviour of the Kerala Police, and is a common character shared by police units throughout India.

The very reason that torture is an act committed by the state against the citizen, attracts calls for special seriousness with which this crime has to be dealt with. World over, much has been discussed and the jurisprudence against torture has evolved and developed. Today a police officer engaged in the practice of torture is looked down as an incapable officer not worthy of



-serving the citizen, but rather as a person who is systematically engaged in committing a crime and require psychological assistance to recover.

Torture and inhuman or degrading practices by the police practiced against suspects and a person in custody is a crime, recognised world over as inhuman and considered evil as severe as genocide. Yet, in India torture is not a crime and there is still no credible mechanism in India by which a case of torture can be punished. The only advancement India has made in dealing with torture is the initial stages of development made at the behest of the Supreme Court of India where the Court has made it mandatory for the police and all other law enforcing agencies to follow a strict set of procedures, which if followed the chances for the state officer to engage in torture is limited.

The Bill as it stands now appears to dilute this procedure by convenient usage of terms and provisions as provided in Sub-section (8) of Section 46. The State Government cannot in any form dilute the procedures set up by Supreme Court when it decided the D. K. Basu case.

The procedure to be followed by the law enforcement agencies in India at the time of arrest and detention has been an issue of discussion and concern at various forums, including the Supreme Court of India and venues where India's state obligations are assessed and reviewed under the International Convention on Civil and Political Rights are discussed, like the United Nations.

The Supreme Court of India, has at several occasions issued clear and specific directions for the law enforcement agencies to be followed at the time of arrest and detention of persons, the latest of which is discussed in the famous D. K. Basu case. Based on these recommendations the Criminal Procedure Code, 1974 has been recently emended to incorporate the Supreme Court's directives. These directions are mandatory for all law enforcement agencies, and the Kerala Police cannot be an exception. Accordingly Section 46 has to be completely changed.

*Recommendations:* In view of the comments above, Section 46 shall read as follows:

*"Procedure for arrests: (1) A police officer arresting a person shall inform the person at the time of arrest, the reason for arrest and caution the arrestee that she/he has a right to remain silent and that whatever the person may say to the police officer could be used against the arrestee in future legal proceedings against the arrestee and that the arrestee has a right for legal counsel.*

(2) *The police officer carrying out the arrest and handling the interrogation of the arrestee must bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police officer who handle interrogation of the arrestee insist be recorded in a register.*

(3) *The police officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.*

(4) *A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to her/him or having interest in his welfare being informed, within six hours, that the person has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.*

(5) *The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.*

(6) *The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.*

(7) *An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.*

(8) *The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.*

(9) *A trained doctor must medically examine the arrestee every 48 hours during his detention in custody. Such doctor shall be from the panel of approved doctors appointed by Director of Kerala Health Services. Director of Kerala Health Services shall prepare such a panel for all Tehsils and Districts and review the same every six months.*

(10) *Copies of all the documents including the memo of arrest, referred to above, should be sent to the Judicial First Class Magistrate entertaining jurisdiction over the place where the arrest is made or the arrestee is detained for her/his record.*

*(11) The arrestee shall be permitted to meet his lawyer during interrogation."*

## **Section 47**

*Comment:* No police officer should be allowed at any point to use force upon a detainee at the time of arrest or after, unless the force is required to arrest the person. While the term 'minimum force' can be subjected to the interpretation of the term depending upon the circumstances in each case, the term must not be left to wide interpretation that fits a police officer to defend his acts, whatever be the nature of the case. For this very reason the language in Section 47 must be precise.

***Recommendation:*** Sub-section (1) of Section 47 must be thus amended to be specific. As of now, usage of terms like 'suitable gadgets' can cause serious challenges to interpretation as anything could be a gadget, including a weapon, which if used at the time of arrest can cause serious injuries to an arrestee. Thus the Sub-section (1) must be amended as follows:

*"A police officer shall not use force at the time of arrest unless the use of minimum force is required to arrest the person and to prevent the person from escaping from custody. While using force the officer must not use force than what is required to carryout his lawful duty. Use of force shall not be used as punishment."*

## **Section 50**

*Comment:* While it is the right of the police to seek medical treatment of a person in custody from any hospital, and it is the responsibility of all medical facilities to provide treatment to persons in police custody, it shall also be the responsibility of the hospital to produce a copy of the medical report to the person examined or to his authorised representative and get acknowledgment for the same.

*Recommendation:* Sub-section (2) shall be thus amended as:

*"It shall be binding upon the hospital authorities to immediately furnish on demand to the police copies of all the medical records pertaining to the treatment of such persons. It shall also be binding for the hospital authorities to furnish a copy of the records handed over to the police to be submitted to the person examined or his authorised representative and obtain acknowledgement, irrespective of the fact that such a record has been demanded either by the person or his authorised representative."*

## Section 51

Injuries sustained at the time of arrest or in custody could not only challenge the entire police operation, but could also play a vital role in determining whether a person has been mishandled by the police. It is for the benefit of the injured or those accused of having caused the injury that a medical examination is conducted when an injury is suspected.

Additionally, all injuries need not be visible since there could be internal injuries. Not all persons at all times can be expected to be conscious or suffer pain immediately after sustaining an injury enabling the person to complain. Neither is a police officer a medical practitioner, who could assess the injury a person might have suffered. So it shall be mandatory for a police officer to produce a person who is under the officer's care and custody before a medical practitioner for medical examination.

At the time of medical examination, the officer accompanying the person shall not in any form interfere or witness the medical examination or listen to the communication between the person and the medical examiner. The medical report prepared by the medical examiner shall be despatched to the nearest Judicial First Class Magistrate entertaining jurisdiction in a sealed envelope by the medical examiner through the police officer producing the person. The officer shall also provide a copy of the same to the person examined or his authorised agent.

If the person produced requires continuous treatment or admission at the hospital or to be referred to another hospital for specialist treatment, the same shall be incorporated in the report and the police officer producing the person instructed to ensure that the person continues to receive treatment.

*Recommendation:* Section 51, for reasons mentioned above shall be amended as follows:

*"Action in respect of injuries on those in police custody: When any person is taken into police custody in a physically injured condition or if application of force upon the person in custody by the police officer was required or if the person in custody complains of pain, the Station House Officer shall immediately cause the person to be examined by a medical practitioner.*

*(i) The medical practitioner before whom a person is so produced shall medically examine the person, ensuring that no police officer witnesses the medical examination or over hears the consultation between the person and the medical officer.*

*(ii) The medical officer shall prepare a medical report, that includes the version narrated by the person examined, regarding what caused the injury or pain with details concerning the event, including the date, place and time and the persons involved and the same shall be on the same day send to the nearest Judicial First Class Magistrate entertaining jurisdiction in a sealed envelope through the police officer who produced the person.*

*(iii) A copy of the report shall be handed over to the person or to his authorised representative. If the person is unconscious, or does not want the copy to be furnished to him at the time of examination, the medical officer shall keep the medical record in his safe custody, until demanded by the person or a court. Under no circumstances the medical practitioner shall make the detailed contents of the medical record available to the police officer.*

*(iv) If the person produced require admission at the hospital or has to be referred to another hospital with adequate facilities to treat the person, it shall be the responsibility of the medical practitioner to inform the police officer producing the person about the requirement and to guarantee that the person receives treatment as chosen by the medical examiner."*

## **Section 65**

*Comment:* The concept of community policing is good, in places where the state of affairs within the police is exceptionally good and the purpose of constituting community police is to provide meaningful and thoughtful advices to the police so as to help the police to merge with the society. In India however the concept is premature and often ill conceived as a licence to form vigilante groups, like the Salwa Judum in Chhattisgarh or the village defence forces formed in Manipur.

The façade of introducing the concept of community policing in India however is that it will make the police people friendly and it can be used as a mode by which the police can seek advices from the community to improve policing'. Indeed the suggestions from communities, if they meet the democratic and rule of law standards must be incorporated in policing and there is definitely lot of scope for this today in India.

Yet, the reality in India is that the ordinary people is so distanced from the police due to a combination of factors, of which the primary two concerns are ordinary Indians are afraid of the police due to the extensive use of torture by the police and the repeated and demonstrated failure of the police to do their job as mandated by law. Without addressing these two cardinal issues, introducing concepts like community policing into the police will only help to worsen the situation and at the very least to create avenues for

the influential middle class to use this concept as a tool for settling partisan issues based on wealth, influence, political allegiances and above all religion and caste.

Security and safety to person and property is primarily the responsibility of the police and the right of everyone. Today, in Kerala, this role has been largely delegated to the ordinary public due to the utter failure in policing, which has resulted in situations where crimes like burglary have now become the responsibility of the local community to detect, investigate and prove, so that the role of the police have become to that of an uninterested bystander who finally produces the suspect in court. This has resulted in large-scale violation of human rights.

Unfortunately even human rights organisations, some of them based in New Delhi, have been advocating for introducing community policing through out India and the "Kerala Model" has been falsely projected as a success story. This is because of the lack of understanding of the day-to-day functioning of the police and the reasons of its failure as a state institution in India. The Bill must not be a statutory excuse for the police to neglect its duties and expect the community to do policing.

*Recommendation:* Section 65 shall be deleted.

## **Section 99**

*Comment:* The concept of Special Police Officers is a colonial concept that had justifications for a colonial master to run the colony. 62 years after independence, there is no reason why a state government should require special police officers. The concept, as evidenced in states like Chhattisgarh and Manipur has the potential to be misused where neighbours can be asked to fight neighbours. It is a failed concept and has been scraped since the last three years in Jammu and Kashmir.

It is the responsibility of the state to account for the safety and security of the citizens and their property. The state has the constitutional duty to provide adequately for the proper functioning of the police and other law enforcement agencies required in the state. Expecting the 'outsourcing' of police and employing mercenaries is a concept not practiced in civilised jurisdictions. Kerala thus does not require a Special Police Officer.

*Recommendation:* Section 99 must be deleted.

## Section 113

*Comment:* It is an option of the complainant to choose the forum where the complainant would prefer to file a case against a police officer. It shall be redundant for a complainant to complain against a police officer to an adjudicating body where one or many of the adjudicators are police officers. In that sense, the constitution of the police complaints authority at the state and the district level must not have a police officer as one of its member. Accordingly the constitution of the state police complaints authority and the district police complaints authority must be changed in the following manner.

State Police Complaints Authority shall be chaired by a retired high court judge and of the two additional members, one shall be a government servant of the rank equal to that of the Chief Secretary of the state government and the other a legal practitioner having legal practice for not less than 15 years with an advanced master's degree in law preferably in human rights law. At least one of the members shall be a woman.

The District Police Complaints Authority shall be chaired by a retired district and sessions judge, and of the two other members, one shall be the district collector and the other a legal practitioner with at least 12 years of legal practice with the master's degree in law preferably in human rights law. At least one of the members shall be a woman.

The jurisdiction of the police complaints authority shall not supersede the statutory authority or the State and National Human Rights Commissions.

*Recommendation:* To incorporate the following suggestions Section 113 shall be amended as follows to include the following Sub-section:

*"(5) Nothing in this section shall prohibit the jurisdiction of the state and national human rights commissions or of any court for entertaining, adjudicating and deciding cases against police officers.*

*(6) Upon written complaint regarding a police officer to any of the authorities or bodies or Courts mentioned above, the police officer against whom a complaint has been filed shall be immediately placed on suspension and discharged from all duties. Provided such suspension from duty shall only be made based on the direction of any of the bodies mentioned above, after the body considers the question on a petition filed accompanying the main complaint. The officer investigating a serious crime shall not be an excuse for the operation of this sub-section."*

## Section 116

*Comment:* To prosecute any police officer committing a crime under any law does not require the prior sanction of the government. The police act cannot supersede the provisions in the criminal procedure code where government sanction is required only if the act subjected to prosecution was carried out legally in the course of discharge of official duty. Breach of violation of a law, if it amounts to a crime, must not be provided statutory impunity from prosecution, even for the slightest period of time. In addition, it must not be left for the exclusive discretion of the government to decide whether a state agent must be prosecuted for a crime the agent has committed. Such provision undermines the very notion of justice and equality and only allows statutory impunity and nurtures corruption.

It is also an anomaly to create an institution within the police having the exclusive and sole authority to investigate, prosecute and adjudicate crimes committed by police officers. It must not be at any time left to the exclusive decision of a superior officer to decide whether a subordinate officer has to be prosecuted.

What is required in Kerala in particular and India in general is to have separate independent authorities independent from the police having investigative and prosecution authorities to deal with the crimes committed by police officers. Such an attempt has not been so far made either in Kerala or anywhere else in India. Until there is such an independent authority, independent from the police to investigate and prosecute crimes committed by the police the existing and alarming instances of crimes committed by police officers of all ranks cannot be successfully prevented.

In countries and jurisdictions where the police officers are considered to be people friendly and honest and held by the citizenry as one of the coveted government agencies such independent mechanisms do exist. It is apparent that this new Bill is far short of addressing crimes committed by police officers and as it stands now fails to provide foolproof mechanisms where a citizen having a complaint against a police officer can approach with trust and expect actions taken upon his complaint. Instead, the Bill has reduced to give wide ranging arbitrary authorities to the police of all ranks and further limiting dealing with complaints against police officers at the whims of superior officers, which is like asking the thief to investigate the theft.

To complain and to have independent mechanisms to file, investigate and prosecute complaints is a right of the citizen. A loosely worded Bill as it stands now must not take this right away.



*Recommendation:* Section 116 shall be amended as follows:

*"116. Protection to police officers: (1) No suit, prosecution or other legal proceedings shall lie against a police officer or a public servant duly appointed or authorised under this act for anything done or intended to be done in the lawful discharge of duties. However such protection shall not be available for any crime under any law committed by the police officers or a public servant duly appointed or authorised under this act.*

*(2) No prior sanction from any authority is required to take cognizance of any offence alleged against a police officer or a public servant duly appointed or authorised under this act."*

*Sub-section 3 and the subsequent proviso shall be deleted."*

## **Section 117**

*Comment:* There shall be no prescribed period of limitation for the prosecution of any crime committed by a police officer. Section 117 shall be thus deleted accordingly.

## **Section 120**

*Comment:* Crimes committed by police officers are to be considered serious in nature, irrespective of the pecuniary or physical damage caused by the crime. The simple argument to this is the fact that a person who has the statutory duty to prevent it commits the crime. The punishment prescribed in the Bill as of now is too low.

*Recommendation:* For this reason Section 120 shall be amended to increase the imprisonment, its nature and fine as follows:

*"... shall, on conviction, be punished with rigorous imprisonment for a period of seven years and shall be liable to pay fine. The amount of fine shall be not less than Rs. 300,000 in all cases. Whereas if a person has suffered mental or physical injuries and trauma as the result of a crime committed by the police officer, the amount of fine shall not be less than Rs. 1,000,000."*

## **Section 129**

*Recommendation:* In view of the comments made under Section 116, this Section must be deleted.

## **Annexe: Kerala Police Bill 2010**

## Annexe: Kerala Police Bill 2010

### Twelfth Kerala Legislative Assembly Bill No. 331

#### THE KERALA POLICE BILL, 2010

##### A

##### *BILL*

*to consolidate and amend the law relating to the establishment and regulation of Police force, in the State of Kerala and for matters connected therewith and incidental thereto.*

*Preamble.*—WHEREAS it is expedient to provide for a highly professional, trained, skilled, disciplined and dedicated police service capable of, protecting the integrity and security of State and upholding rule of law with due transparency and regard for human rights, the life, liberty and dignity of every person;

AND WHEREAS it is necessary to empower the police with sufficient institutionalized authority and enable them to efficiently exercise their powers and discharge their duties;

AND WHEREAS it has become imperative to ensure that the police do not abuse the authority vested in them and are accountable to their activities by being subject to such disciplinary control so that they are responsive to the needs of a modern democratic society and people friendly;

NOW, THEREFORE, it has become imperative to consolidate and amend the Law relating to the establishment and regulation of Police force in the State of Kerala;

BE it enacted in the Sixty-first year of Republic of India as follows:—

#### CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Police Act, 2010.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires.—

(a) “Commission” means the State Security Commission constituted under section 24;

(b) “District Magistrate” shall mean the officer charged with the executive administration of a district and vested with the powers of a Magistrate of the First Class, by whatever designation such officer is called;

(c) “Government” means the Government of Kerala;

(d) “Place” includes any building, tent, booth or other erection, whether permanent or temporary and any area, whether enclosed or open;

(e) “Place of public resort” shall include any place to which the public may enter for purpose of recreation, diversion, amusement, entertainment, refreshment or relaxation or for availing or enjoying any service;

(f) “police” means and includes all persons discharging the role and functions specified under sections 3 and 4 and who is authorised under section 89 to do so;

(g) “police force” means the police force referred to in section 14;

(h) “police district” means the territorial area declared under section 16 of this Act;

(i) “police officer” means any member of the police force and includes an officer of the Indian Police Service;

(j) “property” shall include money, valuable security and all property, whether movable, immovable or digital;

(k) “public place” means any place to which the public have access, whether as of right or not, and includes,—

(i) a public building and monument and precincts thereof; and

(ii) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation;

(l) “service provider” means any person or agency which provides any service to the public or any section thereof with or without collecting any payment and includes phone companies, hotel keepers, internet service providers, hospitals, laboratories, sanitary services, rental services, financial institutions and any other such agency which offers any service to the public on demand;

(m) “street” includes any highway, bridge, way, causeway, viaduct or arch or any road, lane, footway, square, court, alley, channel or passage accessible to the public, whether or not it is a thorough fare;

(n) “traffic” means the movement of persons, animals, vehicles, vessels or goods along any public place and includes the disposition of vehicles and static objects, either temporary or permanent, situated in or near any such place in such a manner as to influence such movement in any manner;

(o) “vehicle” means any carriage, cart, van, truck, handcart, boat or any conveyance of any description and includes a bicycle, tricycle, a rickshaw, a motor vehicle, a vessel or an aeroplane

(2) Words and expressions used and not defined in this Act, but defined in the Indian Penal Code, 1860 or in the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Codes.

