



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2021 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Why there is an exigency for police amelioration?

Garima Sharma^a

^aCampus Law Centre, Delhi University, Delhi, India

Received 30 November 2021; Accepted 24 December 2021; Published 28 December 2021

One of the important and primary roles of the police is to protect the RULE OF LAW. It requires from police to be apolitical, impartial, and free from external forces. For the past 50 years or ever since independence police is seen as not effective and are uncharitable to the poor. For a healthy socio-cultural society there is always a need for good policing. Police are being used as a tool by the political parties that will fulfill their demand whenever they want them to do. Various instances show that the police force is still depending on the other method for their daily work. After the post-independence era society has gone under various changes which proliferated the public expectations from the police and various new forms of crime has been surfaced and custodial deaths are one of the continuing concern because of which there is an exigency for police amelioration to be in tune with the present-day scenario.

Keywords: *rule of law, custodial deaths, police reforms, accountability, transparency.*

INTRODUCTION

Better late than never Government of India has been talking of **one nation, one Election or one nation, one ration card** in an attempt to bring uniformity all around. Whereas, in the matter of police we still are having different police Acts for every state to comply with the apex court's directions that are being given on September 22, 2006. And that's why we are heading towards the **one nation, many police Acts**. Police is a sine qua non-requirement for citizen's

life to balance the equation between society and justice. The definition of Police according to Black's Law Dictionary means *"the function of that branch of the administrative machinery of government which is charged with the preservation of public order and tranquility, the promotion of the public health, safety, and morals, and the prevention, detection, and punishment of crimes. Police are in general a system of precaution, either for the prevention of crime or of calamities. Its business may be distributed into eight distinct branches: (1) Police for the prevention of offenses; (2) police for the prevention of calamities; (3) police for the prevention of epidemic diseases; (4) police of charity; (5) police of interior communications; (6) police of public amusements; (7) police for recent intelligence; (8) police for registration."*¹ Police are considered as a vital arm for every state that helps the state to wield its power and authority. According to a data survey conducted by the Indian Police Foundation, a think tank that studies citizens' perception from a perspective of public trust in Police, Bihar, and U.P. ranked the lowest in sensitivity while Andhra Pradesh and Assam scored the highest. The Police need to be transparent, accountable, flexible, and more adaptable to steer clear away from its bad image.

HISTORICAL BACKGROUND

Nothing can work in the right manner if the basics are wrong and one such is the case with the police organization. The establishment of the first police commission was in the year 1857 immediately after the First War of Independence also known as sepoy mutiny. The mutiny was against the rule of Britishers which necessitated the want for a tool to control the vast and diverse people and their land at an economic cost. It was designed to thrive a sense of dismay of authority in society and to protect the nation with the help of its defensive tool. This revolt as a result implemented The Indian Police Act of 1861, to ensure that the police remained submissive to the executive and continue being authoritarian in its dealings with the people. It acts as the basic tool that governs the functioning of the Indian Police. The working of the police has been scrutinized two times at an All-India Level and the Indian Commission of 1902 was the first one during the British regime, the main purpose was to investigate and look upon

¹ Suparna Jain, 'Building smart police in India: background into the needed police force reforms' <https://www.niti.gov.in/writereaddata/files/document_publication/Strengthening-Police-Force.pdf> accessed 22 November 2021

the problems that have been arisen by the Indian Police Act, 1861. The second one was by the National Police Commission in 1977 and found the police faulty in training and organizations, less efficient, not handling the public relations properly, etc. Hence, the system which is our country's need and demand is lacking far from reality and is still a requirement until fulfilled.

What is an urge for such reform: One of the main functions of the Police is to maintain peace and law & order situations but irrespective of that, the authorities couldn't make themselves achieve this function properly. The factors which lead to this are as under

Misuse of Power: The power which is given to the Police is significant to maintain peace and order. As they have to face cruel and hardened criminals, *"the government has given the wide discretionary powers to meet with any contingency like arrest without warrant or causing physical injury up to the extent of causing death on the group of robbers, dacoits, and other criminals in an encounter"*. Police have to use their wide discretionary power judiciously and prudently but the power is sometimes being used with ill-feeling to fulfill their interests.

