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## An Analysis of Police Act, 1861

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*In this article, the Police Act of 1861 will be discussed which was passed during the British period. We need to focus on the history behind its enactment and also, the police system during the pre-British era in India needs to be unfolded. We will analyze the changes that took place in the police system after the historical Revolt of 1857. There should be a discussion on whether the police force was used as an advantage by the East India Company and later, by the British government or not. That can be well justified by looking into the recommendations that were made by Committees that were formed by the British parliament to investigate the accusations that were made about the exploitation of power done by the company and we should also know whether any of those recommendations were later implemented. The relevance of the Act in current times, what recommendations were made in this post-independence era, and whether there were necessary amendments to this act, these all need to be checked. Apart from that, we will talk about the future amendments that should take place to improve and strengthen the police administration. By taking into account, the draft of the Model Police Act of 2006, this article will try to fill the gaps prevalent in the Police Act of 1861 by comparing both.*

**Keywords:** *police, amendments, recommendations.*

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### INTRODUCTION

Many modifications to the Indian Constitution have been made after independence, and many statutes established by the British during their reign have been altered or altogether repealed.

Surprisingly, there are still a few acts that haven't been updated. One of these is the 1861 Police Act, which has had few if any modifications. The Sepoy Mutiny prompted the passage of the Police Act of 1861. The British utilized it to put down any insurrection or nationalist movement that occurred in the British territory. Do we still need this legislation now that the country has been independent for over seventy years? The landscape of the country is shifting. The work of the police is not the same as what the British used to regulate this government. Many ideas have been made by committees, but no significant progress has been made on this legislation. After the Supreme Court judgement of 2006, we expected to see a significant change in the police administration but did anything change? Let's have a look.

## **HISTORICAL BACKGROUND**

### **Vedic Periods**

The police administration was there in India even during the Vedic period as early as the fourth century B.C. From 'Arthashastra', written by Kautilya, we can find that law and order were controlled by giving punishments as severe as death penalties. To check the crimes, a headman was given responsibility in a village. A Chinese visitor, Megasthenese, had commented on the scarce occurrence of crime during 'The Golden Period' or during the rule of Chandragupta Maurya.

The administrative system during his time was divided into provinces, commissionaires, districts, cities, and villages. The head of the district was known as Vishayapati and his duty was to prevent crimes and maintain peace. The sub-division of a district was Sthaniya which covered over 800 villages. This Sthaniya functioned under the supervision of an officer called Sthanik who are replicated in the current post of superintendent of police. The Sthaniya was also divided into smaller administrative units. A Gop was an officer who was in charge of these units, namely Kharvatik, Dronmukh, and Sangathan. His responsibility was discharged with the assistance of the whole village community. This indicates that at the ground level, the operations took place collectively. The officers were answerable to their superiors. Also, these superiors were capable of taking necessary actions when a

problem was reported. There was also a police structure for specialized operations at the district level. In a town, the police chief was Nagaradhyaksha or Nagarik which is equivalent to the present post of a police commissioner. There were Vivitadhyaksha, Navadhyaksha, and Mudradhyaksha patrolling in the forest areas, waterways, and suburbs of the city, and the guards or Rakshak patrolling across different lanes of the same. These are the facts found in Manu Smriti.<sup>1</sup>

### **Delhi Sultanate**

When there was chaos after Mahmood Ghaznavi invaded India, the political system of India was moved. The Turks and Moghuls ruled India. They wanted to establish their dominance and hence, strengthen their military power. They didn't want any police administration but the army officials were there to look after policing activities. In the course of the Turks, the Naib Sultan or Vail was in charge of the security of the province namely Suba or Khalsa. In the sub-units of these provinces, the Siqdar was in-charge of Siq and Fauzdar was the head of Parganas in the administrative sub-units of the province. However, the Fauzdar didn't have much role to play in the village security system except in emergencies. Here, the Sarpanch was assigned the task to maintain law and public order. To assist the 'community police', there was a government official Muhasil or Gumashta who represented the Fauzdar and at the state level, there was Khwaza and Musharraf.<sup>2</sup>

