
POLICING PRACTICES AND NEED FOR REFORMS IN INDIA

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Introduction

“Threat to human rights and bodily integrity is highest in police stations” These are the recent remarks made by the present Chief Justice of India, NV Ramana which portrays the reality of present-day police stations in India.¹

There has been an ongoing debate on reforming the Police Acts in India. From time to time, several governments have appointed commissions, which have submitted reports and recommendations for police reforms. So far, the government has set up six committees, including the National Police Commission. These commissions have proposed substantial police changes. But no leading changes have been made. In 1996, a petition² was filed before the Supreme Court raising various instances of police abuse of power and alleging that police officers are carrying out their responsibilities in an undemocratic way. In 2006 the SC released its judgment where the court gave the center and state government seven-point directives to be followed. Nonetheless, no proper implementation of the court order has been done to date. Police in the modern society through various laws have been entrusted to the duty of protecting the rights of the common man in the major areas of human living like his body, property and reputation. The police are the external manifestation of power of the State. They are the agency responsible for the maintenance of internal peace. They exist to maintain peace in the society, ensure security of the individual and his property, enforce the rule of the law and ensure that the programmes of the state are properly carried out. They are rather supposed to work as a catalyst of the development envisaged by the state the police system as it involved during British period, was to protect interests of British Empire. The political upheavals from 1857, onwards till India achieved freedom, change in administration was brought about, but aims and

¹ ‘How Do Police Get Away with Custodial Torture? Blame the Law’,
<<https://www.thequint.com/voices/opinion/how-do-police-officers-get-away-with-custodial-torture-blame-a-crpc-clause>> Accessed 14 April 2022

² *Prakash Singh v. Union of India* [2006] 8 SCC 1

objective of police department remained the same. At the dawn of independence, police being strong arm of administration, was most hated institution in the country as it was held responsible for brutalities inflicted on the people and inhuman treatment meted out to the political leaders during freedom movements, both violent and nonviolent. The political changes brought about by declaration of independence did not change the image, attitude and functioning of the police. The then government was mostly a police state, where keeping internal peace was the main objective of criminal law administration. Initially police force was being utilized for using force against the defaulter in revenue payment. But gradually its duty was enlarged and extended to handling of theft and other crimes. The police force that was established had an orientation of tyranny and torture. Using physical force was the only method of achieving their objective. The British-Indian Police which comprised of mainly Indian nationals with a few white skinned high-level officers kept the Indian population in an atmosphere of terror and threat. They ruled over the people with batons and guns. With the slow rise of independence movement across the country the British police had another duty to discharge and that was the suppression of the political movement through terror and fear. During the prime period of independence struggle the police force had no other work than to tackle agitations and other form of political disturbances. Even though 'rule of law' was the founding principle of British legal system, it was clearly noticed that such principle was given a good bye in Indian administration during British Rule. The need to study and analyze the police reforms arise since the entire responsibility to enforce the laws` and maintaining rule of law lies on the shoulders of police department, but unfortunately, we still have the same policing system as established by our colonial rulers to enforce their policy and the same policing is now being used to enforce the Rule of Law. The Indian society has become more complex by its exposure to technology, mass education and human rights values, yet it has not totally given up its tradition and the old value system. The result is a heterogeneous and plural system where we seek unity in diversity. Century old colonial system has taught the people to be more and more dependent on Govt, and consequently on the police for law enforcement. Police has taken advantage of this psychology of the people. The bureaucracy and the police administration have indulged in rampant social corruption and blatant exploitation.

A large section of society feels that the police functions with partiality, favoritism and injustice. In their judgment, the police are professionally incompetent, cruel and corrupt. The police functionaries in the lower rungs have not been much mindful of the need for good public relations in their day- to-day working. The public is hostile towards the police, due to historical

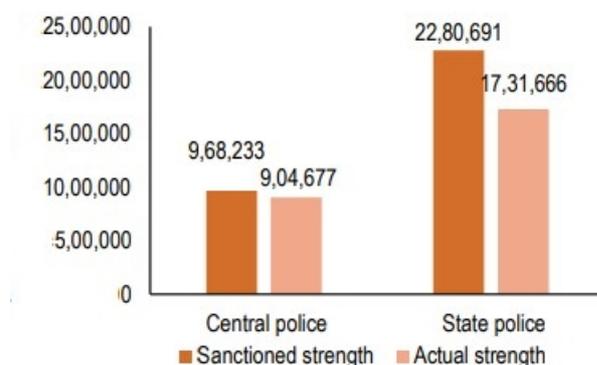
reasons. Independent India has inherited the police system designed by British rule to maintain the colonial structure and to defend it from internal uprisings. Fear of the police must have acted as a deterrent against the revolutionary spirit and they succeeded in instilling a fear of the police in the public. As a national movement gained momentum and the police increasingly used to suppress nationalist sentiments, the gap between the police and society grew wider. Under the changed circumstances, this fear needs to be removed.