Overburdened Police Force: There must be a set of balance to achieve at its maximum and such there is a need under police force so that more could be achieved by losing less. *"Police are overburdened with the duty because of the less force. The police population ratio, currently 192 policemen per lakh population, is less than what is recommended by the UN i.e., 222 policemen per lakh population. ² 86% of the state police comprises of constabulary and they are typically promoted once during their service, and normally retire as head constables. This could weaken their incentive to perform well. ³"*

Poorly Investigation: According to the report of 2020, the investigation of 58% of cases of crimes against women and 56% cases of crimes against children has not been done completely.⁴ There is a dire need for specialized and adequately trained staff. As unspecialized and inadequately trained staff subject to mount poor investigation. Both law and order and

² Analytical Reports, 'Police reforms in India' (PRS Legislative Research) <<https://prsindia.org/policy/analytical-reports/police-reforms-india>> accessed 23 November 2021

³ *Ibid*

⁴ Staff reporter, 'Resources, reforms needed for effective policing' (*The Hindu*, 6 November 2021) <<https://www.thehindu.com/news/cities/Delhi/resources-reforms-needed-for-effective-policing-report/article37694323.ece>> accessed 23 November 2021

investigation are important for police functions. *"In order to encourage specialization and upgrade overall performance, the court has ordered a gradual separation of investigation and law and order wings, starting with towns and urban areas with a population of 1 million or more and which will streamline policing, ensure faster and expert investigation and improve the bond with the people."*⁵ The court has not said how this separation is to take place in practice but clearly indicates that there must be full coordination between the two wings of the people."⁶

Security of Tenure: Police officers can work efficiently and effectively when there is a fixed place to work. But the problem arises when there are frequent and arbitrary transfers taking place on the order of potent parties. The reason for doing such so is in order to punish and reward or for the policy requirements.

COMMITTEES ON POLICE REFORMS

Recommendations of the various committees which were taken up for the necessary actions are:

National Police Commission: The committee was constituted in 1977 and made the major recommendations to amend the Code of Criminal Procedure 1973, police organizations, its role, functions, public relations, etc. And most of the recommendations remained unimplemented.

Ribero Committee: The committee had suggested the creation of the board to decide about the transfers, rewards, promotions, suspensions, punishments, and all service-related matters of officers. The committee endorsed the recommendations by doing certain modifications of the National Police Commission.

Padmanabhaiah Committee: The committee has made recommendations related to the age entry of IPS officers, the systematic behavior of police commissioners in cities, etc. There were 240 recommendations out of which only 23 were not accepted.

⁵Seven steps to police reforms '(Common Human Rights Initiative, December 2010)
<https://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/seven_steps_to_police_reform.pdf> accessed 23 November 2021

⁶ *Ibid*

Malimath Committee: The government set up this committee under the chairmanship of former chief justice of Karnataka and Kerala H.C. Dr. V.S. Malimath to recommend measures to overhaul the Criminal Justice system. *“The report suggested the dilution of pre-trial safeguards against violence in police custody, double the 15day police remand of an accused of grave offences, setting up of a state security commission and many more suggestions were also made as the committee was more concentrated on the rights and protection of the victim.”*

JUDICIAL INTERVENTION

The 7 directions for creating up of SSC (state security commission) have been laid down by the Hon’ble SC in Prakash Singh and Ors v. UOI and Ors. Certain policies and directions for preventive tasks and services were laid down in this case and a Soli Sorabjee Committee was also formed which suggested an act called *“Model Police Act”*.

The 7 directives, in a nutshell, are as follows:

First Directive: To ensure that the government doesn’t try to create any undue pressure or clout on the police give certain directions to assess their work and constitute an SSC for the above purpose.

