



ROLE OF POLICE IN CRIMINAL JUSTICE SYSTEM- A STUDY IN INDIAN PERSPECTIVES

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Abstract:

This paper provides a comprehensive examination of the role and challenges faced by the police within the criminal justice system of India. It traces the historical evolution of law enforcement in India from its colonial origins, emphasizing the transition to a modernized system post-independence. The multifaceted responsibilities of the police, including crime prevention, investigation, maintenance of law and order, and protection of human rights, are meticulously analyzed within the context of the Indian legal framework. The study scrutinizes key legislative acts such as the Indian Penal Code and the Code of Criminal Procedure, elucidating their impact on policing practices. Furthermore, the paper identifies and explores the myriad challenges confronting the Indian police force, ranging from staffing shortages and outdated laws to corruption and lack of modern resources. It proposes a series of comprehensive reforms aimed at addressing these challenges, encompassing enhancements in manpower, infrastructure, training, and accountability measures. By advocating for these reforms, the paper underscores the imperative of establishing a professional, accountable, and effective police force to uphold the rule of law and maintain public trust in India's criminal justice system, thereby contributing to a safer and more just society for all its citizens.

Keywords: Indian police, criminal justice system, law enforcement, crime prevention, investigation, law and order, human rights, legal framework, challenges, reforms, accountability, professionalism, infrastructure, staffing shortages, corruption.

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INTRODUCTION

In criminal justice system of India, police play pivotal role, serving as frontline guardians of law and order in a nation marked by its vast population and diverse societal challenges. Rooted in the etymology of the term "police," originating from the French and Greek words meaning government and civil administration, respectively, the concept of law enforcement has evolved over centuries. In ancient times, the military often assumed the responsibility of maintaining order, while localized enforcement fell under the jurisdiction of lords and nobles.

However, with the establishment of formalized police forces, such as those seen in the Roman Empire, the modern notion of policing began to take shape. Fast forward to contemporary India, where the police force plays a multifaceted role in upholding social control, deterring crime, and ensuring the fair administration of justice. According to the Cambridge dictionary, "Police are the official organization that is responsible for protecting people and property (public and private property), making people obey the law, finding out and solving crime, and catching people who committed a crime."²

Central to understanding the role of the police is the recognition of their four primary responsibilities i.e. "enforcement of the laws, prevention of crimes, responding to emergencies, and providing support services to the community". Police serves as the initial point of contact in the investigative process, laying the groundwork for fair and accurate justice delivery.

Despite their indispensable role, questions have arisen regarding the efficacy and impartiality of police investigations, particularly in cases of sexual offenses against women. The need for an impartial investigating agency has been underscored, especially in light of landmark legal judgments such as Arnesh Kumar Vs. State of Bihar ³, which emphasized the necessity for arrests to be made judiciously and in accordance with prescribed legal parameters.

In this paper, we delve into the intricate dynamics of the Indian police force within the criminal justice system. By examining their origins, defining responsibilities, and addressing contemporary challenges, we aim to shed light on the critical role played by police in order to maintain law, order, and justice in India. Through an in-depth examination, we aim to clarify intricacies and subtleties of their role within the wider scope of the Indian criminal justice system.

I. HISTORICAL OVERVIEW

Policing origin in India is often linked to colonial era, it started with establishment of with Indian Police of 1861 by the colonial powers. They modelled the act after their own police system. Initially, the main duty of the police was to "maintain law and order, stop crime, and protect interests of British". However, after gaining independence in 1947, the Police in India underwent changes to match the goals and principles of a free and democratic India.

² www.Dictionary.cambridge.cam.

³ Arnesh Kumar v State of Bihar & Another, 2014 8 SCC 273.