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## CHAPTER II

### DUTIES AND FUNCTIONS OF POLICE

3. *The duties of the Police.*—The Police, as a service organised in the State and functioning among the people, shall, subject to the Constitution of India and the laws enacted thereunder, strive to ensure that all persons enjoy the freedoms and rights guaranteed to them under the law by maintaining law and order, upholding integrity of nation and safeguarding security of State.

4. *The functions of the Police.*—Every Police Officer shall, subject to the provision of this Act, perform the following functions, namely:—

- (a) uphold and enforce the law impartially;
- (b) to protect the life, liberty, property, human rights and dignity of all persons;
- (c) to protect the internal security of the Nation and to guard against terrorist activities, sectarian violence, insurgency etc.;
- (d) to promote and preserve public order and to maintain public peace;
- (e) to protect the public from danger and nuisance;
- (f) to protect all public properties including roads, railways, bridges, vital installations and establishments;
- (g) to prevent and reduce commission of crime to the best of their ability;
- (h) to investigate crimes and to take action to bring offenders subject to due process of law;
- (i) to control and regulate traffic at all public places where there is movement of people or goods;
- (j) to resolve conflicts which may result in the commission of crimes;
- (k) to provide all reasonable help to persons affected by natural or man-made disaster, calamity or accident;

- (1) to collect, collate and disseminate intelligence in support of all functions of the police and the security of the State;
- (m) to take care of all persons in custody;
- (n) to obey and execute all lawful commands of competent authorities and official superiors;
- (o) to uphold and maintain standards of internal discipline ;
- (p) to instill a sense of security among people in general ;
- (q) to discharge such other functions as may be assigned to them by Government, from time to time.

### CHAPTER III THE POLICE STATION

5. *Establishment of Police Stations.*—(1) The Government may by notification and subject to the provisions in section 2 of the Code of Criminal Procedure, 1973 establish police stations for every local area for the purposes of this Act;

(2) The area of jurisdiction of every police station and the premises at which it shall function shall be, as specified in the notification issued under subsection (1).

(3) Every police station shall function under the general supervision of an officer designated as the station house officer of such rank as may be determined by the Government and he shall be in charge of the police station.

6. *Government to provide sufficient facilities at Police Stations.*—(1) The Government may, subject to resources, strive to ensure that every police station has appropriate manpower and infrastructure facilities to provide basic police services to all who need the same.

(2) Such facilities shall include sufficient working area and sufficient infrastructure for all police personnel attached to the police station, reception area for public with adequate facilities,

sufficient storage space for the safe custody of articles in custody and official arms and ammunition, sufficient space for civic amenities including washrooms and toilets for the staff, visitors and those in custody, sufficient custodial facilities, record room, suitable communication facilities, sufficient mobility, sufficient equipment including digital devices, arms and forensic devices to adequately discharge the statutory responsibilities cast on the personnel of the police station.

(3) The State Police Chief shall every year arrange to review the adequacy of facilities available in every police station in the State and take steps to upgrade the facilities to the desired level.

*7. Citizens have the right to efficient police service.*—All citizens are entitled to efficient police services reasonable under the circumstances from every police station.

*8. Rights of the public at a police station.*—(1) All persons shall have the right of peaceful entry into any police station for obtaining lawful services at any time and the right to be received, subject to reasonability and practicability.

(2) Any member of the public shall have the right to meet, subject to reasonable restrictions, the officer in charge of any police station.

(3) Any member of the public shall have the right to have the grievance presented by him appropriately acknowledged by the officer in charge of the police station.

(4) Any member of the public shall have the right to insist that the substance of any grievance that he has given at the police station, either orally or in writing, be entered simultaneously in a chronologically and contemporaneously maintained permanent register kept at the police station.



(5) Any citizen shall have the right to know whether any particular person is in custody at the police station.

(6) Any person shall have the right to know the stage of police action or investigation with regard to a complaint made by him at the police station.

*9. Provision for persons in custody.*—The State Government shall provide to every police station a sum proportionate to the period of custody at the daily rate of half the minimum daily wages for unskilled labour prevailing at the time for food, water and other primary requirements of every person who is in custody.

*10. Police stations to be always open.*—A police station shall always be open for those who need police services and shall always be alert for the performance of any police duty.

*11. Special police station.*—(1) In addition to the police stations notified for any area under section 5 above, Government may establish special police stations, for any particular period in any area or for any particular purpose in any area or for enforcement of any particular law or laws in any area.

(2) Such special police stations shall have the same status in law as police stations established under section 5 and shall be notified similarly specifying the premises and area and the scope of jurisdiction.

(3) Nothing in this section shall be deemed to prevent the Government from establishing a special police station in a mobile vehicle or in any temporary office.

(4) The fact that a special police station has been established shall not render any action taken by a regular police station null and

void on the ground that it was a matter which could have been entrusted with the Special police station.

(5) Special police stations shall be so named as to make the special purpose and special nature self-evident.

(6) The State Police Chief may, by special order, exempt the Station House Officer of a special police station from any responsibility normally associated with a police station and may also entrust him with additional or special responsibilities not normally assigned to a police station.

*12. Police Station Diary.*—Every police station shall keep a general diary in such form as shall be prescribed, from time to time, by the Government and record therein all complaints and charges preferred, the names complainants of the and the names of persons, if any, against whom complaints are made, the names of all persons arrested, the offences charged against them, the weapons or property that may have been taken from their possession or otherwise and the names of witnesses who may have been examined.

*13. Persons competent to verify station diary and custodial facility.*—(1) All Chairpersons and members of the State Human Rights Commission or the State Women’s Commission or the State or District Police Complaints Authorities or officers deputed by such Chairpersons or members may examine the entries in any police station diary maintained as per section 12 and further verify the condition of any person kept in custody.

(2) Any person visiting the police station as aforesaid shall make a contemporaneous record of his visit in the diary and also communicate to the District Police Chief the summary of his observations and further action as may be necessary, shall be taken on such observations by the District Police Chief.

## CHAPTER IV GENERAL ORGANIZATION OF THE POLICE FORCE

14. *Kerala Police*.—(1) There shall be one police force for the entire State of Kerala, known as Kerala Police and it may be divided into as many sub-units, Units, Branches or Wings on the basis of geographical convenience, functional efficiency or any special purpose as may be decided from time to time by the Government.

(2) The police force shall consist of various ranks as may be decided from time to time by the Government subject to the limit that there shall not be a rank higher than that of the State Police Chief and these ranks shall, in ascending order, be presently as follows:—

- (a) Police Constable
- (b) Police Head Constable
- (c) Assistant Sub-Inspector of Police
- (d) Sub-Inspector of Police
- (e) Inspector of Police
- (f) Deputy Superintendent of Police
- (g) Superintendent of Police
- (h) Deputy Inspector General of Police
- (i) Inspector General of Police
- (j) Additional Director General of Police
- (k) Director General of Police
- (1) Director General of Police & State Police Chief.

(3) The Government may, by general or special order, specify that any other phrases used to specify any rank under the service either of Kerala Police or of any other State or of the Centre shall be deemed to be equivalent to anyone of the above ranks.

(4) Nothing in sub-section (2) shall be deemed to preclude the authority of the Government to create a new rank or to give a new designation to a rank specified therein.

15. *Government to specify Police Organisation.*—Subject to the provisions of this Act, the police force shall consist of such numbers in each rank and have such organization, structure, offices, jurisdictional patterns chain of command and such administrative powers, functions and duties as the State Government may by general or special order determine.

16. *Police District.*—The State Government may by notification declare that as from such date as may be specified in the notification, any area in the State shall be a police district for the purposes of this Act : Provided that one police district may not fall within the jurisdiction of more than one revenue district.

17. *District Police Chief.*—(1) Subject to such orders as may be issued by the Government and subject to the supervision and command of the State Police Chief and of such other officers in respect of such matters as may be prescribed, the police and the police stations of a police district shall function under the supervision and control of a District Police Chief of such rank as may be prescribed by the Government and he shall be assisted by police officers of such rank as may prescribed by the Government.

(2) The District Police Chief shall not be an officer lower in rank than a Superintendent of Police.

18. *State Police Chief.*—(1) The administration, supervision, direction and control of the police throughout the State shall, subject to the control of the Government, be vested in an officer designated as the State Police Chief.

(2) The State Police Chief shall be appointed by the Government from among those officers of the State cadre of the Indian Police Service who have either already been promoted or are eligible to be promoted to the rank of Director General of Police, considering his overall record of service and experience for leading the police force of the State : Provided that the officer selected as the State Police Chief must not have a charge pending against him in any Court or Tribunal or Departmental agency on a charge filed on behalf of the State.

(3) All persons discharging any police functions in the State of Kerala invoking authority under this Act shall be subordinate to the State Police Chief.

(4) The State Police Chief shall be assisted by such number of officers of the rank of DGP/ADGP/IGP/DIGP/SPIDySP as may be decided from time to time by the Government.

(5) Other officers of the rank of Director General of Police may be posted in Kerala Police provided they are junior to the State Police Chief in interse seniority.

19. *Co-ordination by District Magistrate.*—The District Magistrate may, for the purpose of dealing effectively with extensive disturbance of public order, natural disasters, man-made disasters, elections, epidemics, external aggression, land reforms, land disputes, beggary, child labour, trafficking in human beings, juvenile justice, prosecution, transport of persons and goods etc., direct police activity in these matters and further co-ordinate the activities of

the district police with the activities of other government departments, local self-governments and public or private institutions interacting with the police in any manner.

*20. Police Manual.*—(1) The State Police Chief may, from time to time, cause compilation subject to the authority of the Government to modify or annul the standing orders and guidelines, not inconsistent with this Act, for the efficient discharge of all police duties and specially those relating to the general supervision, administration and distribution of the police force, their places of residence, the particular duties of the members or of each rank or of each category thereof their inspection, their arms, equipments and other necessaries to be furnished to them the collecting and communicating intelligence and information, the manner of performance of duties, the prevention of abuse of authority or neglect of duties.

(2) The compilation of such orders and guidelines issued by the State Police Chief, supplemented, if any, by any government order or direction in relation to the same shall be known as the Police Manual.

(3) Any provision in the Manual, if circumstances so warrant, may be amended by the State Police Chief.

*21. Special Wings, Units, Branches, Squads.*—(1) In order to assist the State Police Chief or other Police functionaries or District Police Chiefs or to generally assist the police in their functions and duties Government may, by general or special order, create and maintain any Special Wing or Special Unit or Specialized Branch or Special Purpose Squad of such strength, sub-units, powers, duties, jurisdiction or internal or external supervisory structure as the Government may by order direct.

(2) Such units may be created or special arrangements may be made, inter alia, for the following:—

(a) collection of intelligence directly or indirectly affecting National security, State security, maintenance of law and order, maintenance of public safety

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or prevention of crime, security of vital installations and individuals facing grave threats from terrorist or extremist violence;

(b) investigation of especially complicated cases, heinous crimes or sensational cases and any case of special importance;

(c) traffic control;

(d) coastal, river and backwater policing and policing for the protection of tourists;

(e) policing on the Railways;

(f) collection, collation, indexing storing of data and intelligence relating to crime and criminals and analysis thereof and the establishment of a Bureau of Missing Persons;

(g) helping police offices and officers in selecting, using and utilizing computers and other digital services and developing software necessary for the purpose;

(h) maintaining the telecommunication and digital communication networks for police purposes;

(i) identification of individuals and property by means of fingerprints, photography or any digital or biometric technique;

(j) maintaining a well-trained reserve force with a proper chain of command to be deployed whenever and wherever the district police or the local police stations fall short of manpower in the proper discharge of any police function;

- (k) training of recruits and refresher training of those in service and general training in policing related matters to any other individual or group as may be decided by the Government;
- (1) specialised response units like control rooms equipped to respond to distress calls relating to crime, calamity or accident;
- (m) enforcement of any local or special law or special enforcement in any particular area;
- (n) digital and cyber policing ;
- (o) forensic support services to effectively complement the role and functions of the police;
- (p) administrative support services for police functioning in terms of processing of establishment, financial and documentation matters;
- (q) general support services to help in the functioning of police institutions and offices of various types and to discharge essential functions like cleaning, grooming, cooking, maintenance of equipments and areas etc.;
- (r) research and development support for various policing related social and professional matters and for evolution of new policing, preventive and investigative techniques.
- (3) The State Government shall equip these units and arrange to impart such specialized training to the personnel as may be necessary to enable such units to function at a high level of technical and professional competence.
- (4) Such units created under sub-section (1) may consist of either police officers of designated ranks or non-police personnel or both as may be specified by the Government and the Government may prescribe their conditions of service, special allowances payable to them, special qualifications and skills necessary and special facilities to be made available to them individually or collectively.



22. *A Police Officer may himself perform the duties of his subordinate.*— A police officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him and in case of any duty imposed on such subordinate, a superior police officer, where it shall appear to him necessary may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

23. *Separation of Investigation from law and order.*—(1) The Government may, having regard to the population in an area or the circumstances prevailing in such area, by order, separate the investigating police from the law and order police in such area as may be specified in order to ensure speedy, effective and professional investigation.

(2) The District Police Chief shall ensure the full co-ordination between the two wings of the police separated under sub-section (1).

24. *The State Security Commission.*—(1) The Government may, by notification in the official Gazette, constitute a State Security Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission under this Act.

(2) the Commission shall consist of the following members, namely:—

(i) the Minister in-charge of Home Department who shall be the Chairman;

- (ii) the Minister in-charge of Law;
- (iii) the Leader of Opposition;
- (iv) the Chief Secretary-ex-officio;
- (v) the Secretary to Government, Home Department-ex-officio;
- (vi) the State Police Chief-ex-officio;
  
- (vii) three non-official members, who shall be persons of eminence in public life with wide knowledge and experience in law and order administration, human rights, law, social service, management of public administration nominated by the Governor.

(3) The State Police Chief shall be the Secretary of the Commission.

(4) Every member nominated under clause (vii) of sub-section (2), shall unless their seats become vacant earlier by resignation, death or otherwise, hold office for a period of three years and shall be eligible for re-nomination.

(5) If a non-official member of the Commission is absent without sufficient cause for more than three consecutive meetings thereof, the Chairman of the Commission may, remove such member from the membership of the Commission:

Provided that no member shall be removed under the provisions of this subsection except after giving him a reasonable opportunity of showing cause against such removal.

(6) Any non-official member of the Commission, may resign his office by giving notice in writing, of his intention so to do, to the Chairman, and on such resignation being accepted, he shall be deemed to have vacated his office.

(7) The Commission shall regulate its own procedure and the conduct of the business to be transacted by it.

(8) The fees and allowances payable to the nominated members of the State Security Commission and their conditions of service shall be such as may be prescribed.

25. *Functions of the Commission.*—(1) The Commission shall have the following functions, namely:—

(a) to frame the broad policy guidelines for the functioning of the police in the State;

(b) to issue directions for the performance of the preventive tasks and service oriented functions of the Police;

(c) to evaluate, from time to time, the performance of the police in the

State in general;

(d) to prepare and submit an yearly report of its functions to the Government; and

(e) to discharge such other functions as may be assigned to it by the Government.

(2) The report submitted by the Commission under clause (d) of subsection (1) shall, on receipt, be placed before the Legislative Assembly.

(3) No act or proceedings of the Commission shall be deemed to be invalid merely by reason of any vacancy at the time any such act or proceedings is done or passed.

(4) Notwithstanding any guidelines or directions issued by the Commission, the Government may issue such directions as it deems necessary on any matter, if the situation so warrants, to meet any emergency.

(5) The directions of the Commission shall be binding on the Police Department:

Provided that the Government may, for reasons to be recorded in writing, fully or partially reject or modify any recommendation or direction of the Commission.

26. *Evaluation of Police performance.*—(1) The State Security Commission, may every year, appoint a panel of three experts, familiar with the functioning of the police or public administration or sociological or criminological studies, to evaluate the performance of the police in the previous financial year as well as to suggest performance standards for the succeeding financial year.

(2) Parameters for evaluating performance may be fixed by the State Security Commission, taking care to avoid considering statistics of reduction in crime registered by police as an indication of reduction in the incidence of crime and further taking care to ensure that the parameters cover the entire range of police activities as well as manpower utilisation and resource utilisation by police officers.

(3) Every year, the State Security Commission shall fix performance standards to be attained by various units and branches in the succeeding financial year and the facts thereof shall be communicated to the concerned before the first day of March in the current financial year.

## CHAPTER V DUTIES AND RESPONSIBILITIES OF POLICE

27. *Duty of a Police Officer.*—It shall be the duty of every police officer to undertake all reasonable and lawful actions so that such officer and the Police in general are enabled to discharge all responsibilities arising from the stipulated functions of the Police in an efficient and effective manner.

28. *Police response.*—Every police officer on duty shall remain in a state of mental and physical alertness and shall respond as quickly as practicably possible to any situation brought to his notice with respect to which police are lawfully expected to discharge any of its functions.

29. *Police behaviour.*—(1) All police officers on duty, in their dealings with the public, shall be courteous, considerate and polite.

(2) They shall not, unless it is necessary to achieve any lawful purpose, use force or threaten use of force or threaten anyone with any punishment or any adverse police or legal action.

(3) They shall be particularly considerate to the victims of crime and be responsive to the special needs of women, children, senior citizens and the differently abled.

(4) They shall eschew unnecessary show of aggression and avoid intemperate behaviour even under provocation.

(5) They shall not ill treat anyone in their care or custody.

(6) They shall take care to appear in public in a state of good physical grooming and shall not appear sloppy or unkempt or unclean or untidy, unless such a state is directly caused by the diligent performance of any duty.

30. *Police Officer to maintain good health.*—(1) All police officers shall strive to maintain good physical and mental health.

(2) Subject to any direction the Government may issue in this regard, the State Police Chief may prescribe standards of physical and mental efficiency to be maintained by a police officer, with due consideration for age, gender, nature of duties and standards prevalent among the general population.

(3) No police officer shall be discriminated against by reason of failure to meet a physical standard if such failure is due to any injury or circumstance suffered as a result of or in the course of duty or chronic ailment.