### **The Mughal Rule**

The Mughals wanted to sustain their rule. For that, they made all the higher posts hereditary. They only focused on bringing changes that could benefit them in making their grounds strong. Subedars or Governors administered the provinces and also the criminal justice system. The officer in charge of a district was Fauzdar who had the authority to crush any rebellion or crime that took place to maintain peace. But in reality, the Zamindar had the duty to maintain peace and provide security to the people, and the Fauzdar kept an eye on their work. Under the Fauzdar, each area was split into Thanas and Chowkies that

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<sup>1</sup> Manoj Kumar, 'Accountability of Indian Police: A Historical Appraisal' (2013) 74 IJPS 736,738

<sup>2</sup> *Ibid*

came under the supervision of Thanedar. The Thanedars were appointed by Fauzdar and paid by Zamindars. There were Chaukidars employed by villagers and in urban areas, there was Kotwal. A Kotwal looked into criminal matters and safeguarded the life and belongings of the locals.

The police administrative system during the Mughals and the Delhi Sultanate depicted the exploitative nature, oppressive mindset, and barbaric interest in the royal throne. The Thanas were under the military command to keep an eye on the civilians and to protect them. The poor villagers were exploited by Zamindars. Later, Shivaji modified the Persian names into Hindu translations but did not add many changes to the Mughal system. The hereditary appointment system was abolished and improved the intelligence and spying system. The authority having the control to detect and prevent crimes was answerable only to the king.<sup>3</sup>

### **The British Era**

The Police Act of 1861 was followed by the Sepoy Mutiny or the Revolt of 1857 that witnessed one of the huge uprisings during the British colonial reign.<sup>4</sup>The government's view was "*conditions of police service, machinery and work must be fairly uniform throughout India.*"<sup>5</sup>Initially, the police administrations were set up in Bengal in 1772 by Warren Hastings<sup>6</sup>, the first *de facto* Governor-General of Bengal.<sup>7</sup>

### **VALIDITY OF THE LAW**

It's astonishing to believe that the Indian Police Act of 1861 continues to regulate the police force, despite the fact that it is now outmoded and ineffective, rendering the force uniform.

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<sup>3</sup> *Ibid*

<sup>4</sup> Hariharan Kumar, 'The Indian Police Act and Police Reform in India' (*Ipleaders*, 6 January 2014) <<https://blog.ipleaders.in/the-indian-police-act-and-police-reform-in-india/>> accessed 02 December 2021

<sup>5</sup> Prakash Singh, 'Whither One Nation, One Police' (*The Indian Express*, 30 July 2021) <<https://indianexpress.com/article/opinion/columns/one-nation-one-police-is-a-reform-that-is-long-overdue-7429149/>> accessed 04 December 2021

<sup>6</sup> Manoj Kumar (n 1)

<sup>7</sup> Lyall & Alfred, 'Warren Hastings' (*Internet Archive*, 16 January 2017)

<<https://archive.org/details/in.ernet.dli.2015.91491/page/n27/mode/2up>> accessed 07 December 2021

Following the Revolt of 1857, the British passed this Act in order to protect their interests and put down any future revolts.<sup>8</sup> Even if India has been independent for so many years now, this Act continues to rule and govern the police force, with little or no modifications. Moreover, current laws and processes such as the Indian Penal Code, the Evidence Act, and the Criminal Procedure Code remain to constitute the foundation of the police's standards and procedures. Political interference is another issue. Political meddling in police operations is becoming more common by the day. Transfers, promotions, designations, and nominations are all subject to political meddling. Senior police officers are pressurized by politicians to operate according to their whims and fancies, such as releasing convicted criminals on parole to allow them to vote in elections. In turn, senior officials put pressure on their subordinates to follow suit. If politicians' desires are not realized, police officers are suspended, moved, or humiliated. As a result, in order to avoid such situations, police officers use whatever means and procedures, whether legal or illegal, to carry out the commands of politicians.<sup>9</sup>