A. EVOLUTION OF POLICE IN INDIA

The concept of police in India is often perceived as something brought by the British. But it is interesting to notice that the principles of rule of law and justice have roots in ancient Indian civilization, as epitomized in the Vedas' concept of Dharma⁴. In 1609, when the British initially came to India, they had no plans to rule the country but just to trade. Yet, by 1792, recognizing the need for a structured law enforcement agency, the British began their policing efforts. The Government of India Act of 1858 solidified British dominance and led to the formation of the first Police Commission in 1860. The suggestions given by this commission were integrated into the Police Act of 1861, which became the blueprint for modern Indian police system. Despite subsequent organizational revisions, another police committee was instituted in 1902, and its suggested reforms were implemented in 1905. This evolution of the police system persisted until India's independence on August 15, 1947.⁵

Post-independence, India adopted a well-organized system of police, first established during the British colonial period. Protecting basic rights became crucial for the police. Since the Indian Constitution was enacted in 1950, ongoing efforts to improve the police system have included the creation of State Police Commissions to develop state police laws and establish standard procedures. Today's police system still mainly depends on the 1861 Police Act and recommendations from the Police Commission of 1902

The two primary categories of police are the Indian Police Service and State police forces. Recruitment of officers for Indian police services requires them to qualify for the Civil Services Examination and it is their responsibility to maintain law and public order throughout nation. On the other hand, the State police forces that include- state armed police, district police, and city police- are responsible for maintenance within their specific regions. Thus, the modern Indian police force has evolved, adapting to various historical stages, with its present form serving as a cornerstone of national governance.

II. LEGAL FRAMEWORK AND STRUCTURE OF POLICE IN INDIA

The legal framework governing the Indian police is primarily defined in criminal law, which comprises substantive law, procedural law, and evidence law. The major legislative acts governing criminal law in India are the Indian Penal Code (IPC), the Code of Criminal Procedure, 1973 (Cr PC), and the Indian Evidence Act, of 1872. These laws were established by the British in the 19th century, IPC was primary legislation that defines various types of crimes and their corresponding punishments. The IPC consists of 511 sections, which encompass approximately 330 different offenses, categorized into areas such as public justice, state security, public order, public health, property, and various other areas.

Alongside the IPC, special and local laws (SLL) have been introduced over time to tackle new types of crime and safeguard the interests of vulnerable groups in society. The procedural law, outlined in the CrPC, describes the process of registration of offence, followed by thorough search and investigation, and

⁴ Giriraj Shah, *THE INDIAN POLICE- A RETROSPECT*, 9, 1992

⁵ Monica Roy, *The British Administration in India*.

then trial of the accused by the court. Police are granted specific powers under the CrPC, such as the power to investigate offenses⁶, arrest suspects⁷, search and seize property⁸, and issue search warrants⁹. However, it is essential to note that even though police are responsible for enforcing the law, instances of law enforcement agencies overstepping their legal boundaries are common.

Indian police system comprises two main branches i.e. IPS and state police. IPS officers have a lot of authority and they are recruited by an examination that is conducted by the Union Public Service Commission (UPSC). The police in the state work under Director General, the DGP, who supervises them, it is their responsibility to maintain law and order within their states. The force is divided into zones, ranges, districts, subdivisions, circles, and stations to administer easily.

III. RESPONSIBILITIES AND FUNCTIONS OF THE POLICE

The duties and functions of Police are divided into four main areas. i.e. “prevention of crime, investigation of crime, maintenance of law and order, and protection of human rights”.

1. Protecting human rights is a key responsibility of the police. They make sure people aren't discriminated against due to their caste, religion, or gender. They also work to make sure that no one is physically abused or harmed mentally and that citizens can access justice, hence protecting their rights that are given in the constitution of India.
2. Police is responsible for stopping crime by identifying who can commit these crimes and taking actions to prevent them. For this they need to search their areas to stop criminal activities.
3. The police are in charge of investigating crimes by collecting evidence, questioning witnesses, and identifying suspects. They use modern scientific techniques to do this they use DNA testing and fingerprinting to solve crimes. The police take help of forensic experts to collect and study evidence for investigations.
4. Upholding law and order is important duty of the Indian Police. They make sure citizens follow the law and enforce it when needed. This involves managing traffic and ensuring that people obey these traffic regulations. The police also have an essential role in preserving public order when there are protests, demonstrations by public, etc.

Under Police Act of 1861, the police have some duties that are as follows:

- Complying and executing requests and warrants issued by competent authorities.¹⁰
- Collecting and disseminating information that influences public harmony.¹¹

⁶ Code of Criminal Procedure, 1973, act 2 of 1974; section 36

⁷Code of Criminal Procedure, 1973, act 2 of 1974, sections 41 to 60.