(4) Government may institute a system of incentives and infrastructure facilities to promote good mental and physical health among members of Kerala Police.

31. *Police to keep information confidential.*—(1) All information relating to the activities of any individual or institution which the police collect in the course of their duties shall be kept confidential except for the purpose of using such information for any official purpose.

(2) Such official purpose may include publication of such information for assistance in the detection or prevention of crimes.

(3) Persons in custody may not be paraded or photographed for the purpose of publication in the press or in any visual media.

32. *Police to be accountable.*—(1) Any person or his representative in interest shall have the right to seek and be informed of the reason for any police action as a result of which his person, property or reputation was adversely affected.

(2) As far as reasonably practicable under the circumstances of each case, a police officer, performing any act which is likely to endanger or adversely affect the person, property or reputation of any person, shall maintain such records of his actions as may be prescribed by any law governing the performance of such act or by the State Police Chief.

(3) Nothing in this section shall prevent the State Police Chief from denying the furnishing of information to any person on the ground that the same would be prejudicial to the interests of an

ongoing investigation or trial or to the interests of security of the State.

*33. Police and Public may keep Audio or Video or Digital Records.*—(1) Police may make and keep audio or video or digital records of any activity performed by them in pursuance of any duty imposed on them individually or collectively and such records may be used in any proceedings in which the correctness of police action is called into question.

(2) No police officer shall prevent any member of the public from making any audio or video or digital record of any police activity or action carried out in a public place or in any private place under the control of the member of the public making the record.

*34. How to make Complaints to Police.*—A complaint to the police may be made orally or in writing or by gestures or signals or by digital or electronic means and a police officer is bound to take appropriate action thereon provided the officer has no reason to suspect that the complainant is pseudonymous, anonymous or manifestly false or frivolous or trifling.

*35. Police to treat witnesses with due consideration.*—(1) If any person is acquainted with the facts and circumstances of any matter which any police officer has any valid ground to ascertain, the police officer may take action to do so taking care to ensure that he does not unduly inconvenience such person.

(2) All such persons shall normally be approached while they are at their normal places of residence or place of work and no child, woman or senior citizen shall be summoned to the police station for this purpose.

(3) If any person, from whom the police officer wants any assistance in the ascertainment of any fact or circumstance in any

connection, is planning to be away from his residence, it shall be lawful for the police officer to direct that he may inform the police of his whereabouts for the succeeding days, not exceeding fifteen days in any case and such person shall comply with such direction.

(4) If any person is so seriously inconvenienced as to lose his wages for any day due to the fact that he had to assist the police in ascertaining any fact or circumstances, he may be paid, out of the Criminal Justice Miscellaneous Expenses Fund, such amounts as may be prescribed in general by the State Police Chief.

36. *Persons to identify themselves if required.*—(1) Every person shall disclose his identity if so required by a police officer.

(2) Such police officer may take reasonable steps necessary to get the identity of the person established and for this purpose, the police officer, may make or take such records of personal identification as may be necessary in each case.

(3) No person shall be arrested or kept in custody in any manner under this section merely for the reason that the identity given by such person needs to be verified.

37. *Police access to private places.*—Every police officer shall have due access, with due regard for custom, decency, privacy and propriety, for good and sufficient reason for which such officer shall be personally accountable and responsible, to any private place, for the purpose of ensuring safety or for averting imminent danger: Provided that such officer shall, as far as possible, try to get the co-operation and consent of the person in charge of the premises before exercising this right.

38. *Police fo interpose to prevent crime.*—(1) Any police officer present at the spot shall, to the best of his ability, interpose and



stop any criminal activity going on or about to take place in his presence or proximity.

(2) For this purpose he may lawfully demand and accept the services of any able bodied adult male and no person shall disobey, without reasonable cause, a lawful and reasonable direction so given by a police officer present on the spot.

39. *Police to give reasonable directions.*—(1) All persons shall be bound to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

(2) In order to ensure compliance with any direction of law or in lawful discharge of any duty cast upon any police officer by this Act or any rule, regulation or order made there under, a police officer may,—

(a) caution a person who is about to commit an offence punishable under any law or any rule or order made under any law;

(b) require any person to comply with any law which prescribes the manner in which such person should act either with regard to himself or another person or with respect to anything under his charge;

(c) subject to the provisions of sub-section (a) and (b), arrest where such arrest is considered necessary, any person who is committing an offence or who in the presence of the police officer has committed an offence;

(d) seize any object used or about to be used, in committing an offence;

(e) seize any object in relation to which an offence has been committed, if such seizure is necessary for the prevention or investigation of such offence.

40. *Removal by Police.*—(1) Where any person, at a place where the public are present resists, refuses or fails to comply with any reasonable direction given by a police officer, the police officer may, without prejudice to any other action he may take under any provision of this Act or any law, cause the removal of such person to a nearby place and release him, after ascertaining his name and address, within six hours or as soon as the need for the removal has ceased to exist, whichever is earlier.

(2) Such removal followed by release within six hours shall not be deemed to be an arrest.

(3) Police may use the minimum amount of force necessary to effect such removal if the persons concerned refuse to remove themselves if so ordered or if they physically resist the removal.

41. *Police Action in offences requiring special authorisation.*—A police officer may keep, in the presence of appropriate local witnesses as is reasonably practicable, any person or object, at any appropriate place, as is reasonably possible under the circumstances of each case, for a maximum period of six hours, if the person or the object is manifestly involved in any cognizable offence, in respect of which such police officer is, by rank or jurisdiction, not authorised to effect the arrest or seizure, to enable another police officer or other authority legally competent to do so to take further action under the law.

42. *Maintenance of order and prevention of danger.*—(1) For preventing serious disorder or breach of peace or manifest and imminent danger to persons assembled at any place, any police officer having jurisdiction, present at such place or such assembly, may give such reasonable directions regarding the conduct of persons at such places as he thinks necessary and all persons shall be bound to conform to such directions.

(2) Every police officer shall have free access to every public place including educational institutions and private establishments where

members of public may be found for giving effect to the provisions of sub-section (1).

*43. Police Uniforms to be distinctive, exclusive and easily identifiable.—*

(1) The State Police Chief may, with the prior approval of the Government, specify the uniforms of all ranks and categories of police officers keeping in view the need for such uniforms to be distinctive, exclusive and easily identifiable by the members of the public who seek the services of police.

(2) The State Police Chief may specify the times and manner of wearing the uniforms and further specify the duties on which uniforms are to be compulsorily worn, optionally worn or not worn.

(3) A police officer shall always maintain his uniforms in proper order and state of good repair and appearance.

(4) No person, other than a police officer acting officially, shall, save for artistic or scientific purpose, wear any dress which can be perceived as a police uniform and if a question arises whether a particular dress creates such an impression, it shall be decided by testing whether a person wearing the dress in question shall look like a uniformed police officer to a casual observer standing 25 metres away from him.

*44. Police duty vehicles to be distinctive, exclusive and identifiable.—*(1) The State Police Chief may, with the prior approval of the Government, specify the colours, equipments and accessories of every police duty vehicle keeping in view the need for their appearance to be distinctive, exclusive and easily identifiable by the members of the public who have to seek police services.

(2) Every police duty vehicle with such specified appearance, shall respond to any emergency call from any person, unless it is manifestly engaged in some other emergency or important duty.

(3) No person, other than a police officer in respect of an official vehicle, shall, save for artistic or scientific purpose, keep any vehicle in such a condition as to create the impression that the said vehicle is a police vehicle and if a question arises whether a particular vehicle creates such an impression, it shall be tested whether the vehicle in question shall look like a prescribed police duty vehicle to a casual observer standing 100 metres away from it.

45. *Special powers in disturbed areas.*—(1) When any area is beset by communal or political violence or terrorist or anti-national activities or large scale violence and vandalism or destruction of public property, the State Government may declare the area as a “disturbed area”

(2) When an area is declared to be a disturbed area, the Station House Officer may, in the interest of maintenance of law and order,—

(a) place reasonable limitations on the movement of persons and vehicles in the area;

(b) order any person who, in the opinion of the police, if left to continue his activities unbridled, shall carry on activities prejudicial to the maintenance of law and order, to keep the police informed of his whereabouts in the manner prescribed by the police;

(c) suspend all arms and explosive licenses and direct the licensees to deposit their weapons with the police;

(d) search any person or vehicle or container entering or leaving the area.

46. *Procedure for arrests.*—(1) The police officer making the arrest shall caution the person arrested that he is being placed under arrest and inform the grounds of arrest.
- (2) The person arrested shall be informed of his right to have someone informed of his arrest as soon as he is put under arrest.
- (3) The police officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness if available, who may be either a member of the family of the person arrested or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the person arrested and shall contain the time and date of arrest.
- (4) The person arrested shall also be examined at the time of his arrest with due regard for decency and visible injuries, if any present on his person, must be recorded at that time in an “Inspection Memo” signed both by the person arrested and the police officer effecting the arrest and its copy provided to him.
- (5) The police officers carrying out the arrest and handling the interrogation of the person arrested shall carry appropriate identification and the person arrested shall be at liberty to ask for such identification.
- (6) An entry shall be made in the diary at the police station regarding the arrest of a person.
- (7) A person who has been arrested and is being held in custody in a police station, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest was himself, such a friend or a relative of the person arrested: Provided that detention at a place other than the police station shall require the prior permission of the District Police Chief and the name of such place shall be recorded in the station diary.

(8) If the person arrested so requests or if the police feel so to be necessary, the person arrested shall be subjected to a medical examination by a qualified doctor and if a magistrate orders custody beyond 24 hours, he may also order medical examination at such frequency as he may deem fit.

(9) The person arrested may be permitted to meet his lawyer during interrogation, but such lawyer may not remain present during the interrogation.

(10) The particulars of all police officers who handle interrogation of the person arrested shall be recorded in a register.

47. *Restraint on those arrested.*—(1) A police officer may use sufficient force with or without the aid of suitable gadgets to ensure that a person arrested by him does not escape from custody unlawfully.

(2) A police officer arresting a person may not use a handcuff to restrain the arrested person, unless, for reasons to be recorded in writing, he has reason to believe that the arrested person shall escape from custody unless handcuffed or that the arrested person shall hurt himself unless handcuffed.

(3) When any person is arrested and kept in the custody of the police, it shall be ensured that he is adequately and properly clothed and is allowed the use of apparel with which the arrested person is usually accustomed, provided that the

police officer may take such action as is reasonable, proper and within the norms of decency, to ensure that the arrested person does not use the wearing apparel or anything concealed therein to hurt himself or others.

48. *Custody of persons who are psychopathic, intoxicated or sick.*—(1) The Police may take a person who appears to be insane, psychopathic,

intoxicated or otherwise incapable of looking after himself into protective custody.

(2) Where it appears necessary for the police officer concerned that in the interest of the person taken into custody such action is required, the police officer may request a medical institution to keep such a person in such hospital under observation or treatment and the authorities of such institution shall be bound to comply with such request.

*49. Medical examination of accused.*—It shall be binding on any medical practitioner before whom an accused or suspect person is produced by a police officer for medical examination to subject him to an examination as requested by such officer as may be reasonably necessary under the circumstances.

*50. Medical treatment of accused.*—(1) Every hospital shall earmark sufficient space for the treatment of persons in police custody so that they may be properly guarded and kept under police observation.

(2) It shall be binding upon the hospital authorities to immediately furnish on demand to the police copies of all the medical records pertaining to the treatment of such persons.

(3) Any such person initially admitted in any emergency to a private hospital, shall subject to medical clearance, be shifted as early as possible to a government hospital.

*51. Action in respect of injuries on those in Police custody.*—When any person is taken into police custody in a physically injured condition or any person is physically injured by application of force by a police officer and the injured person complains of the injury or if the police officer himself notices the injury, such person shall be

taken before the nearest medical practitioner who shall ascertain the injury and the manner of its causation; and

(i) if such person is medically fit to be taken before a magistrate, he shall be produced by the Station House Officer before the executive magistrate or the judicial magistrate having jurisdiction who shall ascertain the version of the injured with regard to the manner in which the injury was caused; or

(ii) if the injured is not in a condition to be moved, the details of the incident and circumstances shall be furnished forthwith to such magistrate by the Station House Officer and a copy of the said report shall be given to the medical officer and the injured under acknowledgement.

52. *Service providers to maintain records.*—All providers of any public service, belonging to such categories as may be notified for the purpose by the Government from time to time, shall maintain accurate records regarding the identity of persons to whom they have provided services along with the details of services provided and all such records shall be kept for reference for such periods as may be prescribed by Government.

53. *Service providers to provide information to Police.*—It shall be the duty of all providers of any public service like phone companies, hotel keepers, internet service providers, hospitals, laboratories, taxi services, rental services, financial institutions and any other agency which offers any service to the public on demand, to furnish, when so required by the police in due discharge of duties cast on the police in respect of any item or instance or groups of instances of service which have a bearing on any police enquiry or police investigation lawfully conducted, to the police all the details thereof and to give such documents, details or information as expeditiously as possible and in any case not later than the time limit set by the requisitioning police officer.



54. *Verification of antecedents of service providers.*—The Government may, by notification, direct that any class or category of service providers or any group of service providers in any area, shall, before they start providing any service to the public at large, must obtain police verification certificates from the District Police Chief or such other police authority as may be prescribed with regard to themselves and their employees and furnish such reasonable information to the police about their activities and antecedents as may be reasonably necessary in the circumstances of each service and further direct that such verification be repeated with such periodicity as may be specified : Provided that the information so obtained from a service provider by the police other than the information which is necessary to be used for any public purpose for the purpose of preventing or investigating a crime shall be kept confidential and shall not be divulged to any person or to the public.

55. *Service providers to report stolen, missing or wanted property.*—(1) Any police officer may deliver to any merchant, service provider, pawn-broker, dealer or repairer, a list of any property believed to have been stolen or reported to be missing or required to be located by reason of any crime and thereupon it shall be the duty of such person, upon any article answering the description of any of the property set forth in any such list being brought to his notice, to inquire the name and address of the person offering such article, to seize and detain the article and forthwith to communicate the circumstances to nearest police station.

(2) Such merchant, service provider, pawn-broker, dealer or repairer as aforesaid may also detain any person offering such article as aforesaid pending the arrival of the police.

56. *Storage and disposal of articles seized by police.*—(1) In every police station adequate space shall be provided for the storage of seized

articles and if the given space in the police station is insufficient, the State Government may notify an enclosed area other than the police station for keeping articles seized by the police during investigation or as unclaimed property etc.

(2) Dangerous articles such as explosives or harmful chemicals may be destroyed after a sample is collected for forensic analysis, in the presence of competent experts and under advance intimation to courts : Provided that such an analysis may be dispensed with if the danger of its exploding or causing harm is imminent.

(3) Perishable articles that are no longer required for any statutory purpose shall be disposed off by auction under the orders of the District Police Chief and the proceeds credited to the Criminal Justice Miscellaneous Expenses Fund under section 131.

(4) When any article seized by the police is ordered by any Court to be retained by the Police, such Court may also order the requisitioning of suitable space by the police officer entrusted with the custody of the article, if there is no suitable space available under the control of such officer to keep the said article in safe custody and that the expenses incurred in connection with such retention in custody shall be fully borne by the Government or by the Criminal Justice Miscellaneous Expenses Fund maintained by the District.

(5) Any article seized by the police may, with the general or special permission of the court, be placed in safe custody with such persons or agencies or institutions as may be appropriate in the circumstances of each case.

57. *Police action in relation to unclaimed Property.*—(1) It shall be the duty of every police officer to take temporary charge,—

(i) of all unclaimed movable property found by or made over to him or left with him ; and

(ii) of all movable property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same by a notice pasted on or near the said property refuses or fails to do so, within a reasonable time.

(2) The police officer taking charge of the property under sub-section (1) shall furnish an inventory thereof to the District Police Chief and to the Executive Magistrate having jurisdiction giving an approximate assessed market value of the same by getting a signed assessment from any respectable dealer of the area who usually deals in such articles.

(3) If the property or any part thereof, is subject to speedy and natural decay or consists of livestock, it may forthwith be sold by auction, by the Station House Officer in the manner as may be prescribed.

(4) Where any property has been taken charge of under sub-section (1) the District Police Chief shall issue a proclamation specifying the details of the property and requiring that any person who may have a claim thereto may appear before an officer specified in the proclamation within thirty days from the date of such proclamation and establish his claim.

(5) The District Police Chief on being satisfied of the title of any claimant to the possession or administration or ownership of the property specified in the proclamation order the same to be delivered to him, after realisation of the expenses incurred in the seizure detention thereof.

(6) The District Police Chief may, at his discretion, before making any order under sub-section (5), take such security as he may think proper from the person to whom the said property is to be delivered and nothing herein before contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

(7) If no person establishes his claim to such property within the period specified in the proclamation, the property or such part

thereof as has not already been sold under sub-section (3) shall be, used for any official purpose in lieu of a similar article which was required to be purchased in the normal course or such property may be sold in auction under the orders of the District Police Chief, as provided in sub-section (2) or (3) and the proceeds thereof shall be credited to the Criminal Justice Miscellaneous Expenses Fund.

(8) With due regard to the size and volume of the unclaimed property and the volume of space required to keep it safe and in good condition, the State Police Chief may prescribe from time to time the rates of daily charges to be levied for safe keeping and the unclaimed article or the seized article, not being required for production in a court of law, shall be sold in public auction on the day when the cost of safe keeping becomes half the assessed value of the unclaimed article: Provided that no such charges shall be levied from the original owner of the property for the first seven days for which the article was kept in custody and for any period after the date of auction of the property and its transfer to the bidder or the date of its being put to governmental use.

(9) When an unclaimed article had been sold in auction and it is later found that the actual owner is entitled to the full value of the said article by reason of the fact that he had been wrongfully dispossessed of the article by another person which dispossession he had lawfully reported to the authority well in time, then the entire sale proceeds of the article shall be remitted back to him.

(10) No police officer shall be expected to keep in custody any perishable article or livestock for more than one day and he shall not be liable for any loss caused to anyone by reason of expeditious auctioning of such perishable article.