Major Issues in Policing

Significant manpower imbalance

In India, police officers are highly overburdened. The lack of proper personnel might be a serious impediment to the police doing their tasks. As of recent data available there were Police departments have 5.28 lakhs unfilled positions (24% vacancies)³, The UN recommends a police force of 222 officers for 1 lakh people, but in India there was 155 Police officers per lakh people in 2021. India's police force is operating at 77.4 % of its approved strength.⁴ Crime rate per lakh persons, on the other hand, has climbed by 28 percent in the recent decade (2005 to 2015). Nevertheless, the number of convictions has been relatively low.

24% vacancies in state forces; 7% in central forces



Sources: Bureau of Police Research and Development; PRS.

So now the question arises how the vacancies in police force exacerbating the problem of custodial violence? The answer to the problem lies in the fact that work overload is the primary cause of physical and emotional exhaustion in policemen, same police is tasked with investigation as well as enforcement of law and order in the state. The same policeman is tasked with investigation into number of cases, in one

case he may be investigating into the offence of murder while at the other end he might be investigating into a complaint of domestic violence. Because the police force is a state issue, the activities, functions, and responsibilities of the various positions varies from one state to

³ '5.28 lakh posts vacant in police forces; 1.29 lakh in UP'

<<https://economictimes.indiatimes.com/news/defence/5-28-lakh-posts-vacant-in-police-forces-1-29-lakh-in-up/articleshow/70114056.cms?from=mdr.>> accessed 16 April 2022

⁴ <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/rs-24032021/3266.pdf>.

the next. Nevertheless, according to BPRD policy, individuals with the level of ASI or above are given the function of investigating officers (IOs) in crimes. Interestingly section 22 of Police act 1861 mandates that “Police- officers always on duty and may be employed in any part of district. -- Every police- officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as police- officer in any part of the general police- district.”

In contrast to it Soli Sorabjee Committee which drafted the Model Police Act 2006 calls for some relaxation on the police duty hours. Section 18 of the Model Police Act 2006 provided that *“The state government shall take effective steps to ensure that the average hours of duty of a police officer do not normally exceed eight hours a day; provided that in exceptional situations, the duty hours of a police officer may extend up to 12 hours or beyond.”*

The work pressure beyond their control leads the police officers toward various shortcuts for completing the investigation on time such as by extorting confession after using third degree methods, denial to register first information report even in serious cognizable cases so as to avoid investigation, maliciously planting evidence against accused persons etc. Although at the cost of repetition it is worth to note that custodial torture cannot be justified in a free and democratic society for procuring conviction or whatever the circumstances maybe. For example, if there is some accused person in police custody who has planted a time bomb in some compartment of train full of passengers standing at crowded platform which is going to explode in some few minutes, then can the police officers torture that accused person to know the location where time bomb is planted so that it can be safely defused to save the lives of hundreds of people? The simple answer to this question is No. In the realm of rule of law and a society based on respect for fundamental rights, there is absolute prohibition of torture. It cannot be justified, and if relaxation is given to use torture under certain circumstances, then it will promote further violence by the law enforcement agencies to counter crimes and terrorism. Legitimacy to torture would accord other inhumane methods of crimes.⁵

Inadequate Resources

The Indian police force is essential for a number of activities, including preserving law and order, as well as prevention of crimes. Due to the evolution of threats like as terrorist activity, rebellion, organized crimes, etc. have transformed with the dawn of the twenty-first century.

⁵ Steven Greer, “Is the Prohibition against Torture, Cruel, Inhuman and Degrading Treatment Really Absolute in International Human Rights Law?” , Human Rights Law Review, 2015, 0, 1–37

A related concern has been the ability of threats to adjust to new technologies, resulting in the emergence of other forms of crime such as cybercrimes. As a result, it is critical to guarantee that the policemen have accessibility to a sufficient technological infrastructure for effective transportation and communication, which allows the public to contact them as well as officers to establish an intra-communication network. Appropriate expenditure is required for the development of such a structure. In 2017, 267 police stations in India lacked phones and 129 lacked wireless telecommunications equipment, according to the BPRD's most recent statistics. For response to distress calls, patrolling, and maintenance of law and order in their territories, there were eight cars for every 100 police officers.⁶ Weapons shortages were also revealed by a CAG assessment.

Lack of Sensitization of Police force

The police force, which was formerly recruited by individual states to uphold rule of law and to strengthen people's trust in them, has now become the first line in breaking law and order and creating dread in people's heads about whether or not to contact them. Crime investigation is one of the main functions of the police. Cr.P.C and the Police Act provide the legal procedure for the same. Unlike the past, criminal investigation in the present days cannot be done without the cooperation of the people. Here starts the need of police-citizen cooperation and coordination, without which it is impossible to book a criminal to justice. Without providing appropriate service functions, it is impossible to get seeking assistance and that will badly affect investigation and crime. The present-day police are hardly an organization for the service of society any more. It has been converted into an organization that spreads political influence with the help of legal structure, with the aid and assistance of those who are in power.