⁸Code of Criminal Procedure, 1973, act of 1974, sections 91 to 105

⁹Code of Criminal Procedure, 1973, act 2 of 1974, section 165

¹⁰ The police act , Act 5 of 1816, Section 23 (b).

- Searching for and dealing with wrongdoers or offenders.¹²
- Detaining and arresting individuals based on legitimate reasons and adequate grounds.¹³

The National Police Commission (NPC) has given a more detailed list of duties for the police, which includes:

- Promoting and protecting public order.
- Investigating crimes and arresting wrongdoers.
- Identifying situations that could lead to a crime being committed.
- Reducing the chances of crime through preventive measures.
- Collaborating with other relevant agencies to prevent crimes.
- Assisting individuals at risk of physical harm due to crimes.
- Creating and maintaining a sense of security.
- Providing essential services and assistance to individuals in distress.
- Collecting intelligence related to issues affecting public harmony and crimes overall.
- Performing other duties as mandated by law.¹⁴

The main duty of police is to protect rights of public by preventing crime and punish those who commit offenses. Their functions also include protecting the nation's unity and integrity, maintaining public order, and enforcing social laws. With the changing socio-political landscape, the focus of the police has evolved to address new challenges, including social unrest, and communal tensions.

IV. PROCEDURE FOLLOWED BY POLICE

There are several key steps involved in Indian criminal justice from the registration of a FIR to the trial of the accused. The definition of 'Investigation' is provided in CrPC as a process that "includes all proceedings which is used for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) under this code."¹⁵ This process ensures that justice is delivered fairly and efficiently.

¹¹ The police act, Act 5 of 1816, Section 23 (c).

¹² The police act, Act 5 of 1816, Section 23 (e).

¹³ The police act, Act 5 of 1816, Section 23 (d).

¹⁴ National Police Commission, 1977, *Selected Recommendations of the National Police Commission*
https://www.humanrightsinitiative.org/publications/police/npc_recommendations.pdf

¹⁵ Code of Criminal Procedure, 1973, act 2 of 1974, Section 2(h).

A. Lodging a First Information Report

The process begins with lodging an FIR. It is a written report that is created when police receive information about an offence that is cognizable i.e. an offence where the police does not require a warrant to arrest. FIR can be filed in various ways, such as in person at the police station, by telephone, by post, or through online SMS or email. The Supreme Court has mandated that lodging an FIR is mandatory for cognizable cases.¹⁶

The FIR includes details about the offence, the date and time of the incident, the place of occurrence, and the names of the persons involved, if known. Upon receiving the FIR, the Station House Officer (SHO) assigns an Investigating Officer (IO) to verify the contents of the FIR and initiate the investigation.¹⁷ The Investigating Officer visits the crime scene to collect evidence, takes statements from witnesses, gathers items used in the commission of crime, and identifies and arrests the suspect. The main goals of the police investigation are to gather evidence, confirm the occurrence of a crime, and assist the state in prosecuting the accused.

B. Arrest

It is responsibility and authority of a police officer to arrest the accused if he has reason to suspect that the person committed a cognizable offence. Under specific circumstances, police can arrest without a warrant, such as when a person has an implement of housebreaking without reason, is proclaimed an offender, has possession of the stolen property, obstructs the police officer during the discharge of duty, attempts to escape, or is suspected to have committed an offence abroad that would incriminate him in India.

The arrest made must not be in contravention of Section 46 CrPC, which prescribes the mode of arrest. "The police officer must actually touch or confine the body of the person to be arrested".¹⁸ After the arrest, a police officer can search the arrested person and seize all articles found in his possession. A memorandum of seized articles is prepared, recording all items seized from the arrested person, which is called a charge sheet.¹⁹

C. Procedure After Arrest and Presenting Accused to the Magistrate

After the arrest, the person accused of crime is presented in front of a magistrate before 24 hours since arrest, not including travel time. This is following Article 22 of the constitution of India, which prohibits detaining any person in police custody for more than 24 hours without bringing them before magistrate.²⁰ Excluding the journey time, if detention is beyond 24 hours, it becomes illegal. But it can be differ such as

¹⁶ Lalita Kumari v Government of Uttar Pradesh and Others, 2013, SC, W P (cr) no. 68 of 2008.