(11) No police officer shall be expected to make good any loss sustained to anybody by reason of any loss that any person has actually or notionally suffered by reason of the auctioning of any unclaimed non-perishable article, if such police officer had taken action to conduct auction more than 30 days after the property came into the possession of the police.

58. *Police to attempt to locate missing persons.*—(1) Whenever any Station House Officer receives any information from which he can reasonably suspect that any person is missing either from his normal or temporary place of residence and there are reasonable circumstances to believe either,—

(a) that such person might be in some danger or out of the care of lawful guardianship; or

(b) that such person might be the victim of some serious crime; or

(c) that such person is concealing himself to prevent anyone from enforcing a legal right upheld by any court, Such officer may register the information in such manner as is prescribed for a cognizable offence and shall proceed to enquire into the matter of the disappearance expeditiously.

(2) During such enquiries such officer or anyone deputed by him may examine any witness and record their statements and may examine any place or may search any place.

(3) All persons shall answer any question put to him by a police officer enquiring into this matter truthfully and shall sign any statement recorded from him by a police officer conducting the enquiry, after getting a copy thereof from the police officer.

(4) All searches under this section shall be done in accordance with the provisions of the Criminal Procedure Code, 1973.

(5) If the enquiry succeeds in tracing the person, he shall forthwith be produced before the Executive or Judicial Magistrate having jurisdiction, as the case may be.

59. *Police may keep register of missing properties.*—(1) Whenever any Station House Officer receives any information from any person that any valuable property or security belonging to that person is lost, such officer may, if satisfied that the value and the nature of the missing article justifies such a course of action, register the

information in a register maintained for the purpose and may cause such enquiries to be made as may be reasonably necessary to locate the article.

(2) The charges to be levied for such enquires shall be in the manner as may be prescribed.

(3) Nothing in this section shall be deemed to compel any police officer to make any enquiries in this regard when he reasonably feels either that the missing article is trifling in value or that there is no reasonable chance of it being identified and located or that making any enquiry is either too expensive or time consuming.

*60. Police may give certificates of non-involvement in crimes.*—Whenever any District Police Chief receives any request from any person that he may be issued with a certificate to the effect that he is not involved in any crime in his jurisdiction, the District Police Chief may make such enquiries as he deems fit, and then give such a certificate after realising such charges as may be fixed by the Government in this regard.

*61. Police may give security advice.*—Whenever any District Police Chief receives any information that there is any place within his jurisdiction where extraordinarily large sums of cash or very valuable movable properties are kept or that any place of public importance is facing a grave security threat, then he may, on his own, in consultation with the person or persons in charge of the place concerned, get a security audit conducted by persons selected by the District Police Chief and on the basis of such security audit, the persons in charge of the premises may be advised to take certain steps or take certain precautions to safeguard life and property situated in the premises : Provided that nothing in this section shall be deemed to compel any person to do or not to do a thing which he was otherwise not compelled.

62. *Police to Regulate and Control Traffic.*—A police officer on duty may regulate and control traffic on the streets to ensure smooth flow of traffic and to give reasonable directions to all concerned for ensuring that disorder, traffic blockade and danger are avoided.

63. *Security to individuals and private institutions.*—(1) The District Police Chief or the State Police Chief or the Station House Officer, may on his own or from information received from any source, may, in any emergency, decide to deploy, free of cost, additional police strength in any place, public or private, to prevent any imminent crime or to prevent or avert any imminent danger to the public or any part thereof or any individual or group or institution.

(2) No individual or institution shall have any right to be provided with, over and above the normal police arrangements generally arranged for the general public as part of general policing, any special police deployment free of cost or even on payment exclusively for the protection of any private person or private property except under circumstances where the State Police Chief or the District Police Chief or the Station House Officer is satisfied that there is imminent danger of a serious crime occurring otherwise.

(3) The Government or the State Police Chief may prescribe the criteria and the procedure by which an individual or institution or group of persons may be provided with additional police deployment meant exclusively for the safety of such individual or institution or groups or for the safety of their properties.

(4) The Government or the State Police Chief may further prescribe the conditions under which such additional deployment can be given free of cost or at partial cost or at full cost as may be applicable or desirable in each case.

(5) No special and exclusive police deployment shall be provided to any private institution or individual free of cost to prevent the occurrence of any apprehended threat to person or property in

such a manner as to adversely affect, in the judgement of the District Police Chief, the availability of police services and police personnel to the general public and for normal police duties in any area.

64. *Police action in disputes which may lead to cognizable crime.*—If any dispute between any individuals or groups is brought to the notice of any Police Station under circumstances in which it is reasonably likely that unless the issue is speedily resolved, a cognizable crime may result, the Station House Officer may cause action to be taken,—

(a) to ascertain the facts and circumstances of the matter by talking to the parties concerned or to others acquainted with such facts ; or

(b) to caution either or both parties to the dispute, by a written record, against taking recourse to any illegal act, in pursuance of the dispute ; or

(c) to encourage either or both parties to resolve the matter through discussion among themselves or through mediation ; or

(d) to advise either or both parties to seek resolution of the dispute through a competent court having jurisdiction ; or

(e) to take action to report the facts to the magistrate having jurisdiction for the purpose of binding either or both the parties under the provisions of the Criminal Procedure Code, 1973.

65. *Community policing.*—(1) The District Police Chief shall constitute Community Liaison Groups for each Police Station, comprising respectable local residents of the area, as representatives of the community, to generally assist the police in their functioning.



(2) The Community Liaison Group shall have a fair representation of all segments, professions and genders of the society in the area of the police station.

(3) No person shall be nominated as a member of the Community Liaison Group who has a record of conviction by a criminal court in the preceding five years or been dismissed, removed, discharged or compulsorily retired from any employment on grounds of corruption, moral turpitude or misconduct.

(4) The Community Liaison Group shall identify the existing and emerging policing needs of the area for due consideration of the police and also develop action plans for ensuring the security of area or any part thereof.

(5) The Community Liaison Group shall meet as frequently as necessary.

(6) The meetings of the Group shall be open to public.

(7) Every citizen should be encouraged to bring to the notice of the police information about the occurrence of offences and the possibility of occurrence of offences.

(8) The Community Liaison Group may form sub-committees for specific areas or for specific functions to attend to a particular need.

(9) The Community Liaison Group may take action to promote safety awareness, security awareness and proactive action to prevent crime and promote legal literacy.

(10) Community Liaison Group shall not perform any police function which, by law, can be performed only by police officers and shall not by themselves take up any investigative or punitive function.

66. *Service of beats.*—(1) The area of every police station shall be divided into beats and sufficient beat patrols shall be assigned to each beat area to service the beat area on a regular basis.

(2) The duties and responsibilities of the beat patrols shall, *inter alia*, be,—

(a) to maintain liaison with active members of the community and members of the Community Liaison Group residing in that area ;

(b) to review, during every visit, the crime prevention measures in the area ;

(c) to collect information relating to crimes and criminals and activities of subversive, militant and anti-social elements, if any, in the area and to communicate the same to the officer-in-charge of the police station ;

(d) to maintain watch over history-sheeted criminals, if any, or others with criminal record or bad characters ;

(e) to acquaint himself with local disputes having potential for violence and inform the officer-in-charge of the police station with all available details ;

(f) to carry out any other policing task in respect of the area assigned by supervisory officers ;

(g) to record any public grievances and complaints in relation to policing ; and

(h) to maintain a record of aforesaid duties and responsibilities carried out by him during his visit and submit the same to the officer-in-charge of the police station.

67. *Rewards to public.*—The District Police Chief may, subject to the rules prescribed in this behalf by the Government, promise and award rewards to the public for especially outstanding services rendered or information given in the prevention of crime, investigation of any case or in the maintenance of order, security or traffic safety.

68. *Taking possession of premises to prevent rioting.*—(1) In order to prevent or suppress any imminent riot or imminent grave disturbance of peace, the seniormost police officer present at the spot may temporarily close or take possession of any building or other place for a period not exceeding 48 hours and may exclude all or any persons there from or may allow access thereto for such persons only and on such terms as he shall deem expedient and all persons concerned shall be bound to conduct themselves in accordance with such orders :

Provided that the continued possession of the building or the enforcement of any direction up to a further period of sixty days may be ordered by the District Magistrate.

(2) The District Magistrate may either on his own or on the application of any person aggrieved by an order made under subsection (1) either rescind, modify or alter any such order.

69. *Dealing with accidents or calamities.*—If, in the event of a serious accident or a calamity at any place, it appears to the seniormost police officer present at the site that any dispute or conflict of interest or contention or confusion exists, which is likely to lead to an imminent and grave disturbance of the peace or public disorder or serious public inconvenience or danger, he may give such orders as to the conduct of all persons concerned towards each other and towards the public as may be deemed necessary and reasonable under the circumstances and all persons concerned shall obey such orders.

70. *Actions on the occasion of fire, calamity or accident.*—(1) On the occasion of a fire, calamity or accident in any locality, any police or any member of the fire services or any magistrate, and in the absence of any such person, any public servant, may,—

(a) remove or order the removal of any person who by their presence interfere with or impede the rescue and relief operations for saving life or property ;

(b) close any street or passage, whether public or private, for the purpose of rescue and relief operations ;

(c) break into or through, or pull down or use for the passage of hoses or other appliances, by himself or those acting under his orders, any premise, public or private, for the purpose of rescue and relief operations for saving life and property ;

(d) generally take such measures as may appear necessary for the preservation of life and property.

(2) Any damage done in pursuance of directions given in subsection

(1) above shall be deemed to be damaged by fire, calamity or accident within the meaning of any policy of insurance against such fire, calamity or accident and in the absence of such insurance, reasonable compensation, as may be assessed by the District Magistrate, may be paid to the affected party by the Government.

(3) Nothing in this section shall exempt any police officer or any member of the fire services or any magistrate or public servant from liability to damages on account of any acts done by him without reasonable cause.

*71. Police equipment to be exempt from licensing.*—The Government may exempt any equipment or property held by the police officially for the purpose of discharging any of its functions from the requirement of obtaining a license for it under any law or paying any annual fee or license fee to any governmental agency or public authority.

72. *Police Officer may lay information, etc.*—Any police officer may lay any information before a Magistrate, and apply for a summons, warrant, search warrant, or such other legal process as may by law issue against any person committing an offence or for discovery of an object.

## CHAPTER VI

### POLICE REGULATIONS

73. *Regulation and management of traffic.*—(1) The District Police Chief with due regard for the laws and orders in force as may have been issued by any competent authority, may issue, subject to approval of the Traffic Management Regulatory Committee and subject to modification or annulment by the Government, orders either general or special, in order to prevent danger, obstruction and inconvenience to public, for,—

- (a) regulating traffic of all kinds in public places and the use of public places and streets by persons riding, driving, cycling, walking, steering, navigating or leading or accompanying any animal ;
- (b) regulating the erection of arches, festoons, banners or hoardings, signs, representations or display-lighting on any property or construction activity which is likely to distract or road-users ;
- (c) regulating the parking of vehicles or vessels in public places and the use of streets as halting places for vehicles or any animal ;
- (d) regulating the times and manner in which vehicles of a particular type or engaged in a particular task or animals are driven along the streets ;
- (e) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street ;

- (f) regulating the manner and mode of conveying timber, poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets ;
- (g) regulating any activity including trading, welding, or activities resulting in gaseous or smoky emissions by the roadside, which may act as a distraction to road-users ;
- (h) regulating the carrying in public places of any explosive substance or hazardous chemicals which may cause danger to the road users ;
- (i) regulating the blasting of rock or making excavations or the burning of any matter or discharging a firearm or using fireworks or sending up a kite, balloon or rocket in or near streets or public place ;
- (j) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable ;
- (k) regulating the means and manner of entry to and from public premises and streets to private premises situated on the roadside ;
- (l) prescribing the manner in which members of the public may voluntarily assist in traffic management without causing any financial liability in this regard for the State or the Police Department.
- (2) The orders issued by the District Police Chief shall be deemed to be reasonable directions issued by the police under this Act.
- (3) Any order issued by the District Police Chief shall remain valid only for a period of 7 days from the date of issue unless in the meantime it has been placed before the Traffic Management Regulatory Committee of the area.
- (4) There shall be a Traffic Management Regulatory Committee for every Municipality/Corporation/Panchayat consisting of the head of the Local Government as the Chairman and the nominees of the District Magistrate, the District Police Chief, the Regional

Transport Officer and the Executive Engineer of the Public Works Department and all orders issued by the District Police Chief may be placed before such Committee within 30 days of issue thereof.

74. *Regulation of physical training.*—(1) Notwithstanding anything contained in any other law for the time being in force, no person shall,—

(a) by himself or by any person on his behalf impart training to any member or members of public in any physical activity involving methods of attack or self-defence unless he holds a permit in this behalf issued by an authority as may be prescribed ; or

(b) Permit the use of any premises, owned or possessed by him, for such training or organize abet or participate in such training, as may be imparted by any person who does not hold a permit in that behalf :

Provided that the provisions of this sub-section shall not apply to any training imparted by,—

(i) an educational institution owned or controlled by the Government or affiliated to any University in the State as part of the curriculum or course of study ; or

(ii) a club or gymnasium recognised by the Kerala Sports Council.

(2) The permit under sub-section (1) shall be issued subject to such conditions and restrictions and on payment of such fees as may be prescribed by rules.

(3) Any Police Officer, not below the rank of a Sub-Inspector, shall have free access to any place of training to ensure that such

training is conducted in accordance with this Act and rules made thereunder.

75. *Power to cancel permit.*—(1) The authority notified under sub-section

(1) of section 71 may, by order, cancel or suspend a permit granted under the said sub-section,—

(a) if any fee payable by the holder of such permit is not duly paid ; or

(b) in the event of any breach by the holder of such permit or by his servant or by anyone acting with his express or implied permission on his behalf, of any of the terms and conditions of such permit ; or

(c) if the holder thereof is convicted by a court of law for any offence involving moral turpitude.

(2) An appeal against an order under sub-section (1) shall lie to the Inspector General of Police having jurisdiction over the area where the place of training is situated.

76. *Power of prohibit mass drill.*—(1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of the public peace or public safety or for the maintenance of public order, by public notice or by order directed to individuals, prohibit in any area within his jurisdiction, the holding of or taking part in any mass drill or mass training with arms or the carrying of arms in any procession.

*Explanation* :—For the purposes of this section “arms” means any type of object which can be used as an offensive weapon and includes any type of lathi or stick.

(2) No prohibition under this section shall remain in force for more than three months ; provided that if the Government consider it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, it may, by



notification in the Gazette, direct that a public notice or order issued by a District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such notice or order would have, but for such order, expired, as they may specify in the said notification.

77. *Power to reserve any street or public place.*—The District Police Chief may, subject to the orders of the Government, by public notice, temporarily reserve for any public purpose any street or public place and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by him.

78. *Regulating nuisance caused by noise.*—(1) If the District Police Chief is satisfied that it is necessary to do so in order to prevent nuisance, annoyance, disturbance, or injury or risk thereof to the public or to any person who dwells in the vicinity may issue such directions, particular or general in nature, as he may consider necessary to any person or the general public for preventing, prohibiting, controlling or regulating the incidence or continuance in any street, open space or any other premises of,—

- (a) any vocal or instrumental music or speech ;
- (b) any sounds caused by the playing or use in any matter whatsoever of any instrument contrivance which is capable of producing or reproducing or amplifying sound ; or
- (c) the carrying on in any premises of any trade, avocation or operation resulting in or attended with production of sound or noise.

(2) The District Police Chief may either on his own motion or on the application of any person aggrieved by an order made under sub-section (1) either rescind, modify or alter any such order.

79. *Regulations to prevent violence.*—(1) The District Police Chief may, whenever and for such time as he shall consider necessary for the

preservation of public peace or public safety, by notification publicly promulgated or addressed to individuals, prohibit or regulate in any manner at any place,—

(i) the carrying of arms of any type or any other article which can be used for causing physical violence ; or

(ii) the carrying of any corrosive substance or explosives or fireworks ; or

(iii) the carrying, collection or preparation of stones or other missiles or instruments capable of casting or impelling missiles ; or

(iv) the exhibition of living persons or corpses ; or

(v) the preparation, exhibition, representation, distribution or dissimulation of pictures, symbols, placards, printed matter, pamphlets, books, audio-video recordings, digital records, posters which may inflame communal or religious passions, or offend against normal standards of public morality or gravely undermine public peace or endanger the security of the State.

(2) Any article used or carried by any person in contravention of any prohibition under the sub-section (1) may be seized by a police officer on duty.

80. *Regulation of public assemblies.*—(1) The District Police Chief, by notification publicly promulgated, license, control, regulate or prohibit any assembly or procession of any nature whenever and for such time as he considers such licensing, controlling, regulating or prohibition to be necessary for the preservation of public order and peace or law and order in an area.

(2) No notification promulgated under sub-section (1) shall remain in force for more than fifteen days from the promulgation thereof.

(3) The State Government may either on its own motion or on the application of any person either rescind, modify or alter or extend

the period of validity of any such order made under sub-section (1).

(4) For the purpose of ensuring that demonstrations do not seriously disturb normal life on busy thoroughfares, the State Government may, by a general or special order, specify that such demonstrations, rallies or assemblies would be carried out only in certain specified places or only along certain specified routes in any urban area.

81. *District Magistrate to make rules and regulations.*—(1) In any local area in which he thinks fit, the District Magistrate may in consultation with the local government and the District Police Chief, from time to time, make and notify rules for,—

(a) preventing the damaging, dirtying or destruction of public property and any activity which endangers public cleanliness or the environment ;

(b) preventing the dumping of any material at any time on any road or public place at any time except at places specifically designated for that purpose or at such times that may be specified by a competent authority including a local government ;

(c) specifying certain hours of the day during which ordure or offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets except in accordance with certain regulations.