Second Directive: It has to ensure that the appointment of the Director General of Police is transparent and secure tenure for the minimum period of 2 years.

Third Directive: Tenure for a minimum period of 2 years must be provided to the other officers who are on operational duties.

Fourth Directive: Split the law and order and investigation function of the police.

Fifth Directive: A police establishment board must be set up to decide on the matters like transfers, promotions, etc.

Sixth Directive: In order to inquire against the conduct of police officers, increasing death rate in police custody, or rape in police custody a police complaint authority should be set up at all district levels.

Seventh Directive: *“At the union level set up a National Security Commission for the purpose of selection and placement of chiefs of the Central Police Organizations with a minimum period of 2 years”*. In the initial period court, it monitored whether the states and union territories complied with the directions or not. However, in 2008 SC set up a 3-member Monitoring committee to see the compliance ratio by the states and report it back periodically. One *Justice Thomas Committee* was also formed in 2010 to submit the report and expressed *“Dismay over the total indifference to the issue of reforms in the functioning of Police being exhibited by the States”*. Another *Justice Verma Committee* was also formed to examine the amendments related to Criminal law which deplored the lack of implementation of the courts above 7 directions given in the Prakash case. The **vision of smart police** which is one of the main fields for the better future perspective was unveiled by the Hon’ble PM in 2014 and the amelioration which needed are:

- Improvement in police forces in respect of capacity and infrastructure includes a rise in police personnel, change in training and service conditions, and improving working hours is a need for Smart Police.
- Revive the laws related to police organization by the process of legislative or administrative changes. The Central government must give the society the forces who serve as a defense to the nation when in need and to make sure that the power given to every state to be exercised and also whether the submissiveness is made or not with the laws made by the parliament. And sometimes it is contended that the above challenges can be hell-bent when the “Police” and “Public order “are transferred from the state list to the concurrent list. *“The urge for indulging public order in concurrent list stems from significance of public order for the development of economy, security of the nation and for the legitimacy of the state. Another reason is Union government can play a proactive role in curbing the violation of public order.”*
- Modernization of police has become unavoidable mostly in Cyber Security and Counter-Terrorism. This calls for an investment in technological reforms. There is an urge to have a unified and distinctive exigency number as are in today’s world. *“Like*

Madhya Pradesh which has built DIAL 100 Call Centre for a swift response to emergency calls, such other states should also adopt a similar system.”⁷

- Police forces must get better network connectivity to exchange information without any disruption. For this, in 2009 a Criminal Tracking Network and System were approved in order to connect the 15k police stations and 5k supervisory police officers. So, technology is in needs to be used in modern ways so that the police forces are able to confront all the problems.

CONCLUSION

In India the police system still needs to be in a hunky-Dory situation as the economy and political superpower are consolidating day by day, therefore stagnant police can't help to achieve the best goal that our current society needed. The NHRC's core advisory group on criminal justice system reforms has said recently that MHA and the Law Ministry should consider implementing the recommendations of the 113th report of the Law Commission to add section 114B to the Indian Evidence Act. So that this would ensure that in case a person sustains injuries in police custody, it is presumed that the injuries were inflicted by the police, and the burden of proof to explain the injury lies on the authority concerned.⁸ The amelioration in the Indian Police is possible through skill-building and attitudinal training and to drive a nationwide campaign. The need to change the framework must be done more swiftly.

⁷ Suparna Jain, 'Building smart police in India: background into the needed police force reforms' https://www.niti.gov.in/writereaddata/files/document_publication/Strengthening-Police-Force.pdf accessed 22 November 2021

⁸ Damini Nath, 'Set up police complaints Authorities, NHRC tells Union Home Ministry, States' (*The Hindu*, 02 November 2021) <<https://www.thehindu.com/news/national/set-up-police-complaints-authorities-nhrc-tells-union-home-ministry-states/article37309680.ece#:~:text=Fifteen%20years%20after%20the%20Supreme,Union%20of%20India%2C%202006>> accessed 22 November 2021