It has been observed by the researcher that Indian police system is not fully sensitized toward women as well as people from the marginalized sections of the society. It is Ruchika Girohtra's case wherein the policeman of IG rank sexually molested a minor girl of 14 years. After that her family was harassed by the police, no FIR was registered on her complaint, her brother was tortured by the police in custody, she ultimately committed suicide. Her struggle for justice didn't end there, her friend who was the lone witness in the case was also harassed by the police and number of false cases were also registered against her, Journalists and lawyers who were fighting for giving her justice were also made target by the police whereas on the other hand

⁶ "Why India's police forces lack weapons and communications equipment"
<https://scroll.in/article/935008/why-indias-police-forces-lack-weapons-and-communications-equipment>.

That accused IG was promoted to the rank of DGP. The case finally ended with conviction of Accused after 10 years of legal battle totally permeated with abuse of power and authority.⁷ It is disheartening to note that the position hasn't changed much even today.

Women are often afraid to report rape and sexual assault because of the ideology of macho and authoritarian mindset that pervades police departments. The proportion of female police officers in the police force is also unsatisfactory.⁸ Even when a woman surpasses socioeconomic hurdles to fight for justice, why does she face gendered insensitivity from those who are selected as the justice system's guardians? It is ascribed to two chief reasons: a dearth of behavioral training and gender lack of sensitivity. There is a need for a shift in the police organization's approach toward female victims. It's time to put an end to the unpleasant questioning and character assassination. The absence of a secure location for medical testing, as well as the paucity of female police, exacerbates the situation.

It is pertinent here to note that there exist stereotypes toward sexual crimes against women not only in mind of general public but most of the policemen as well. Some of such stereotypes are, if a female opposes, rape is impossible. Women have a significant place at household. They have to accept whatever falls her path if they walk out. Toxic masculinity is a powerful force that can't be controlled. It is not appropriate for women to excite it etc. and these stereotypes finally culminates into inaction by the police in rape cases, non-registration of FIR since the police disbelieves the initial complaints by the victim.⁹ Even in heinous offences like Gang rape police forces the victim to have a compromise with the accused person.¹⁰

As per The Policing in India Report 2019: ***“19% police personnel said they would not advise their daughters to go alone to a police station, outside their jurisdiction, to report a crime.”***

Gender sensitization instructional classes for police officers are urgently needed. The most of police officers currently misunderstand and do not adequately execute the concept of gender.

⁷ “The long battle to bring ex-DGP SPS Rathore to justice for molesting Ruchika Girhotra” <https://theprint.in/report/ruchika-girhotra-sps-rathore-haryana/32033/>

⁸ “Why Police Sensitization Is Required for A Progressive India?” <https://www.juscorpus.com/why-police-sensitization-is-required-for-a-progressive-india/>.

⁹ “Need for Gender Sensitization in Police”, National Commission for Women, can be accessed at <http://ncw.nic.in/sites/default/files/Gender%20Sensitization%20of%20Police%20Officers.pdf>.

¹⁰ “UP: Gang-rape Victim Dies After Consuming Poison Over Police Inaction, SHO Suspended” <https://www.news18.com/news/india/rape-victim-dies-after-consuming-poison-in-up-over-police-inaction-4305341.html>.

If there is understanding, the cult of manhood that pervades police organizations makes it difficult for male officers to change their attitudes and behavior towards woman.

Political interference in working

The importance of the policemen as the principal guardians of the law of the land, above all, emphasizes the necessity for change. It necessitates politically neutral police officers who are definitely unbiased and devoid of any other pressures. Since the armored police seems to be the most obvious expression of the Government's authority, no governing party at the Central or in the regional level will eschew the practice of the police control today. Nevertheless, the power to inflict oppression on citizens or portions of the population who have dissenting opinion with the authorities is also sanctioned by this grasp over police department. To enforce existing laws and preserve peace and stability in a society, police forces get the ability to use force. This authority, nevertheless, can be abused in a number of different ways. The policemen are still governed by political leaders' dictums in 2022. The Delhi riots in 2020 sparked accusations of political manipulation, evoking memories of the 1984 upheaval. Julio Ribeiro, nation's highly recognized police officer, was stirred enough to issue a message to Delhi's police commissioner. He demanded a fair investigation in the violence and inquired why workers of the ruling party were not investigated for giving hatred statements.¹¹ The police and citizenry have an asymmetrical power relationship: the first is not answerable to the latter.