(d) regulating, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases, the carcasses of animals or parts of such carcasses or corpses of persons deceased or waste from abattoirs or similar obnoxious biological or chemical products ;

(e) regulating construction, repair and demolition of buildings, platforms and other structures from which danger may arise to those who use any street or public place ;

(f) ensuring that all the concerned departments inform the police sufficiently in advance before undertaking any work or embarking upon any project that may have a bearing on traffic management including digging/repair of roads for electrical, water, sewerage, telecommunication or civil engineering purposes, erection of hoardings, poles, lightings, traffic signs, speed breakers, rumble strips etc. so that the police may make suitable alternative arrangements till such work goes on and for ensuring that all such items of work by different departments are co-ordinated to minimise inconvenience to the public ;

(g) licensing and controlling persons offering themselves for employment at quays, wharves, landing places, bus stands, airports and railway stations for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed ;

(h) maintaining, in cases of existing or apprehended epidemic or infectious disease of men or animals, cleanliness and disinfection of premises by occupiers and the segregation and management of the persons or animals diseased or supposed to be diseased, with a view to prevent the disease or to check the spreading thereof ;

(i) regulating, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or injury to passers-by or the residents in the vicinity, activities relating to,—

(i) places of public resort ;

(ii) the illumination of streets and public places and the exteriors of buildings abutting thereon ;

(iii) the blasting of rocks ;

(iv) any manufacturing or repairing or maintenance activity ;

(v) any commercial activity.

(2) Every such rule shall be published in the place wherein it is to operate and all persons concerned shall be bound to conform to the same.

82. *Maintenance of order at assemblies where disputes exist.*—(1) In case of any actual or intended religious ceremonial or corporate display or exhibition or organized assemblage in any street or public place, as to which or the conduct of or participation in which a dispute or contention exists which is likely to lead to disturbance of the peace, the District Magistrate may give such orders as to the conduct of the persons concerned towards each other and towards the public as he deems necessary and reasonable under the circumstances.

(2) While issuing such orders, the District Magistrate shall give due regard to the apparent legal rights and to any established practice of the parties and of the persons interested.

(3) Every such order shall be published in the place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

(4) Any order under sub-section (1) shall be subject to any decree, injunction or order made by a court having jurisdiction, and shall be recalled or altered on its being made to appear to the District Magistrate that it is inconsistent with a judgment, decree, injunction or order of such court.

83. *Persons to render essential services.*—(1) The District Magistrate or the Government may, having regard to the local situation prevailing in any local area classify the professional, mental or physical services of any person or groups of persons as essential for the maintenance of peace or for the avoidance of danger to the public or for the prevention of any danger to life and property arising from any type of accident or calamity and such persons shall be bound to render such services to the best of their ability.

(2) The persons who render such services shall be eligible for reasonable remuneration as well reimbursement of expenses incurred by them and the District Magistrate shall take appropriate action for such payments.

(3) No such order shall remain in force for more than seven days at a time.

84. *Special Security Zones.*—(1) The Government may, on the recommendation of the State Police Chief or otherwise, notify any area as a Special Security Zone, either temporarily or permanently, by reason of high security threats towards any distinguished or protected person present there or towards any important institution or premises situated therein.

(2) When any area is notified as a Special Security Zone as above, Government may prescribe reasonable restrictions with regard to the use of premises and vehicles and with regard to movement of persons, vehicles and objects in such area and direct that all persons shall comply with reasonable directions of police officers with regard to the enforcement of such restrictions.

## CHAPTER VII

### SERVICE CONDITIONS

85. *Government to prescribe conditions of service.*—The recruitment, training, pay, allowances, posting and other conditions of service police officers shall be such as may from time to time be determined by the Government by general or special order : Provided that conditions relating to officers belonging to the Indian Police Service shall be governed by the All India Services Act and the Rules made thereunder.

86. *Police officers to be subject to discipline.*—All police officers and persons undergoing police training after selection for appointment

as a police officer shall be strictly bound by a code of discipline by which they are liable,—

(a) to accept reasonable restrictions, in the manner specified by the Government or the State Police Chief, on their constitutional rights with regard to freedoms of public expression, associations assembly, political activism and withdrawal from duty, and on the standards of public and private conduct expected from them ;

(b) to discharge their lawful duties in a lawful manner, with due courage and due determination, to the best of their abilities ;

(c) to always uphold the law and to prevent the commission of cognizable offences to the best of their ability ;

(d) to lawfully carry out the lawful commands of competent superior, magisterial or judicial authorities and not to withdraw themselves from their duties without the permission, express or implied, of their superior authority ;

(e) to wear uniforms of the prescribed type at prescribed times and on prescribed duties as may be prescribed by competent authority ;

(f) to carry himself or behave in such manner at such times on such duties and occasions as may be prescribed by the State Police Chief by general or special order.

87. *Disqualifications for appointment as a police officer.*—(1) No person shall be appointed as a police officer who,—

(a) is not a citizen of India ; or

(b) was convicted by a court of law in a criminal case involving moral turpitude ; or

(c) is found mentally, physically, behaviourally or psychologically unfit for police duties ; or

(d) is a member of a political party and is not prepared to terminate his active membership even after recruitment ; or

(e) is an office bearer of any social, religious, cultural or scientific organization and is not prepared to terminate his association if so required by the District Police Chief or the State Police Chief or the Government ; or

(f) is or has been a member of a banned organization ; or

(g) is believed, with reasonable cause and on the basis of credible material, to be involved in unlawful activities and associations, which shall prevent him from properly discharging his duties as a police officer.

(2) A person against whom a criminal case is pending based on a charge filed on behalf of the State shall be entitled to appear for recruitment and to get selected but he shall be allowed to join training only after being acquitted.

(3) If at any time after appointment, a police officer is found, either at the time of appointment or subsequently, to belong to one of the categories specified in (a) to (g) in sub-section (1) above, such officer shall forthwith be placed under suspension by the appointing authority and shall, after being given opportunity for reasonable defence to prove the contrary, be liable to be dismissed or removed or compulsorily retired from office without following the detailed procedure specified in the relevant Discipline, Punishment and Appeal Rules.

88. *Oath to be taken by police officers.*—(1) Every member of the police force enrolled under this Act shall, on appointment as a police officer after training, make and subscribe before the appointing authority or some person appointed in that behalf by him, an oath or affirmation according to the form which may be prescribed.



(2) The appointment shall become automatically null and void if the person refuses to take such an oath.

89. *Police officers to be given certificate of authority.*—Every police officer shall, on appointment, be given Certificate of Authority as a police officer authorised to discharge the functions of a police officer under this Act : Provided that a person shall be appointed as a Police Officer only after undergoing and successfully completing a course of training as may be prescribed by the Government.

90. *Police officers to be always on duty.*—Every police officer, not on leave or specific exemption or under suspension shall, for all purposes of this Act, be considered to be always liable to be on duty and shall be liable at any time to be employed as police officer in any part of India as may be decided by the State Police Chief.

91. *Police officers to serve in any branch.*—All members of the police force shall be liable for posting, if so ordered by the State Police Chief, to any unit wing or branch of the force irrespective of the cadre or unit or wing to which he is appointed or selected.

92. *Police officers not to withdraw from duty.*—(1) No police officer shall resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the State Police Chief or by such other officer as may be authorized by him to grant such permission ;

(2) A police officer who, being absent on leave, fails without reasonable cause to report himself for duty on the expiry of such leave shall be deemed within the meaning of this section, to withdraw himself from the duties of his office.

*93. Police officers not to engage in other employment.*—No police officer, other than a special police officer, shall engage in any employment or office whatever other than attending to his duties under this Act.

*94. Police officers under suspension not to exercise authority.*—(1) The powers, functions and privileges vested in a police officer shall remain suspended when a police officer is under suspension from office.

(2) Notwithstanding such suspension, such person shall not cease to be a police officer and shall continue to be subject to the same disciplinary rules and control of the same authorities to which he would have been subject, if he was not under suspension.

(3) Any officer who directly supervises the functioning of another officer lower in rank and subordinate to him may, at any time, restrain such officer from discharging all or part of his duties as may be specified even if he is not placed under suspension.

(4) Any officer acting under sub-section (3) shall forthwith communicate the reason for the action with facts to the appointing authority within 24 hours of such restraint being imposed and if the appointing authority does not confirm or modify such action within seven days of the imposition, the restraints imposed shall cease to have any effect.

*95. Police officers to be compensated for extra hours of work.*—(1) Police officers, though liable to perform duties for any length of time as may be required, shall normally be expected to work for eight hours a day.

(2) Duty hours for police officers on any day may exceed eight in case of any emergent or essential duty.

(3) For duties performed significantly beyond eight hours in any twenty four hours time span, a police officer may be duly compensated at a reasonable rate fixed by the State Government or compensated by grant of adequate hours of compensatory rest.

(4) However no police officer shall withhold himself from performing any duty assigned to him on the ground that he has worked for more than eight hours in any twenty four hour period nor shall a police officer withdraw himself from any duty unless he has obtained the consent, either express or implied, of his superior that he may proceed off from duty.

(5) Nothing in this section shall prevent the State Police Chief from prescribing that the number of hours spent on certain type of duties,—

(a) in which a police officer is permitted rest or sleep during temporary breaks from duty ; or

(b) involving travel for which the police officer is compensated otherwise, shall be counted only at a prescribed fractional rate of the total period between posting on duty and relief from duty.

96. *Police officer not to show cowardice.*—(1) All police officers shall always be prepared to face physical danger, arising in the lawful discharge of their duties to such an extent as may be reasonable under the circumstances.

(2) No police officer on duty shall commit any act of omission or commission by reason of cowardice.

(3) If a police officer abdicates, withdraws from or absents himself unauthorisedly from his lawful duty either by an act of commission or omission on account of fear of any person or object, it shall be deemed that he is guilty of cowardice.

(4) Nothing in this section shall be deemed to compel a police officer to voluntarily court certain imminent death under circumstances which create reasonable apprehension of the same.

97. *Police officers not to shield corruption and torture.*—(1) Every police officer shall be duty bound to report to the District Police Chief or the State Police Chief directly any corrupt activity or any act of torture committed in his presence by another police officer.

(2) No such report, made in a bona fide manner, shall be deemed to be a breach of discipline merely by reason of the fact that the person who made the report was an officer lower in rank than the person against whom the report was given.

98. *Minimum tenure of police officers.*—(1) The Government may ensure a minimum tenure of two years from the date of assuming charge of the post to the Director General of Police and to all Inspector Generals of Police in charge of ranges, Superintendents of Police in charge of Districts and Station House Officers in charge of police stations:

Provided that the normal tenure shall not be applicable in cases of superannuation, promotion, reversion, suspension and leave.

(2) The Government or the appointing authority may without prejudice to any other legal or departmental action, transfer any Police Officer before completing the normal tenure of two years, on being satisfied prima facie that it is necessary to do so on any of the following grounds, namely :—

(a) if he is found incompetent and inefficient in the discharge of duties so as to affect the functioning of the police force ;

(b) if he is accused in a criminal case involving moral turpitude ;

(c) if departmental proceedings are initiated against him ;

(d) if he exhibits a palpable bias in the discharge of duties ;

(e) if he misuses or abuses powers vested in him ;

(f) if he shows incapacity in the discharge of official duties ;

- (g) if there has been initiation of an enquiry against him by competent authority on a grave allegation of corruption or indifference in the discharge of duty ;
- (h) if his conduct has been adversely commented upon by any judicial authority ;
- (i) if there is disorder or rampant crime in his area of jurisdiction ;
- (j) if there is public dissatisfaction with the effectiveness of policing in the jurisdiction ;
- (k) if he requests to be transferred from the post.

99. *Special Police Officers.*—(1) The District Police Chief, subject to any orders that the Government may issue in this regard, may, at any time, by a written order signed by himself, hire any able-bodied and willing person of good character, who has passed the Secondary School leaving Examination or equivalent, between the age of 18 and 60 years, whom he considers fit to be a special police officer, to assist the Police in the maintenance of order for a period of less than two months at a time.

(2) Every special police officer so hired shall, on hiring,—

- (a) receive a certificate in a form approved by the State Government in this behalf ;
- (b) have the same powers, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as a regular police officer ;
- (c) receive daily remuneration to be paid at the rates decided by the State Government through a general or special order.

(3) Hiring of a person as special police officer shall not be deemed to be temporary or permanent government employment and the person so selected shall have no future claim for regular

employment in the police on this ground : Provided that a special police officer may be hired afresh again after the expiry of eighty-nine days after a break of at least one day and it shall be deemed to be a fresh hiring.

(4) Special police officers shall not be chosen from amongst those persons who have,—

(a) a record of conviction by a criminal court in the past five years or figures in a case as an accused involving moral turpitude ; or

(b) been dismissed, removed, discharged or compulsorily retired from any employment on grounds of corruption, moral turpitude or misconduct ; or

(c) continuous activity as a member of a political party during his employment as Special Police Officer ; or

(d) been a member of a extremist, terrorist, militant or subversive organization :

Provided that a person whose hiring as a special police officer has been terminated following his involvement in a criminal case, shall be eligible to be hired again if he is honourably acquitted by the court.

(5) The services of a special police officer may be terminated at any time during his employment by the District Police Chief without any notice and without assigning any reason or offering any compensation.

(6) No special police officer shall be issued with any weapon nor shall be entrusted with the investigation of or enquiry into a complaint preferred by any citizen before the police.

100. *Dismissal, suspension or reduction of officers of subordinate ranks.*— Subject to the provisions of Article 311 of the Constitution and to such rules as the Government may, from time to time make under

this Act, the Director-General, Additional Director-General, Inspector-General, Deputy Inspector General and Superintendents of Police may, at any time dismiss, remove, suspend or reduce to a lower post or time scale or to a lower stage in time scale, any officer of the rank of Inspector and below whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

101. *Act of personal servitude prohibited.*—(1) No police officer shall be required to perform any act of personal servitude to any other person or officer nor shall any officer be treated in an undignified manner.

(2) Nothing in this section shall be used as an excuse by a police officer to desist from doing any physical activity or mental activity which is required to be done for the proper accomplishment of any duty imposed on him by reason of the role and functions of the police which such officer is to perform either by himself or as commanded by a superior officer :

Provided that the State Police Chief, subject to review by Government, may decide whether any particular activity is personal servitude or an act of indignity.

102. *Dispute as to whether act is duty or not*—(1) Whenever in connection with any suit or proceeding before any court or Statutory Authority a question arises as to whether,—

(a) an act by a police officer was done in the course of official duty or under the colour of office ;

(b) the proceeding was initiated under circumstances arising from the lawful discharge of official duty or by reason of animosity induced in an affected party thereby ;

(c) the injury suffered by the police officer was sustained by reason of official duty ;

(d) the injury suffered by a police officer was the result of some animosity occasioned by the lawful discharge of official duty, such question may be enquired into or caused to be enquired into by the State Police Chief or by the District Police Chief on application made to him by the affected police officer and his decision thereon shall be binding on all concerned to the extent of procedural benefits relating of notice, sanction etc. and pecuniary assistance permissible under the rules in such cases without prejudice to the outcome of the suit or proceedings in which the question arose :

Provided that the Government or the State Police Chief may, either on their own or on reference made to them by the concerned court or authority or by anyone aggrieved may further look into the decision made by the State Police Chief or the District Police Chief as applicable and the decision of the Government thereon shall be final.

(2) Nothing in this section shall be deemed to preclude, if there are prima facie reasons to justify such a course of action, any court or authority from conducting a further enquiry as it may deem fit for coming to an independent decision with regard to the same questions on the basis of evidence adduced before it during the course of the proceedings before such court or authority.

103. *Procedure for punishing Police Officers for official misconduct.*—(1) Whoever, being a police officer, commits any offence or misconduct under this Act or under any rule or order made there under, shall be dealt with departmentally under the Police Discipline Punishment and Appeal Rules in force as may be notified by the Government.



- (2) The State Police Chief may order that in any particular case, because of the extreme gravity of the situation, criminal prosecution may be launched against the Police Officer in lieu of proceedings under the Police Discipline, Punishment and Appeal Rules.
- (3) A police officer may be subjected to a disciplinary enquiry with regard to any official misconduct or any dereliction of duty or a violation of any order or rule or provision of this Act under the orders of such authority as may be prescribed by Government by general order and the manner of conduct of such enquiries may be as prescribed by the Police Discipline Punishment and Appeal Rules.
- (4) A finding to the effect that a police officer is guilty arrived at in a departmental proceeding and the infliction of a penalty there under shaH not be construed as sentencing or conviction under any law including this Act.
- (5) After the due conclusion of such enquiry one, except as specified below, among the following penalties may be inflicted on the police officer, if he is found guilty of the charges,—
- (a) fine ;
  - (b) extra duty, including drill and physical training ;
  - (c) recovery of loss to Government from pay ;
  - (d) recovery of loss to affected party from pay ;
  - (e) undergoing reformatory training ;
  - (f) prohibition from performing specified duties or being assigned to specified posts ;
  - (g) warning ;
  - (h) censure ;
  - (i) increment bar without cumulative effect ;
  - (j) increment bar with cumulative effect ;

- (k) withholding of promotion ;
- (l) reduction in pay without cumulative effect ;
- (m) reduction in pay with cumulative effect ;
- (n) reduction in seniority ;
- (o) compulsory retirement ;
- (p) removal ;
- (q) dismissal ;

(6) Punishments prescribed from (a) to (f) above may be imposed either by themselves or in addition to any punishment from (g) to (q) imposed on the police officer.

(7) No punishment from (a) to (q) shall be taken into account for any proceeding in which eligibility for promotion is to be decided by any Board or Committee constituted for the purpose under any Rule and no one shall be denied promotion on the ground that he has suffered such a punishment at any time.

(8) Nothing in this section shall prevent any directly affected party from taking up the matter in any court or authority subject to the conditions specified elsewhere under this Act or under any other law in force.

(9) In case any criminal court, after trial, either acquits a police officer, or after conviction, sentences a police officer on a matter in which he has been or is liable to be dealt with departmentally, he shall not be departmentally punished on the same matter for the same offence on the same facts : Provided that in case of conviction for an offence involving moral turpitude or serious personal or official misbehaviour as may be decided by the State Police Chief or the State Government, the officer may be either compulsorily retired or removed or dismissed from service as may be decided on the merits of each case.