¹⁷ Justice S.D Singh, *The Criminal Procedure Code, 1973*, Volume-II, page no- 1195-1202.

¹⁸ Code of Criminal Procedure, 1973, act 2 of 1974, Section 46.

¹⁹ Code of Criminal Procedure, 1973, act 2 of 1974, Section 41(B).

²⁰ Code of Criminal Procedure, 1973, act 2 of 1974, Section 57.

where the person was in police custody exceeding 24 hours but police had reasonable explanation for delay that is when the court held that this was not illegal detention due to lack of malafide intention.

When presenting the accused in front of the magistrate, the officer gives a detailed report of the investigation, known as charge sheet, to the magistrate. This sheet shows that there is sufficient evidence to proceed with the prosecution

Police ensure the proper registration of an FIR, conducting a thorough investigation, arresting the accused when necessary, and producing the accused in front of the magistrate for further legal proceedings. To ensure effective delivery of justice, the procedure followed by the police is guided by the principles of transparency, fairness, and following the rule of law.

V. CHALLENGES FACED BY POLICE IN INDIA AND SUGGESTED REFORMS

Indian police has to face a lot of challenges that affect not just its efficiency of work but also decrease trust of public in them. One of the main issues is that they are overburdened and do not have enough staff—the staff shortage results in poor quality of investigation and also delays the time in which case can be resolved. Not only the laws of the justice system are outdated they also do not align with the changing needs of society which causes problems for them to operate properly.

They also lack proper training, the training programs are usually not enough, that leaves the police not prepared to deal with real-world scenarios effectively. Another issue is corruption within the police force, this decreases their credibility and loses trust of people. Their challenges do not end here, interference of people in politics with works of police further affects their autonomy and integrity. They do not have modern resources, such as up to date technology, vehicles that are modern and faster, and new equipment, that prevents them from conducting an effective investigation and enforcing law properly.

VI. REFORMS

Several measures can be implemented to address these challenges.

First, there is an urgent need to increase the police force's manpower to meet the standard set by the United Nations i.e. to have 222 police per lakh persons. Recruitment and training should be revamped to enhance the quality and professionalism of the force.

Second, the police infrastructure needs improvement, with adequate provision of weaponry, vehicles, and modern technology. Funds allocated for the modernization of police infrastructure should be fully utilized to enhance operational capabilities.

Third, there is a pressing need to improve crime investigation techniques to address the increasing complexity and diversity of crimes, including cybercrimes and economic fraud.

Fourth, to ensure accountability and prevent misuse of power, the scope of the political executive's control over the police force should be limited under the law. Independent oversight authorities should be established to enhance the accountability of police for their actions.

Fifth, to combat corruption and abuse of power, strict measures should be implemented, and which are stipulated in the guidelines that the Apex Court issued in its judgement in the case of Arnesh kumar Vs. State of Bihar.²¹ Court emphasized that police must follow procedure under Section 41 of CrPC, before making an arrest. The Court issued the following guidelines to regulate the exercise of the power of arrest by the police::

- Necessity of arrest under Section 41 CrPC must be determined by the police and if not necessary for the investigation, accused should not be arrested.
- Police should have reasonable belief based on credible information and not mere suspicion.
- The reasons for arrest should be recorded by the police officers. and why non-bailable provisions are invoked.
- In cases of anticipatory bail, the police should not arrest the accused automatically. The police must seek the magistrate's order and should arrest only after obtaining the order.
- The person arrested should be presented in front of a magistrate before 24 hours as per Article 22(2) of the Constitution and the magistrate should consider and scrutinize the reasons for arrest.
- According to Section 41A of CrPC The accused should get written instructions from the head of the police station within two weeks of the case starting.
- Court made it mandatory to adhere to these guidelines in all cases where the offence carries a punishment of at most seven years, with or without a fine.