The National Police Commission (NPC), which served from 1979 to 1981, recognised the necessity of a change and, in its Eighth Report, issued in 1981, began drafting a Model Police Act. Sadly, no state has embraced this proposed measure, which was prepared in reaction to the times and aimed to solve some of the problems that afflict policing. The anti-Sikh riots of 1984, the collapse of the Babri Masjid on 6-12-1992, and lack of action in enrolling or prosecuting cases of corruption, swindles, and frauds incorporating politicians are just a few notable examples of the degradation of the rule of law or massive infringements of citizens' privileges arising from the inappropriate type of political command over the police. During the Emergency (1975-1977), the police were often openly exploited for political goals.<sup>10</sup>

## THE SUPREME COURT'S DECISION OF 2006

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<sup>8</sup> Hariharan Kumar (n 4)

<sup>9</sup> 'Need for Police Reforms in India' (*Legal Services India*, 11 May 2018)

<<http://www.legalservicesindia.com/law/article/968/5/Need-for-Police-Reforms-in-India>> accessed 01 December 2021

<sup>10</sup> Hariharan Kumar (n 4)

*Prakash Singh v Union of India*<sup>11</sup>

The Central Government set up a National Police Commission on 15<sup>th</sup> November 1997, in light of the unconvincing improvements that had occurred in our nation since the implementation of the Police Act, 1861 and the lack of extensive evaluation of the police system at the national level after India got her independence, even after major alteration in the nation's political and socio-economic affairs. The commission was established to conduct a new investigation of the function and effectiveness of the police, both as a law enforcement organization and as an establishment charged with safeguarding individuals' constitutional rights.<sup>12</sup>

- **Petitioner**

The petitioner, Prakash Singh is a retired Police officer who has even worked as Uttar Pradesh Police DGP as well as in Assam. After he retired, he filed a PIL in the Supreme Court, in 1996, looking forward to police reforms.<sup>13</sup>

- **Facts of the case**

The petitioners want the Union of India to reevaluate the powers and responsibility of the police and establish an updated Police Act in accordance with the Model Act produced by the National Police Commission to guarantee that the officers are responsible mainly to the law of the land and the people. Guidelines are also decided to seek against the Union of India and state governments to create several commissions and directorate to formulate policies and make sure that police officers execute their roles and operations without risk of retaliation, and to keep inquiry work apart from police investigations.<sup>14</sup>

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<sup>11</sup> *Prakash Singh v Union of India* [2019] SCC OnLine SC 406

<sup>12</sup> *Ibid*

<sup>13</sup> K.S. Subramanian, 'The Sordid Story of Colonial Policing in Independent India' (*The Wire*, 20 November 2017) <<https://thewire.in/government/sordid-story-colonial-policing-independent-india>> accessed 02 December 2021

<sup>14</sup> Hariharan Kumar (n 4)

- **Judgment**

In its order, the Supreme Court directed the states to establish State Security Commissions to make sure that state governments do not exert undue control or pressure on the police to establish a wide policy framework and to analyse the quality of the state police and, if they do not already have one, to enact new legislation. Many states created special legislation or amended the State Police Act for the police force after these principles were established. However, some states have yet to comply with the Supreme Court's guidelines. Arunachal Pradesh, Nagaland, Jammu and Kashmir, Uttar Pradesh, Andhra Pradesh, Jharkhand, Manipur, Mizoram, Odisha, Goa, Madhya Pradesh, Tamil Nadu, and West Bengal still need laws. Bills in the state legislatures of several of these states are now pending.<sup>15</sup>

**The seven directives of the SC are as follows:**

- To guarantee that the state government does not exert undue influence or pressure on the police, a State Security Commission (SSC) should be established. The SSC will also establish broad policy guidelines, and assess the state police's efficiency.
- Assure that the DGP is recruited through a fair, merit-based mechanism, with a two-year minimum stay.
- The separation of the police's investigative and law enforcement functions.
- Even operational police personnel (such as Superintendents of Police in charge of Districts and Station House Officers in charge of a police station) is given a two-year minimum term.
- Create a Police Establishment Board to rule on promotions, transfers, postings, and other service-related concerns for police personnel up to and including the rank of Deputy Superintendent of Police (DSP), as well as to suggest the same for officers above the rank of DSP.
- To investigate complaints from the public against police personnel in situations of significant wrongdoing and, establish a Police Complaints Authority at the state and district levels.