In India the political leaders have from time to time shown their support to use of torture by the police in custody and use of third-degree methods. Statements are made that *“Rapists should be tortured in front of victims until they beg for forgiveness. They should be hung upside down and salt and chilly should be rubbed on their wounds until they scream. I told him people who behave like danav (demons) cannot have Manavadhikar (human rights). Their heads should be cut off like Ravana. Mothers and sisters should watch so they can get closure when I was the cm (chief minister) I made them do it”*¹²

Indeed, the abovementioned statement reflects the expectations of our society toward the police system. Daily news reports of brutal gangrapes shocks the conscience to an extreme and intolerable levels. But still the use of third degree on the accused persons will be contrary

¹¹ “India’s Police: An Instrument of Injustice” https://www.fairobserver.com/region/central_south_asia/javeed-ahmad-india-police-service-reform-political-corruption-news-15261/

¹² “Uma Bharti Says As Chief Minister, Tortured Rapists Till They Begged” <https://www.ndtv.com/india-news/uma-bharti-says-as-chief-minister-tortured-rapists-till-they-begged-1658002>

to the idea of rule of law itself. No doubt such kind of brutal punishments can be adopted into our penal system in cases of heinous crimes. But using such methods on a person who is not yet found guilty and during pendency of trial defeats the notion of “Presumption of Innocence”. So even such kind of brutality is afflicted on some accused person during his police custody and at end of trial, he is found not guilty. Then who will be the culprit for such a brutality faced by him without committing any crime?

The subordination of police officers to their political bosses arises from Sec 3 of colonial Police act which provides that “The superintendence of the police throughout a general police-district shall vest in and shall be exercised by the State Government to which such district is subordinate, and except as authorized under the provisions of this Act, no person, officer of Court shall be empowered by the State Government to supersede or control any police functionary.” In Simple words, CM and, senior officers from the prestigious Indian Administrative Services (IAS) and Indian Police Service (IPS), have entire authority over their districts. The Police Act's definition of police supervision does not imply that the political administration has the power to veto operative orders issued by competent police chiefs. It signifies that the elected representative must have its senses open 24/7 to guarantee that policemen do not abuse their authority to annoy civilians. That's why police supervision has been placed primarily with the political executive in order to protect the public from atrocities caused by disobedient police officers. The National Police commission in its second report stated that “transfer and suspension are two weapons frequently used by the politician to bend the police officers down to his will”¹³

There are countless instances in Indian scenario wherein the Police force has been used by the political leaders for personal gains or during the times of political crisis for retribution from opponents. After the recent post poll violence in West Bengal in 2021, The NHRC had remarked that “*there was retributive violence by supporters of the ruling party, against supporters of the main opposition party, and local police was grossly derelict, if not complicit, in this violence. How long are we going to suffer this political misuse and abuse of the police?*”¹⁴ Police officers are trained to follow the orders of politicians instead of the law. When authority and discretion are combined, there is the risk of abuse.

¹³ National Police Commission (1979), 2nd Report

¹⁴ “West Bengal: NHRC Report On Violence Sparks Political Slugfest”

<https://timesofindia.indiatimes.com/city/kolkata/nhrc-report-on-violence-sparks-political-slugfest/articleshow/84458349.cms>

During the wedding of a chief minister's daughter in Bihar, Car showrooms, furniture shops were looted openly by the followers of the party for arrangements of the marriage. Police remained the mute spectator to the whole incident and no action was taken. Allegedly around 50 new cars and 100s of sofa sets were taken away forcibly by the raiders for being used in marriage. There was open display of power.¹⁵ In contrast, it is shockingly true that, if a common man opens his shop and violates covid pandemic norms, he maybe thrashed to death by the same police. Politicians now have complete control over promotions and transfer, which they abuse to meet their party's need for power. Regrettably, it hasn't quite progressed in India's policing practices. Despite considerable dissatisfaction with the policing's performance, the idea of reformation has failed to grab Indians' attention. 'Political control' of police has weakened institutional command and control, hampered police operations, and made it difficult to put blame for misbehavior on a single entity or person. The practice of police in India largely dominated by politics, carrying political party favors and agendas, and pay for play, which has completely eclipsed the policeman's actual responsibilities. The ability to transfer, commission, and elevate police officers is being used as a threat and an incentive for conformity or noncompliance, and it has evolved into something very distinct than the initial goal of governance and appropriate professional advancement.

Accepting systemic corruption and destruction of the legal system is analogous to tolerating police brutality. As a result, recognizing the seriousness of the situation, unlawful police practices must be wiped over with disregard.

¹⁵ "Laloo Prasad Yadav's army of raiders ensures his daughter's wedding is not forgotten easily"
<https://www.indiatoday.in/magazine/states/story/20020610-laloo-prasad-yadav-army-of-raiders-ensures-his-daughter-wedding-is-not-forgotten-easily-795122-2002-06-10>.