(10) Punishments specified at (a) to (h) above may be imposed by the competent authority without following the detailed procedure

specified in the Discipline Punishment and Appeal Rules but after the authority satisfies itself with regard to the facts and after giving an opportunity for the concerned police officer to be heard.

(11) Authorities competent to impose each penalty on each rank may be specified in the Police Discipline, Punishment and Appeal Rules.

*104. State Police Chief to prescribe a code of penalties.*—Subject to any directions which may be issued by Government, the State Police Chief may, standardise and codify punishments to be awarded by disciplinary authorities for common acts of misconduct, by specifying the maximum and minimum punishments which can be awarded to each type of misconduct under different specified circumstances and any deviation there from by disciplinary authorities shall be subject to the approval of the State Police Chief.

*105. Appeal and Revision.*—The Government may notify appeal and revision procedures in respect of departmental punishments awarded to police officers.

*106. Welfare Bureau.*—(1) There shall be a Police Welfare Bureau, (hereinafter referred to as ‘Bureau’) headed by an officer not below the rank of Additional Director General of Police, in the office of the State Police Chief to advise and assist him in the implementation of welfare measure of police personnel.

(2) The functions and duties of the Bureau shall, inter alia, include administration and monitoring of welfare measure of police personnel such as,—

- (a) health care, particularly in respect of chronic and serious ailments, and including post-retirement health care schemes of police personnel and their dependents ;
  - (b) full and liberal medical assistance to police personnel suffering injury or prosecution or civil suits in the course of duty or by reason of performance of duty ;
  - (c) financial security for the next of kin of those dying in harness ;
  - (d) post-retirement financial security ;
  - (e) group housing and group credit facilities ;
  - (f) educational facilities for dependents of police officers : and
  - (g) appropriate legal facilities for defence of police officers facing court proceedings in matters relating to bonafide discharge of duty or by reason of such duty or as a result of animosity created by reason of such duty.
- (3) The Bureau shall have as many members as may be prescribed who may be nominated by the State Police Chief, and shall comprise representatives from all police ranks and may also include members in an advisory capacity.
- (4) The Bureau shall lay down norms and policies relating to police welfare and monitor welfare activities undertaken by various police units in the State.
- (5) A police welfare fund, under the administration and control of the Bureau, shall be created for the welfare activities and programmes for police personnel, which shall have the following components,—
- (a) financial grant by the state;
  - (b) contributions made by the police personnel, towards the welfare fund ;
  - (c) monetary value of any monetary punishment, including increment bar, imposed on any police officer of and below the

rank of Sub-Inspector of Police except those relating to recovery of loss ;

(d) any other contribution from any source as may be permitted by the Government from time to time.

107. *Police Establishment Board.*—(1) The State Government may constitute a Police Establishment Board which shall be a departmental body consisting of the Director General of Police as Chairman and four other senior police officers of the Department of the rank of Additional Director General of Police as members.

(2) The term of office of the members of the Board, the procedure for the functioning of the Board and guidelines to be followed by the Board in the exercise of its functions shall be in such manner as may be prescribed.

108. *Functions of the Board.*—(1) The Board shall discharge the following functions namely :—

(a) decide on appeals, complaints and general guidelines relating to all transfers, postings, promotions and other service related matters of police officers of and below the rank. of Inspector of Police, subject to the provisions of the relevant service laws as may be applicable to each category of police officers ;

(b) review the functioning of the police in the State either in general or with regard to specific instances ; and

(c) discharge such other functions as may be assigned to the Board by the Government.

(2) The Government shall give due consideration to the recommendations of the Board.

(3) The Government may, either suo moto or on a representation filed by the affected person, for reasons to be recorded in writing, set aside or modify any decision or order of the Board.

109. *Redressal of grievances of subordinates.*—(1) The State Police Establishment Board shall nominate an officer of the rank of Deputy Superintendent of Police as police welfare officer of the District and he shall set apart one day every week to listen to or receive complaints from police officers of and below the rank of Sub Inspector of Police.

(2) The District police welfare officer shall study and examine the grievance and shall suggest appropriate remedial action to the District Police Chief and if the same is beyond the competence of the District Police Chief to the State Police Establishment Board.

110. *Insurance cover allowances and medical facilities.*—(1) The Government shall provide adequate insurance coverage for all police personnel against any injury, disability or death caused in the course of performance of their duty or out of attacks carried out on them by reason of animosity engendered by due performance of duty.

(2) Police Officers posted in special wings, such as Counter-Terrorism Operations Units, Bomb Disposal Squads, Commando Groups etc. shall be paid special risk allowance, in proportion to the risks involved in those duties.

(3) Police personnel may also be provided with a medical insurance cover that would enable them to keep up the required standards of health and physical fitness.

(4) If a police officer suffers injury or disfigurement as a result of violence inflicted upon him in the course of duty or as a result of a serious risk or dangerous situation to which he is exposed to in the course of his duty or out of attacks carried out on him by reason of animosity engendered by due performance of duty, he

shall be duly and adequately compensated by the State for the same : Provided that such compensation shall be over and above the reimbursement of his medical expenses to which he is entitled to under the rules.

(5) If a policeman dies in the course of his duty as mentioned in subsection (4), his legal heirs shall be duly and adequately compensated by the State, provided that such compensation shall be over and above the benefits to which the family are entitled to under the rules.

(6) When any police officer is injured while on duty, the injured police officer shall be entitled to sufficient and good quality treatment at public expense at any institution recommended by the Chief of the Medical Institution where such officer is admitted immediately afterwards.

111. *Police Associations.*—The Government may permit, by prescribing guidelines, the formation of Association or Associations of different ranks or categories of police officers subject to such restrictions as may be prescribed.

112. *Police Complaints Authority.*—(1) The Government shall establish a Police Complaints Authority at the State level to look into,—

(i) complaints of grave misconduct of all types against Police officers of and above the rank of Superintendent of Police ;

(ii) serious complaints against officers of other ranks relating to molestation of women in custody or causation of death to any person or infliction of grievous hurt to any person or rape.

(2) The State Authority shall consist of the following members, namely :—

- (i) a retired Judge of a High Court who shall be the Chairman of the Authority ;
  - (ii) a serving officer not below the rank of Principal Secretary to Government ; and
  - (iii) a serving officer not below the rank of Additional Director General of Police.
- (3) The Government shall establish Police Complaints Authority at the district level to look into complaints against police officers of and upto the rank of Deputy Superintendent of Police.
- (4) The District Authority shall consist of the following members, namely :—
- (i) a retired District Judge, who shall be the Chairman ;
  - (ii) the District Collector ; and
  - (iii) the District Superintendent of Police :

Provided that the Chairman of one District Authority may be appointed as the Chairman of one or more District Authorities

- (5) The conditions of service, remuneration and other allowances of the members of the State Authority and District Authorities and the procedure for functioning of the authority or authorities shall be in such manner as may be prescribed.
- (6) The Government shall, in consultation with the authority or authorities, provide all necessary facilities for their proper functioning.
- (7) The State Authority and the District Level Authorities shall, while conducting enquiry, have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely :—



(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavit ; and

(d) any other matter which may be prescribed.

(8) All agencies of the Government shall render all possible assistance to the authority or authorities in respect of production of documents, examination of records, analysis of evidence or provision of expert assistance in any matter in which such authority or authorities or an officer acting under the orders of such authority or authorities requires their assistance.

(9) The recommendations of the authority or authorities, for any action, departmental or criminal, against a delinquent police officer shall be binding insofar as initiation of departmental proceedings or registration of a criminal case is concerned. Such recommendations shall, however, not prejudice the application of mind by the enquiry officer or the investigating officer when he is conducting the departmental enquiry or criminal investigation, as the case may be.

113. *Avoidance of multiple enquiries.*—(1) All complaints against any police officer by members of the public shall normally be submitted before the State or District Police Complaints Authority constituted for the purpose.

(2) In case any other Statutory agency receives such complaints simultaneously or independently,—

(a) they may take cognizance of it but shall not pass any final order or conduct any enquiry if the matter is already under consideration by the State or District Police Complaints Authority and inform the Complaints Authority concerned accordingly.

(b) they may refer the matter to the Complaints Authority for necessary enquiry and report.

(3) In any matter referred to the Complaints Authority by a Statutory Authority, the findings and the recommendation of the Authority shall also be given by the Authority to the Statutory Authority concerned and thereafter such Statutory Authority may take such action as it deems fit either to further proceed with the matter or to drop further action.

(4) Nothing in this section shall be deemed to preclude an enquiry by the Government or by a superior police officer.

*114. Elected representatives may forward complaints.*—Complaints against the police may be forwarded by Presidents of Panchayats, Members of Legislative Assemblies and Members of Parliament to the concerned Police Complaints Authority and such Authority shall cause appropriate enquiries to be made in this regard and inform the MP/MLA/Panchayat President of the result of the enquiry.

*115. Expeditious Disposal by Complaints Authorities.*—(1) The District and State Police Complaints Authorities may take expeditious action to complete the enquiries relating to complaints under consideration by them.

(2) In any matter which is under consideration before any Complaints authority, such Authority may direct any public servant,—

- (a) to question any witness and record his statement ;
- (b) to locate, examine or seize any relevant document ;
- (c) to conduct any test or examination which the said public servant is competent to do ;
- (d) to render any assistance as may be reasonable under the circumstances of each complaint.

(3) In any matter which is under consideration before any complaints Authority, such authority may call for a report from any police or governmental authority with regard to any fact in issue.

(4) In any enquiry, the affected police officer may be given opportunity to produce evidence on his behalf and to be heard before the authority finalises its opinion but the authority need not afford him an opportunity to cross examine any witness, if such a course of action is considered not practicable or not necessary under the circumstances of each case.

## CHAPTER VIII OFFENCES AND PUNISHMENTS

116. *Protection to Police Officers.*—(1) No suit, prosecution or other legal proceedings shall lie against the Government or any police officer or a public servant duly appointed or authorized under this Act for anything done or intended to be done in good faith as duty or under colour of office, in pursuance of this Act or in pursuance of any law for the time being in force.

(2) No court shall take cognizance of any offence under this Act alleged against any police officer except with the prior sanction of the Government.

(3) When a delinquency on the part of a police officer which is also an offence under this Act is brought before another officer to whom such officer is subordinate, he shall examine it and decide whether the delinquency warrants only departmental disciplinary action even if it constitutes an offence under this Act: Provided that such superior officer shall also be competent to decide whether the matter should be taken up for criminal prosecution without resorting to departmental disciplinary action.

(4) Nothing in sub section (2) and (3) shall preclude the right of an affected person from moving a court for prosecution or institution of a suit in respect of an offence under some other law allegedly committed by a police officer.

117. *Time limits for prosecution and for institution of suits.*—(1) Any offence allegedly committed by a police officer in the course of the discharge of his duty or under the colour of his office shall not be taken cognizance of by a court of law if the complaint has been made more than three months after the date of the act complained of :

Provided that this limitation shall not apply if the complainant was either not aware of the existence of the offence or he was otherwise incapable of making the complaint.

Provided further that this limitation shall also not apply to matters about which complaints were made within three months of the date of offence before any superior officer or before the Police Complaints Authorities and to matters in which sanction for prosecution is given by the Government.

(2) Any claim for civil damages by reason an act of omission or commission by a police officer committed in the course of the discharge of his duty or under the colour of his office, shall not be taken cognizance of by a court of law if the complaint has been made more than three months after the date of the act complained of :

Provided that this limitation shall not apply if the complainant was either not aware of the act or he was otherwise incapable of moving the court :

Provided further that this limitation shall also not apply to matters about which complaints were made within three months of the date of offence before the Police Complaints Authorities and to matters in which sanction for prosecution is given by the Government.

118. *Dereliction of duty by a police officer.*—Whoever, being a police officer,—

(a) breaches or neglects to follow any legal provision, procedure, rules, regulations applicable to members of the police service under this Act; or

(b) malingers or feigns illness or injury or voluntarily causes hurt to himself with a view to evading duty; or

(c) acts in any other manner unbecoming of a police officer; or

(d) is guilty of cowardice,

shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

119. *Bribe taking and extortion by police officer.*—Any police officer who, directly or indirectly, extorts, seeks or obtains any bribe, perquisite or unauthorized reward or consideration, by any threat or pretence, for doing or omitting or delaying any act which it may be his duty to do or cause to be done, or for withholding or delaying any information which he is bound to give or communicate or who attempts to commit any of the offences above said or who on any pretext or under any circumstance, directly or indirectly, collects or receives any fee, gratuity, diet-money, allowance other than what he may be duly authorised by the Government or the State Police Chief or the District Police Chief to collect or receive, shall on conviction be liable to fine not exceeding twelve months' pay and to imprisonment for a term which may extend to seven years, or with both.

120. *Vexatious arrest, search, seizure and violence.*—Whoever, being a police officer,—

(a) vexatiously and without lawful authority or reasonable cause enters in to searches or causes to be entered into or searched, any building, vessel, tent or place; or

(b) vexatiously and unlawfully, without reasonable cause, seizes the property of any person; or

(c) vexatiously and unlawfully and without reasonable cause detains, searches, or arrests a person; or

(d) deliberately subjects any person in custody or with whom he may come into contact in the course of duty, to torture or to any kind of inhuman or unlawful personal violence or gross misbehaviour; or

(e) deliberately and knowingly records a statement falsely with malicious intent to implicate an innocent person; or

(f) deliberately makes a false record to implicate any innocent person in a crime; or

(g) deliberately and knowingly makes a false allegation or attack on the police; or

(h) deliberately and directly aids or abets in the commission of an offence which, as a police officer, he was bound to prevent,

shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine :

Provided that nothing in this section shall preclude the said police officer being additionally punished for the same matter according to the provisions of any other law for the time being in force.

121. *Penalty for interfering in police functions.*—Whoever,—

(a) induces or attempts to induce or does any act which he knows is likely to induce, any member of the police force to withhold his services or to commit a breach of discipline; or

(b) unlawfully assumes any function or power belonging to the police; or

(c) personates as a police officer, except innocently for purposes of entertainment; or

(d) deliberately makes a false statement to a police officer with intent to mislead the police in material particulars in an investigation or due performance of police duty; or

(e) threatens, obstructs or assaults or abuses a police officer with the manifest intention of preventing such officer from discharging any duty which he is about to carry out, shall on conviction be liable to fine not exceeding ten thousand rupees or to imprisonment for a period which may extend to three years or with both.

122. *Penalty for causing serious disorder or danger.*— Any person who,—

(a) is found in a public place, in an intoxicated condition, riotous or incapable of looking after himself; or

(b) knowingly spreads rumours or causing a false alarm to mislead the police, fire brigade or any other essential service; or

(c) knowingly and wilfully causes damage to an essential service, in order to cause general panic among the public; or

(d) causes annoyance to any person by making indecent overtures, verbal comments, phone calls or calls of any type or by stalking or by passing comments or sending messages or mails by any means; or

(e) knowingly does any act which causes danger to the public or compromises public safety ; or

(f) transports explosives or dangerous substances without being lawfully authorized to do so; or

(g) is found under suspicious circumstances, being a goonda or a rowdy, in a public place, in possession of equipment which is intended to be used for any activity in the vicinity to facilitate any anti-social activity as defined in the Kerala Anti-Social Activities Prevention Act, 2007,

shall, on conviction be liable to fine not exceeding ten thousand rupees, or to imprisonment for a period which may extend to three years or with both.

123. *Penalty for causing nuisance, disorder.*— Whoever,—

- (a) slaughters any animal, cleans any carcass, article of furniture or vehicle, or grooms any animal in a public place causing annoyance or inconvenience to the public ; or
- (b) causes any vehicle or conveyance to remain in such a manner as to cause obstructive inconvenience or danger to the public; or
- (c) defaces or covers a traffic sign or signboard reducing its visibility or readability; or
- (d) defaces, walls, buildings or other structures without prior permission of the custodian of the property; or
- (e) acts in contravention of a notice publicly displayed by the competent authority in any government building; or
- (f) defiles water sources or water supplies or public sanitation or makes public places unclean or illegally causes serious damage to the environment; or
- (g) trespasses into a government building or government premises; or
- (h) drives, drags or pushes any non-motorised vehicle at any time between half an hour after sunset and one hour before sunrise without sufficient light; or
- (i) drives, drags or pushes any non-motorised vehicle and does not keep (except in case of actual necessity or of some sufficient reason for deviation), on the left of such street when meeting any other vehicle on the right of such street when passing any other vehicle; or
- (j) conveys through the streets any article which projects more than five feet in front or behind the vehicle or vehicles on which it is placed; or
- (k) causes mischief by any negligence or ill-usage in the driving, management or care of any animal or vehicle ; or
- (l) eases himself in a public place causing annoyance to others ; or



(m) does not take due care of pets under his care or control and negligently suffers them to cause inconvenience to neighbours or the public ; or

(n) without the knowledge and consent of the owner buys any jewel, watch, fountain pen, bicycle, utensil or other article of value from any person apparently under the age of fourteen years or takes any article on pawn or pledge from such a person; or

(o) without adequate precautions and in disregard for public safety, lights any bonfire, discharges any firearm or air-gun, lets off or discharges any firework or sends up any fire-balloon or permits such act to be done in premises over which he has control; or

(p) makes a nuisance of himself to any person by making obscene or repeatedly unwanted or anonymous calls to any person or institution by any type of phone or writes such letters delivering them by messenger, post or e-mail; or

(q) breaks any queue, in any public place, formed for the purpose of orderly delivery or receipt or use of any service, whether public or private; or

(r) pastes or affixes any material anywhere which is of a defamatory or threatening nature concealing the identity of the author thereof,

shall, on conviction by a court, be liable to imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both.

124. *Punishment for offences for which there is no separate provision.*—

(1) Any person who contravenes any of the provisions of this Act or commits any act of commission or omission in violation of the provisions of this Act or any order made thereunder shall, on conviction, if no other punishment is prescribed for the same under this Act, shall, in addition to such other punishment that

may be inflicted on him under any other law in force, be punished with fine which may extend to two thousand rupees or imprisonment for a term not exceeding six months or with both.

(2) When the offence is committed by more than one person, each one of them shall be punished individually.

125. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation:* For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

126. *Prosecution under other laws not affected.*—Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Act for any offence made punishable by this Act or from being liable under any other Act to any other

penalty or punishment other than what is provided for such offence by this Act.

*128. Procedural irregularity not material.*—No rule, order, direction, adjudication, inquiry or notification made or published and no act done under any provision of this Act or of any rule made, under this Act or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason only of any defect of form or any irregularity of procedure unless material prejudice had been caused by such defect or irregularity.

*129. Cognizable and bailable offences.*—(1) Offences under sections 120, 121 and 122 of this Act shall be cognizable and bailable and an offence under section 119 shall be cognizable and non-bailable.

(2) Notwithstanding the provisions of sub-section (1) a police officer may arrest a person if and only if such arrest is absolutely necessary for preventing the continuation of the offence or if it is manifestly evident that such person cannot be located subsequently or if such person is likely to hurt himself or another person or if there is some special and emergent circumstance, warranting the arrest.

(3) All other offences under this Act shall be non-cognizable and bailable; but a police officer may remove a person temporarily for the purpose of preventing the continuation of such offence.

*130. Cognizance of offences.*—No court shall take cognizance of an offence under this Act except on a report filed by the Station House Officer having jurisdiction or someone authorised by him in the particular case.

*131. Compounding of offences.*—(1) All non-cognizable offences under this Act shall be compoundable on the request of the accused by the Station House Officer.

(2) Offences under Sections 121 and 122 shall be compoundable by the District Police Chief, on any application made by the accused, if he deems that the matter is not serious enough to be prosecuted before a court of competent jurisdiction, provided that no such compounding shall be made in a matter in which the court having jurisdiction has already taken cognizance of the offence after charge sheeting by the police in which case it shall be compoundable before such court.

(3) The compounding fees to be levied in respect of each category of offences shall be as may be notified by the State Police Chief with the prior approval of the Government and such compounding fee shall be collected by the Station House Officer concerned.

(4) Compounding shall not be deemed to be a conviction; but may be used to prove previous conduct in any proceeding where such previous conduct is relevant.

*131. Criminal Justice Miscellaneous Expenses Fund.*—(1) There shall be a Fund maintained and administered centrally by the State Police Chief to meet the following expenses :

(a) expenses on those in custody, including medical expenses;

(b) expenses incurred in connection with investigation of criminal cases including allowances or reimbursement of expenses to witnesses, not being expenses incurred on police personnel or allowances paid to police personnel;

(c) expenses relating to maintenance and storage of articles kept in custody;

(d) expenses incurred in connection with procedures associated with dead bodies, removal of injured to hospitals and activities associated with rendering urgent assistance to victims of accidents and calamities.

(2) The administration of the Fund shall be according to rules prescribed by Government.

(3) All the compoundinag fee levied and collected by the Police for offence under this Act and all amounts realised by the sale of unclaimed properties and perishable properties shall be remitted to the Fund.

(4) Government may also provide for additional remittances to the Fund to ensure that the Funds are sufficient to meet the expenditure.

*132. Power of Government to give directions.*—Notwithstanding anything contained in the foregoing provisions of this Act, the Government may give directions to the State Police Chief for the purposes of this Act.

*133. Power to make rules.*—(1) The Government may, by notification in the gazette make rules, either prospectively or retrospectively, to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely.

(a) all matters expressly required or allowed by this Act to be prescribed; and

(b) any other matter which has to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be

comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decide that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

134. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provision of this Act, the Government may by order do any thing not inconsistent with the provisions of this Act which appears for them necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is issued before the Legislative Assembly.

135. *Repeal and saving.*—(1) The Kerala Police Act, 1960 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken or any proceeding instituted under the Act so repealed shall be deemed to have been done or taken or instituted under the corresponding provisions of this Act.

## STATEMENT OF OBJECTS AND REASONS

The Kerala Police Act, 1960 unified the police systems existing in the different parts of Kerala. The Act was substantially the same as the Indian Police Act of 1861. The structures prescribed under the Act were based on the conditions prevailing in India in the year 1858, when the British Crown took over the governance of

India from the East India Company after the War of Independence in 1857. The Police structure of 1861 was meant for a society in which citizens did not enjoy freedom. The advent of democracy changed the matrix of policing. As always, Kerala was the first Indian State to discover and formulate a response to the contradiction implicit in trying to police democracy with a system perfected for ensuring colonial subjugation. In the years that followed, the calls for Police reform have become more strengthened. Several States and the Centre appointed myriad Commissions and Committees to look into the issues related to Police Reforms. As demanded by the Hon'ble Supreme Court of India, the National Human Rights Commission, Soli Sorabjee Committee and the Bureau of Police Research and Development were asked to file their views in this regard. In the light of the above, the Government of India has forwarded a draft Model Police Act, 2006 submitted by the Police Act Drafting Committee to replace the Police Act of 1960. As such, the Police Act Review Committee appointed by the Government of Kerala under the Chairmanship of Shri Jacob Punnoose IPS has submitted the draft Kerala Police Bill, 2010. This Bill is based on the above draft Bill.

The Bill is intended to achieve the above object.

#### FINANCIAL MEMORANDUM

As per clause 6 of the Bill, Government may subject to resources, strive to ensue that every Police Station has appropriate manpower and infrastructure facilities to provide basic police services to all who need the same. The approximate anticipated expenditure on account of the above purpose is Rupees Two crores and twenty five lakhs per year.

As per clause 9 of the Bill, the State Government shall provide to every police station a sum proportionate to the period of custody at the daily rate of half the minimum daily wages for unskilled labour prevailing at the time for food, water and other primary requirements of every person who is in custody. The approximate anticipated expenditure on account of the above purpose is Rupees One crore per year.

As per sub-clause 4 of clause 30 of the Bill, Government may institute a system of incentives and infrastructure facilities to promote good mental and physical health among members of Kerala Police. The approximate anticipated expenditure on account of the above purpose is Rupees One crore per year.

As per clause 110 of the Bill, the Government shall provide adequate insurance coverage for all police personnel against any injury, disability or death caused in the course of performance of their duty or out of attacks carried out on them by reason of animosity engendered by due performance of duty. The approximate anticipated expenditure on account of the insurance premium to be paid is Rupees One crore per year.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 5 of the Bill seeks to empower the Government to establish police stations for every local area by notification, for the purposes of the Act.

Sub-clause (2) of the said clause seeks to empower the Government to specify the area of jurisdiction in the notification issued under sub-clause (1) of the clause.

2. Sub-clause (1) of clause 11 of the Bill seeks to empower the Government to establish special police stations for any particular period in any area or for any particular purpose in any area or for enforcement of any particular law or laws in any area.

Sub-clause (2) of the said clause empowers the Government to notify the special police station, specifying the premises, area and scope of jurisdiction.

Sub-clause (3) of the said clause seeks to empower the Government to establish special police station in a mobile vehicle or in any temporary office.

3. Clause 12 of the Bill seeks to empower the Government to prescribe the form for keeping a police station diary.



4. Clause 14 of the Bill seeks to empower the Government to decide the geographical convenience, functional efficiency or any special purpose based on which the 'Kerala Police' force be divided into sub-units, units, branches or wings. Sub-clause (2) thereof empowers Government to decide various ranks of police officers in the police force. Sub-clause (3) of the clause empowers Government to specify that a particular designation shall be equivalent to any of such ranks so decided. Sub-clause (4) of the said clause empowers Government to create a new rank or give a new designation to a rank specified therein.

5. Clause 15 of the Bill seeks to empower the Government, by a general or special order, to prescribe the numbers in each rank, the organization, structure, offices, jurisdictional patterns, chain of command and the administrative powers, functions, duties of the police force.

6. Clause 16 of the Bill seeks to empower the Government by notification to specify any area in the State to be a Police District for the purposes of the Act.

7. Sub-clause (1) of clause 17 of the Bill seeks to empower the Government to issue orders subject to which the Police and the Police Stations of Police District shall function under the supervision and control of a District Police Chief. The clause also empowers Government to prescribe the rank of the District Police Chief and that of the police officers to assist him.

8. Clause 18 of the Bill seeks to empower Government to appoint State Police Chief. Sub-clause (4) of the said clause seeks to empower the Government to decide the number of officers of the

rank of DGP/ADGP/IGP/DIGP/SP/DySP to assist State Police Chief.

9. Sub-clause (1) of clause 21 of the Bill seeks to empower the Government, by order, to create and maintain Special Wing or Special

Unit or Special Branch or Special Purpose Squad to assist the Police in the performance of their functions and duties. Sub-clause (4) of the said clause seeks to empower the Government to prescribe the conditions of service, special allowance payable to the personnel of the Special Wing, Special Unit, Specialised Branch and Special Purpose Squad created and to prescribe special qualification and skills necessary for them.

10. Sub-clause (1) of clause 23 of the Bill seeks to empower the Government, by order, to separate the investigation police from the law and order police in order to ensure speedy, effective and professional investigation.

11. Sub-clause (1) of clause 24 of the Bill seeks to empower the Government to constitute a State Security Commission by notification, for performing such functions and discharging such duties as may be assigned to the Commission under the Act. Sub-clause (8) of the said clause seeks to empower the Government to prescribe the conditions of service, fees and allowances payable to the nominated members of the State Security Commission.

12. Sub-clause (4) of clause 25 empowers Government to issue directions, in circumstances so warranting, to meet any emergency.

13. Sub-clause (4) of clause 30 seeks to empower the Government to institute a system of incentives and infrastructure facilities to promote good mental and physical health among the members of Kerala Police.

14. Clause 45 of the Bill seeks to empower the Government to declare any area be set by communal or political violence, or terrorist or anti-national activities or large scale violence and violation as disturbed area.

15. Clause 52 of the Bill seeks to empower the Government to notify the categories of public service in respect of which records are to be maintained by service providers and the period for which the records are so kept. Clause 54 of the Bill seeks to empower the Government by notification, direct the class or category of service providers or any group of service providers whom are to obtain police verification certificates. It also empowers Government to prescribe the authority in that behalf.

16. Sub-clause (1) of clause 56 of the Bill seeks to empower the Government to notify an enclosed area other than police station for keeping the articles seized by the police during the investigation or as unclaimed property.

17. Sub-clause (3) of clause 57 of the Bill seeks to empower the Government to prescribe the manner in which a property subject to natural decay or consisting of livestock, be sold in auction.

18. Sub-clause (2) of clause 59 of the Bill seeks to empower the Government to prescribe the charges to be levied for enquiries for locating articles reported to be missing.

19. Clause 60 of the Bill seeks to empower the Government to fix charges for issuing certificate to the effect that a particular person is not involved in any crime within his jurisdiction.

20. Sub-clause (3) of clause 63 of the Bill seeks to empower the Government to prescribe the conditions under which additional police

deployment can be given free of cost or at partial cost or at full cost.

21. Clause 67 of the Bill seeks to empower the Government to prescribe rules to promise awards and rewards to the public for outstanding services rendered or information given in the prevention of crime, investigation of any case or in the maintenance of order, security or traffic safety.

22. Clause 71 of the Bill seeks to empower the Government to exempt any equipment or property held by police for discharging his function from the requirement of having a license.

23. Clause 73 of the Bill seeks to empower Government to modify or annul orders issued by District Police Chief in matters specified therein.

24. Clause 74 of the Bill seeks to empower the Government to prescribe the authority to issue permit for imparting training to a member or members of public in any physical activity involving methods of attack or self-defence.

25. Clause 76 of the Bill seeks to empower the Government to extend the period of a public notice or order issued by the District Magistrate for prohibiting any mass drill or mass training with arms or carrying of arms in any procession for a further period upto six months.

26. Clause 77 of the Bill seeks to empower the Government to issue orders subject to which the District Police Chief may issue public notice, temporarily reserving for any public purpose any street or public place and prohibit persons from entering into the area so reserved.

27. Clause 80 of the Bill seeks to empowers the Government to extend the period for making necessary amendment to the notification issued by the Police Chief to prohibit any assembly so as to preserve public order, peace or law and order in an area.

28. Clause 83 of the Bill seeks to empower the Government or the District Magistrate to classify the professional, mental or physical services of any person or groups of persons as essential for the maintenance of peace or for avoidance of danger to the public.

29. Clause 84 of the Bill seeks to empower the Government to notify any area as a Special Security Zone and to prescribe reasonable restrictions with regard to the use of such Special Security Zones.

30. Clause 85 of the Bill seeks to empower the Government to prescribe the recruitment, training, pay and allowances and other conditions of service of Police Officers from time to time, by general or special order.

31. Clause 88 of the Bill seeks to empower the Government to prescribe the form of oath or affirmation to be taken by a police officer on his appointment after training.

32. The proviso to clause 89 of the Bill seeks to empower the Government to prescribe the course of training to be undergone and successfully completed for appointment as police officer.

33. Sub-clause (3) clause 95 of the Bill seeks to empower the Government to fix the rate for compensating duties performed significantly beyond eight hours.

34. Clause 99 of the Bill empowers Government to issue orders subject to which the District Police Chief may hire any willing person of good character, between the age of 18 and 60 years, as Special Police Officer, to assist the Police in the maintenance of order.

35. Clause 100 of the Bill seeks to empower Government to make rules applicable for the dismissal, removal, suspension or reduction to a lower post or time scale or to a lower stage, an officer of the rank of Inspector and below.

36. Sub-clause (1) of clause 101 of the Bill seeks to empower Government to review the decision of State Police Chief as to whether an activity is personal servitude or not.

37. Sub-clause (3) of clause 103 of the Bill seeks to empower the Government to prescribe the authority to conduct enquiries under

the Kerala Police Departmental Inquiries, Punishment and Appeal Rules.

38. Clause 105 of the Bill seeks to empower the Government to notify the procedure for appeal and revision for awarding departmental punishments to the police officers.

39. Sub-clause (3) of clause 106 seeks to empower the Government to prescribe the number of members to be nominated to the Welfare Bureau.

40. Clause 107 of the Bill seeks to empower the Government to constitute a Police Establishment Board. Sub-clause (2) of the said clause seeks to empower the Government to prescribe the term of office of the members, the procedure for its functioning and the guidelines to be followed by the Board in the exercise of its functions. Sub-clause (3) of clause 108 of the Bill seeks to empower the Government to set aside or modify any decision of the Police Establishment Board suo moto or on application.

41. Clause 110 of the Bill seeks to empower the Government to provide adequate insurance coverage for all police personnel against any injury, disability or death caused in the course of performance of their duty or out of attacks on them while on duty.

42. Clause 111 of the Bill seeks to empower the Government to prescribe guidelines for the formation of the police association subject to certain restrictions.

43. Clause 112 of the Bill seeks to empower the Government to establish a Police Complaints Authority at State level.

Sub-clause (3) of the said clause seeks to empower the Government, to establish Police Complaints Authority at the district level. Sub-clause (5) of the said clause seeks to empower the Government to prescribe the conditions of service, remuneration and other allowances of members of the State Authority and District authorities and the procedure for the functioning of the authorities.

Item (d) of sub-clause (7) of the said clause seeks to empower the government to prescribe other matters with respect to which the State Authority and District Level Complaints Authority shall have the powers of a civil court.

44. Sub-clause (2) of clause 131 seeks to empower the government to make rule for the administration of Criminal Justice Miscellaneous Expenses Fund.

45. Clause 132 of the Bill seeks to empower the Government to give directions to the State Police Chief for the purposes of the Act.

46. Clause 133 of the Bill seeks to empower the Government to make rules, by notification, to carry out the purposes of this Act.

47. Clause 134 of the Bill seeks to empower the Government, by order, not inconsistent with the provisions of this Act, do anything which appears to them necessary for removing any difficulty in giving effect to the provisions of the Act.



The matters in respect of which notifications or orders may be issued or rules may be made are matters of procedure and are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

KODIYERI BALAKRISHNAN

(True Translation)

Notes on Clauses

*Clause 2.*—This clause seeks to define certain words and expressions used in the Bill.

*Clause 3.*—This clause seeks to provide for the duties of the police.

*Clause 4.*—This clause seeks to provide for the functions of the police.

*Clause 5.*—This clause seeks to empower the Government to establish police stations and specify the area jurisdiction of every police station by notifications in the Gazette and to designate the Station House Officer of the Police Station.

*Clause 6.*—This clause seeks to provide appropriate man power and infrastructure to the police station and sufficient working area and infrastructure for all police personnel.

*Clause 7.*—This clause seeks to affirm the right of all citizen to have efficient police services.

*Clause 8.*—This clause seeks to provide for the right of peaceful entry of persons into every police station and lawful services that may be obtained from the police stations.

*Clause 9.*—This clause seeks to require the Government to provide a sum for food, water and other primary requirements of every person in custody.

*Clause 10.*—This clause seeks to provide that the police station to be open always for those who need police services and to be alert for the performance of any police duty.

*Clause 11.*—This clause seeks to empower the Government to establish special police stations by notification and provide for its status.

*Clause 12.*— This clause seeks to empower the Government to prescribe the form of general diary to be kept in every police station and matters relating to the details of complaints and charges to be recorded therein.

*Clause 13.*—This clause seeks to determine the authorities who may examine and verify the police station diary kept as per clause 12.

*Clause 14.*—This clause seeks to establish one police force known as Kerala police for the entire State and divide it into as many sub-units, units, branches or wings on the basis of geographical convenience, functional efficiency or special purpose as may be decided by Government and specifies, in ascending order the ranks of officers constituting the police force.

*Clause 15.*—This clause seeks to empower the Government to determine by order, the number of police officers necessary in each rank and the structure, offices, jurisdiction, chain of commands and administrative powers, duties and functions of the police force.

*Clause 16.*—This clause seeks to empower the Government to declare by notification any area in the State to be a police district.

*Clause 17.*—The clause seeks to empower the Government to prescribe the rank of a District Police Chief and the police officers to assist him under whose supervision and control the police and police station in a Police district shall function and specifies that the Police Chief shall not be an officer below the rank of Superintendent of Police.

*Clause 18.*—This clause seeks to provide for vesting the administration, supervision, direction and control of the police through out the State in an officer designated as the State Police Chief subject to the control of Government.