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<sup>15</sup>*Ibid*

- Set up a National Security Commission at the federal level to develop a board for the selection and installation of Central Police Organization Chiefs with a two-year minimum tenure.<sup>16</sup>

### **Further actions**

The Supreme Court established a monitoring committee, led by Justice KT Thomas, to supervise the execution of its directions on May 17<sup>th</sup>, 2008. In many states, the structure of the State Security Commission is influenced by the governing party's political clout. The opposition leader has been kept out of most state commissions, and impartial members have been kept out as well. The independence of the DGP is critical. Numerous states have declined to give DGPs a set term of more than one year. Even the reasons for his dismissal have been kept opaque, citing public good, administrative necessity, and incapacity as justifications.<sup>17</sup>

## **CRITICAL ANALYSIS**

### **I. Did the Police Serve the Purpose of EIC?**

In 1792, the Daroga system was introduced by the then Governor-General of India, Lord Cornwallis. He took away the authority from zamindars to control police administration. However, the Darogas were answerable to the district judges, i.e., the agents of East India Company. Their job was to keep an eye on the landowners and headmen regulating the villages that came under the respective districts in which they were appointed. The company wanted to look closely to monitor any revolts or conspiracies that could take place against them. These Darogas used their powers to harass and manipulate people to their advantage. If anyone refused to listen to them, they could get him indicted of having immoral behaviour or letting a criminal escape by not following orders of the Daroga. It was too easy for them to collect witnesses against people, but when people had the audacity to report the police officers to the Collector, they were never punished. These Darogas also

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<sup>16</sup> '11 Years After Famous SC Judgement On Police Reforms, Know What The Judgement Was & Where Do We Stand' (*The Logical Indian*, 14 April 2017) <<https://thelogicalindian.com/story-feed/awareness/sc-judgement-police-reforms/>> accessed 03 December 2021

<sup>17</sup> *Ibid*

failed to regulate the village police due to which they became responsible to the company only.

This system seemed to collapse and was mentioned in the Preamble to Regulation XII of 1807. In the aftermath, this system was scrapped in 1814 and then the traditional system of village policing was adhered to. Here, the police were answerable to the people. Under Regulation X, the post of Superintendent of Police was created that is corresponding to the Inspector General of Police in recent times. These points were drawn out from the facts put forward in the Judicial Letter to Bengal on 20-10-1824.<sup>18</sup>

In 1852, the British Parliament set up a Select Committee to check the functioning of the East India Company with respect to the police administration. They came to a conclusion that the company controlled the police force to oppress people and were not accountable to the people and thus, their powers went unchecked. These facts were verified in accordance with the Torture Commission formed in 1854. The objective of this commission was to find out whether the allegations of brutal treatment against the Company were relevant or not. On 16<sup>th</sup> April 1855, the commission detected potholes in the existing system and suggested improvements. It stated, *“Corruption and bribery reign paramount throughout the whole establishment, violence, torture, and cruelty are their chief instruments for detecting crime, implicating innocents and extending money.”* The only aim of the company was to make money and the police were meant only to expand their income. These police officials were very unethical as they were corrupted and took bribes. This trail followed by the company agitated the locals which eventually led to the Revolt of 1857. By this time, the British Crown had taken over the governance from the company and now, the Government had the access to the reports of the First and Second Law Commission. Due to this, within 22 days, the Police Commission drafted a report on the Indian Police Act. Later, the Indian Police Act, 1861 was passed.

But these reforms by Police Commission in 1860 weren't as fruitful as expected and hence, later the Fraser Commission was formed in 1902 under Viceroy Lord Curzon. The Police

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<sup>18</sup> Manoj Kumar (n 1)

Commission 1902 remarked, "*The police force is far from efficient... It has utterly failed to procure the confidence and coordinate cooperation of the people.*"<sup>19</sup> It indicated that the police force was used by the company not to maintain law and order or to check the crimes occurring in their territory, but to use ruthless means to oppress the independence movements, and hence, they introduced CIDs. Crime Investigation Department (CID) was introduced to the Department of Criminal Intelligence (DCI). The main purpose of abolishing the Thugi and Dakaiti Department<sup>20</sup> is supposed to be for investing in 'conventional' crimes. But it is claimed by some scholars that he could feel evolving nationalism in colonized India.