Addressing these challenges and implementing suggested reforms is critically important for effective operation of the criminal justice system. The police require professionalism, good equipment, and adequate support in terms of living and working conditions. Improving the police's performance cannot be isolated from the overall efficiency of the criminal justice system. "While the police should be granted enhanced powers, it should be balanced with appropriate checks and balances to ensure accountability. Addressing the growing adversarial relationship between the police and other components of the criminal justice system is crucial. Reforms in the police force are overdue and must be prioritized to uphold the rule of law and maintain public trust in the country. is crucial to establishing a professional, accountable, and effective police force in India."²²

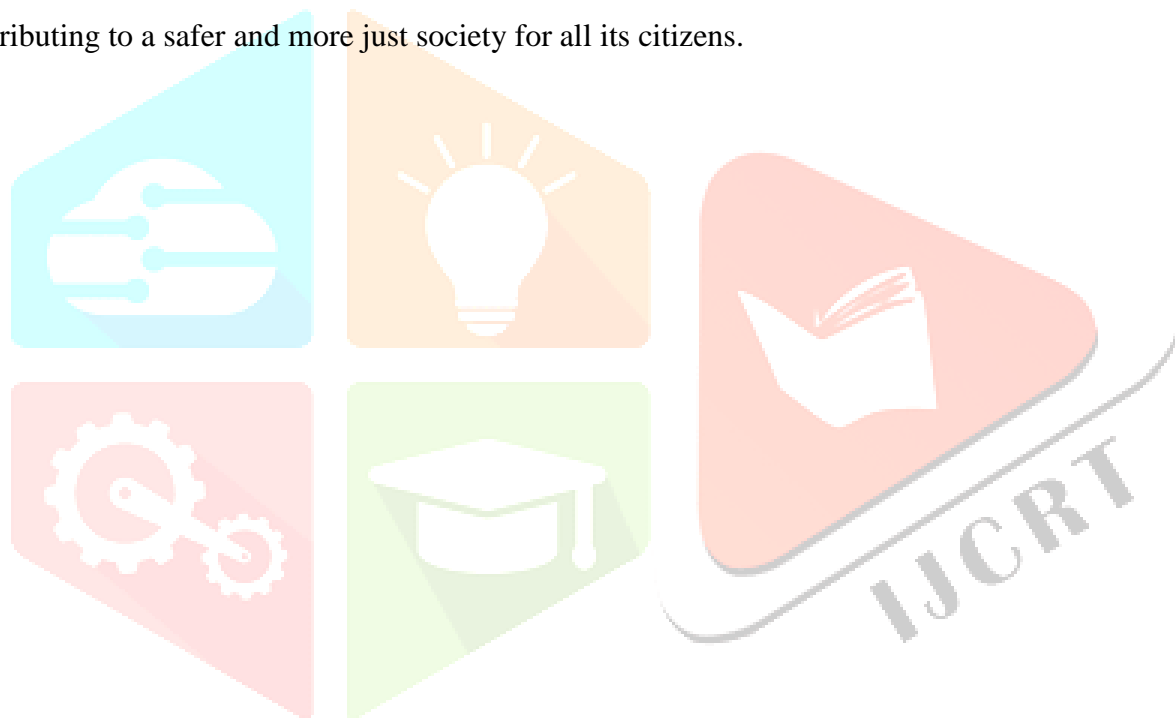
²¹ Supra.

²² Marwah, Ved. "HUMAN RIGHTS AND ROLE OF POLICE." *Journal of the Indian Law Institute* 40, no. 1/4 (1998): 138–42. <http://www.jstor.org/stable/43953314>.

CONCLUSION

The Indian police form an undeniably significant part of the criminal justice system, serving as the backbone of law enforcement and public order in a country with a vast and diverse population. While the police are entrusted with multiple responsibilities, including enforcing laws, preventing crimes, and responding to emergencies, their role in the investigative process is particularly crucial. However, the efficacy and impartiality of police investigations, especially in cases of sexual offenses against women, have come under scrutiny, necessitating reforms and the establishment of impartial investigating agencies.

The important judgment in *Arnesh kumar Vs. State of Bihar*²³ highlights the imperative for judicious arrests and emphasizes the need for adherence to legal parameters. To ensure that justice is upheld and law is administered fairly, it is important to address these challenges. This includes tackling issues of corruption, improving training and infrastructure, and enhancing accountability measures. By undertaking these reforms, the Indian police can better fulfill their pivotal role in the criminal justice system, contributing to a safer and more just society for all its citizens.



²³ Supra