*Clause 19.*—This clause seeks to empower the District Magistrate to direct police activity for dealing effectively the disturbance of police order, natural disaster, man-made disaster, election, epidemics, external aggression, land reforms, land disputes, beggary, child labour, trafficking in human beings, juvenile justice, prosecution etc.

*Clause 20.*—This clause seeks to empower the State Police Chief to compile, modify or amend the standing orders and guidelines and to consolidate the same as police manual subject to the authority of the Government.

*Clause 21.*—This clause seeks to empower the Government by general or special order to create and maintain special wing or special unit or specialized branch or special purpose squad etc. and to direct the powers, duties, jurisdiction, supervisory structure as the Government may direct to assist the State Police Chief and provides to specify the purposes for which such special wing or unit may be created.

*Clause 22.*—This clause seeks to enable a police officer to perform any duty assigned by law or by lawful order to any officer subordinate to him wherever necessary .

*Clause 23.*—This clause seeks to empower the Government by order, to separate the investigating police from the law and order police in such area as specified for ensuring speedy, effective and professional investigations of cases.

*Clause 24.*—This clause seeks to empower the Government to constitute by notification a State Security Commission.

*Clause 25.*—This clause seeks to provide for the functions of the State Security Commission.

*Clause 26.*—This clause seeks to empower the State Security Commission to appoint a panel of three experts familiar with the functioning of police or public administration or sociological or criminological studies, to evaluate the performance of the police in the previous financial year and to suggest performance standards for the succeeding year.

*Clause 27.*—This clause seeks to provide for the duties of police officers.

*Clause 28.*—This clause seeks to provide that every police officer on duty to remain in a state of mental and physical alertness and respond to any situation brought into his notice with respect to which police are lawfully expected to discharge any of its functions.

*Clause 29.*—This clause seeks to specify the behaviour of a police officer on duty on their dealing with the public and treatment towards those in their care and custody.

*Clause 30.*—This clause seeks to provide that all police officers shall strive to maintain good physical and mental health, empowers State Police Chief to specify standards for such physical and mental efficiency, provides for exceptional circumstances thereof and empowers the Government to institute incentives for promotion thereof.

*Clause 31.*—This clause requires the police to keep the information relating to the activities of any individual or institution which are collected by the police during the course of their duties as confidential.

*Clause 32.*—This clause seeks to provide that any person or his representative in interest shall have the right to see and be informed of the reason for any police action which has adversely affected a person, property or reputation, etc.

*Clause 33.*—This clause seeks to provide for the police to make and keep audio or video or digital records of any activity performed in pursuance of any duty.

*Clause 34.*—This clause seeks to provide for the manner in which a complaint shall be made to the police.

*Clause 35.*—This clause seeks to provide for the treatment of witnesses by the police and also for the payment out of Criminal Justice Miscellaneous Expenses Fund, the wages that one had lost due to any assistance given to police.

*Clause 36.*—This clause seeks to enable every person to identify himself if so required by a police officer.

*Clause 37.*—This clause seeks to provide that every police officer shall have the right to access to any private place for the purpose of ensuring safety or for averting imminent danger.

*Clause 38.*—This clause seeks to provide that any police officer present at the spot of a criminal activity, shall interpose and stop such activity and for the purpose he may lawfully demand and accept the services of any able bodied adult male.

*Clause 39.*—This clause seeks to make liable any person to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

*Clause 40.*—This clause seeks to empower the police officer to remove any person who resists, refuses or fails to comply with any reasonable direction given by a police officer and to collect his whereabouts without prejudice to any other actions taken under this Act.

*Clause 41.*—This clause seeks to authorise the police officer to keep any person or object for a maximum period of six hours involved in any cognizable offence at any appropriate place, in the presence of appropriate local witnesses.

*Clause 42.*—This clause seeks to empower a police officer having jurisdiction to present at on assembly and issue directions for the maintenance of order and prevention of danger to persons so assembled therein.

*Clause 43.*—This clause seeks to authorise the State Police Chief to specify uniforms of all ranks and categories of police officers with the prior approval of the Government.

*Clause 44.*—This clause seeks to empower the State Police Chief to specify the colours, equipments and accessories of every police duty vehicle, with the prior approval of the Government keeping in view the need for their appearance to be distinctive, exclusive

and easily identifiable by the members of the public who have to seek police services.

*Clause 45.*—This clause seeks to empower the government to declare any area which is beset by communal or political violence or terrorist or anti-national activities or large scale violence and vandalism or destruction of public property as ‘disturbed area’.

*Clause 46.*—This clause seeks to provide for the manner in which a person can be arrested and the rights of the person arrested.

*Clause 47.*—This clause seeks to provide the police officer to use sufficient force with or without the aid of suitable gadgets to ensure that a person arrested by him does not escape from custody unlawfully.

*Clause 48.*—This clause seeks to empower the police to take a person who appears to be insane, psychopathic, intoxicated as otherwise incapable of looking after himself into protective custody.

*Clause 49.*—This clause seeks to provide for the medical examination of an accused or suspect person by a medical practitioner.

*Clause 50.*—This clause seeks to provide that every hospital shall earmark sufficient space for the medical treatment of persons in police custody.

*Clause 51.*—This clause seeks to provide that a person taken into police custody is physically injured such person shall be taken before the nearest medical practitioner.

*Clause 52.*—This clause seeks to empower the Government to notify the public services required for the purposes of this clause and to provide the service providers to maintain the records of persons to whom the service is provided.

*Clause 53.*—This clause seeks to provide the service providers to furnish the details or information or documents required by police.

*Clause 54.*—This clause seeks to empower the Government to notify that any class or category of service provider shall obtain police verification certificates from Police Chief before starting to provide such service to the public.

*Clause 55.*—This clause seeks to provide that the service provider shall report to the nearest police station, the details of the station, missing or wanted property that has come into his notice.

*Clause 56.*—This clause seeks to provide that adequate space shall be provided in the police stations for the storage of special articles and empowers the Government to notify an enclosed area other than police station for the storage of articles seized in case the given space in the police station to that purpose is insufficient.

*Clause 57.*—This clause seeks to specify the duties of the police officer in relations to unclaimed property and the procedure to be followed in such cases.

*Clause 58.*—This clause seeks to empower the police to register information on man missing in the manner and to enquire the cases in which a cognizance offence is enquired into.

*Clause 59.*—This clause seeks to empower the Station House Officer to register information about any missing articles and enquire into it.

*Clause 60.*—This clause seeks to authorize the District Police Chief to issue certificate to the effect that a particular person is not involved in any crime under his jurisdiction and also empowers Government to fix the charges to be realised for the purpose.

*Clause 61.*—This clause seeks to empower the District Police Chief, on receipt of an information that there is any place within his jurisdiction where extraordinarily large sums of cash or very valuable movable securities are kept or that any place of public importance is facing a grave security threat, to get a security audit conducted by the persons selected by the District Police Chief.

*Clause 62.*—This clause seeks to enable a police officer on duty to regulate and control traffic and to give reasonable directions to all concerned for such regulation and control of traffic.

*Clause 63.*—This clause seeks to empower the District Police Chief or the State Police Chief or the Station House Officer to provide additional police strength in any public or private place with a view to prevent or avert any imminent danger to the public or any part thereof or any individuals or group or institution and also to empower Government to prescribe the criteria and the procedure for providing additional police force and the conditions on which such deployment may be provided to individual or institution.

*Clause 64.*—This clause seeks to authorise the Station House Officer to take action where any dispute between any individuals or group is brought to the notice of any police station under circumstances in which it is reasonably likely that unless the issue is speedily resolved, cognizable crime may result.

*Clause 65.*—This clause seeks to enable for the constitution and functioning of Community Liaison Groups by the District Police Chief for each police station to assist the Police in their functioning.

*Clause 66.*—This clause seeks to provide for the division of the area of every police station into beats and for the assignment of sufficient beat patrols to each beat area to service the beat area on regular basis.

*Clause 67.*—This clause seeks to empower Government to prescribe rules for awarding rewards by District Police Chief to public for especially outstanding services rendered.

*Clause 68.*—This clause seeks to empower the senior most police officer present in any place of imminent riot, to take possession of any building or other place for a period not exceeding 48 hours and to exclude all or any person there from or may allow access thereto for such person only.



*Clause 69.*—This clause seeks to enable the police officer to issue orders as to the conduct of persons at a place in the event of a serious accident or a calamity.

*Clause 70.*—This clause seeks to enable the police or any member of the fire services or any Magistrate and in the absence of any such person, any public servant to take action on the occasion of fire, calamity or accident in any locality.

*Clause 71.*—This clause seeks to enable the Government to exempt any equipment or property held by the police officially for the purpose of discharging any of its functions from the requirement of having license for it under any law.

*Clause 72.*—This clause seeks to provide for a police officer to lay any information before a Magistrate and apply for summons, warrant, search warrant or such other legal process.

*Clause 73.*—This clause seeks to enable the District Police Chief to issue orders to prevent danger, obstructions and inconvenience to public for regulating traffic and matters connected with its management and also to authorise him to specify the manner in which members of public may voluntarily assist in traffic management.

*Clause 74.*—This clause seeks to empower the Government to prohibit on person imparting training to public in physical activity without permit and allowing any building to be used for such training and also to prescribe the authority competent to issue the permit conditions to be fulfilled for giving permit to a person imparting training.

*Clause 75.*—This clause seeks to provide for authorising the public authority to cancel or suspend the permit under clause 71 and for preferring appeal before the appellate authority against the decision of the public authority.

*Clause 76.*—This clause seeks to empower the District Magistrate to prohibit mass drill or man training with arms or carrying of arms in any procession either by public notice or by order.

*Clause 77.*—This clause seeks to empower the Government to issue orders subject to which the District Police Chief may by public notice temporarily reserve for any public purpose or any street or public place and prohibit persons from entering the area so reserved.

*Clause 78.*—This clause seeks to authorise the District Police Chief to issue directions prohibiting nuisance caused by noise in any street, open space or any other premises.

*Clause 79.*— This clause seeks to enable the District Police Chief to issue notifications to prevent violence by prohibiting or regulating individuals from carrying of arms, coercive substance, collection of stones, exhibition of corpses; symbols, placards, posted matters or offend against normal standards of public morality.

*Clause 80.*—This clause seeks to enable the District Police Chief to issue notification to regulate, contract, licence or prohibit any assembly for the preservation of public order and peace or law and order in an area.

*Clause 81.*—This clause seeks to empower the District Magistrate to make rules or regulations in consultation with the District Police Chief and local Government, for the purpose mentioned therein.

*Clause 82.*—This clause seeks to empower the District Magistrate to issue orders for the maintenance of peace at a public place where a dispute exists which is likely to lead disturbance of the peace.

*Clause 83.*—This clause seeks to empower the District Magistrate or the Government to classify the professional, mental or physical services of any person or group of persons for the maintenance of peace.

*Clause 84.*—This clause seeks to empower the Government to notify any area as Special Security Zone and empowers the Government to prescribe reasonable restrictions with regard to the use of premises and vehicles.

*Clause 85.*—This clause seeks to empower the Government to determine the recruitment and conditions of service of police officers.

*Clause 86.*—This clause seeks to empower the State Police Chief to frame code of discipline for police officers and persons undergoing police training.

*Clause 87.*—This clause seeks to provide for the disqualifications for appointment of Police Officer.

*Clause 88.*—This clause seeks to empower the Government to prescribe the form of an oath or affirmation to be taken by a Police Officer on his appointment after training.

*Clause 89.*—This clause seeks to provide for giving a Certificate of Authority to the police officer for enabling him to discharge his functions under the Act.

*Clause 90.*—This clause seeks to enable the State Police Chief to employ every police officer, not on leave or specific exemption or under suspension in any part of India.

*Clause 91.*—This clause seeks to enable the Police Chief to order all members of the police force to work in any branch of police.

*Clause 92.*—This clause seeks to provide that no officer shall resign or withdraw from duty without written permission from State Police Chief or such officers authorised in that behalf.

*Clause 93.*—This clause seeks to provide that no Police Officer shall engage in any employment other than his duties under the Act.

*Clause 94.*—This clause seeks to specify that the powers, functions and privileges vested in a police officer shall remain suspended when he is placed under suspension.

*Clause 95.*—This clause provides for extra compensation for officers working beyond the normal hours of work for eight hours a day.

*Clause 96.*— This clause seeks to provide that all police officers shall be prepared to face physical danger arising in the lawful discharge of their duties and shall not be guilty of cowardice.

*Clause 97.*—This clause seeks to provide that police officer shall be duty bound and report to the District Police Chief or State Police Chief any corrupt activity or any act of the torture committed in his presence by another police officer.

*Clause 98.*—This clause seeks to provide that Government may ensure a minimum tenure of two years of service to an officer in the post of Director General of Police, Inspector General, Superintendent of Police in charge of Districts and Station House Officer in charge of police stations.

*Clause 99.*—This clause seeks to empower the District Police Chief subject to any orders issued by the Government, to hire any willing person of good character between the age of 18 and 60 years as special police officer to assist the police in the maintenance of order and the condition thereof.

*Clause 100.*—This clause seeks to empower Government to make rules regulating the dismissal, removal, suspension or reduction to lower rank of any officer of the rank of Inspector and below who are negligent in their duties.

*Clause 101.*—This clause seeks to prohibit police officers from performing any act of personal servitude to any other person or officer.

*Clause 102.*—This clause seeks to empower the State Police Chief or District Police Chief to enquire into a dispute as to whether the act is done in the course of any duty in connection with any suit or proceeding before any Court or Statutory Authority.

*Clause 103.*—This Clause seeks to provide for the procedure and conduct for departmental action and punishment of police officer for official misconduct.

*Clause 104.*—This clause seeks to empower the State Police Chief to standardise and codify punishments to be awarded by

disciplinary authorities, subject to the directions issued by the Government.

*Clause 105.*—This Clause seeks to empower the Government to notify procedures in appeal and revision in respect of departmental punishments awarded to police officers.

*Clause 106.*—This clause seeks to provide for the constitution of a Welfare Bureau and for its function.

*Clause 107.*—This clause seeks to provide for the constitution of a Police Establishment Board.

*Clause 108.*—This clause seeks to provide for the functions of the Police Establishment Board.

*Clause 109.*—This clause seeks to empower the State Police Establishment Board to nominate an officer of the rank of Deputy Superintendent of Police as Police Welfare Officer to redress the grievances of police officers of and below the rank of Sub Inspector of Police.

*Clause 110.*—This clause requires the Government to provide adequate insurance coverage including medical insurance to all police personnel.

*Clause 111.*—This clause seeks to empower the Government to prescribe guidelines for the formation of Police Association.

*Clause 112.*—This Clause seeks to provide for the establishment of a Police Complaints Authority.

*Clause 113.*—This clause seeks to provide that all complaints against police officers shall be submitted before the State or District Police Complaints Authority.

*Clause 114.*—This clause seeks to provide for filing of complaints against the police by the President of Panchayaths, Members of Legislative Assembly and Parliament to the Police Complaints Authority and submitting report by such authority to the elected representatives.

*Clause 115.*—This clause seeks to provide that the Police Complaints Authority shall take expeditious action to complete the cases under its consideration and to provide that the Authority shall give guidelines to public servant with regard to any matter under its consideration.

*Clauses 116.*—This clause seeks to provide for giving protection to police officers for anything done or intended to be done in good faith in pursuance of this Act.

*Clause 117.*—This clause seeks to provide for time limit for taking cognizance of an offence allegedly committed by a police officer in the course of discharge of his duties and time limit for institution of suits against the police officer on a claim for civil damages.

*Clause 118.*—This clause seeks to provide for the circumstance under which a police officer shall be made liable for dereliction of duty and the punishment meted out to such officers.

*Clause 119.*—This clause seeks to provide for the quantum of punishment to be awarded to a police officer who obtain any bribe or unauthorised reward or consideration by any means thereat or otherwise.

*Clause 120.*—This clause seeks to provide for punishment to be awarded to a police officer who vexaciously and unlawfully detains, searches or arrests a person or seizes the property of any person.

*Clause 121.*—This clause seeks to provide for penalty for interfering in police functions.

*Clause 122.*—This clause seeks to provide for penalty for causing serious disorder or causes danger to the public or public safety.

*Clause 123.*—This clause seeks to provide for punishment to persons who cause nuisance.

*Clause 124.*—This clause seeks to provide for punishment for offences for which no separate provision or punishment has been specified under this Act.

*Clause 125.*—This clause seeks to provide that every responsible person in the Company as well as Company shall be deemed to be guilty of offence while offences are committed by a Company under this Act.

*Clause 126.*—This clauses seeks to provide that the provision contained in this Act shall not be a bar for any person being prosecuted for any offence under this Act or any law.

*Clause 127.*—This clause seeks to provide that any defect in form or any procedural irregularity while doing any act under the provision of this Act or rules etc. made thereunder shall not be material.

*Clause 128.*—This clause seeks to provide for making offences under sections 120, 121 and 122 of the Act cognizable and bailable and to make an offence under section 119 cognizable and non-bailable.

*Clause 129.*—This clause seeks to provide for the inevitability of a report from the Station House Officer for a court to take cognizance of the offence under the Act.

*Clause 130.*—This clause seeks to provide for the compounding of offences under the Act on the request of the accused.

*Clause 131.*—This clause seeks to empower the State Police Chief to maintain and administer Criminal Justice Miscellaneous Expenses Fund to meet certain expenses.

*Clause 132.*—This clause seeks to empower the Government to give directions to be complied with by the State Police Chief for the purposes of the Act.

*Clause 133.*—This clause seeks to empower the Government to make rules by notification in the Gazette, either prospectively or retrospectively for carrying out the purposes of the Act.

*Clause 134.*—This clause seeks to empower the Government to do anything not inconsistent with the provisions of the Act for

removing any difficulty that may arise in giving effect to the provisions of the Act.

*Clause 135.*—This clause seeks to provide for the repeal of the Kerala Police Act, 1960 and saving anything done or any action taken or any proceedings instituted under the Act so repealed by deeming the same to have been done or taken or instituted under the corresponding provisions of the Act.



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