When the Swadeshi, Indian Home Rule, and Non-Cooperation Movement were initiated by the nationalists, this department started observing the activities of nationalist organizations. For instance, they even pioneered the shorthand adaptation of the vernaculars printed and published in the southern parts of the country to understand the political speeches and to use the vernaculars against them in court. The original functions of the department were veiled when it was divided into different units. The first one was for the political investigation that was called the Special Branch and the other one was for the detection of 'conventional' crimes as they had stated earlier.

Due to this Act, the number of official members increased who were British subjects and on the other hand, they decreased the count of elected official members. The British subjects were very oppressive and were a disappointment for the locals.<sup>21</sup> But Act 5 of Police Commission 1902 was not relevant in the provinces of Bombay and Madras so it was suggested to be applicable there also. In the meantime, Rules/Regulations were passed in different states in accordance with the central legislation.<sup>22</sup> For the police, independence would have meant only the change in government but wouldn't have made them

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<sup>19</sup> *Ibid*

<sup>20</sup> 'Lord Curzon - Governor General and Viceroy of India' (*GKToday*, 18 October 2011) <[https://www.gktoday.in/topic/arrival-of-lord-curzon-1899/#Police\\_Commission\\_Sir\\_Andrew\\_Frazer](https://www.gktoday.in/topic/arrival-of-lord-curzon-1899/#Police_Commission_Sir_Andrew_Frazer)> accessed 03 December 2021

<sup>21</sup> David Arnold, 'The Police and Colonial Control in South India' (1976) 4(12) *SS* 7, 9

<sup>22</sup> Prakash Singh (n 5)

accountable to the people. They didn't care about the laws prevalent at that time, they only followed the orders of the higher authorities.

The police undoubtedly served the purpose of the company to maximise their profits and later, benefitted the government to suppress the nationalist movements. The government spent its money to create a comparatively smaller, yet specialized and capable police unit in the late 1920s. There was no constabulary in rural areas on a large scale anymore. Instead, there was the formation of heavily armed and highly disciplined units which can give a quick response to control and oppress any disturbance or resistance that could cause any political or religious riot. This made police cooperation inaccessible to the public in mass and heightened the repressive and despotic nature of the British government.<sup>23</sup>

## II. COMMISSIONS AND THEIR REPORTS

The issue of "Police" is included in Schedule seven of the State list the following independence. On rare occasions, the federal government may compel state governments to enact the necessary police reforms in order to fulfill public expectations. The introduction of police reforms is the need of the hour. Even if a lot of reports have been proposed by different commissions and committees, there was no further implementation. Let's discuss some of the major committees and their reports in this section.

**Gore Committee** - In November 1971, the Indian government established a committee to examine the current police training programs and provide suggestions on how officers may enhance their efficiency. One of the most essential components in enhancing police morale and dependability is training. Under the chairmanship of Prof. MS Gore, who is a social scientist, many reasons were stated to back their proposal of the introduction of police training. They felt it would help the officials develop the necessary skills and experience. It would also improve their potential in making decisions and more effective strategies. The committee focused on extending the scope and substance of police training on human behavior recognition from the most limited to the most comprehensive.

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<sup>23</sup> David Arnold (n 21)

**National Police Commission** - Under Dharamveer's guidance, the Union government founded the National Police Commission in 1977. The Commission was provided specific information about new areas of the force, such as relations between the police and the people and political engagement in police operations. The Commission presented eight findings and comprehensive solutions on critical police topics between 1979 and 1981. The committee proposes that all nations form a State Security Commission, as well as that the investigative process is free of outside pressure, that the police chief is appointed for a certain period of time, and, most critically, that a new Police Act be conceived and drafted.

**Vohra Committee** - The Vohra Committee, led by Home Secretary NN Vohra, was created by the Indian government in 1993 to look into the issues of political criminalization and the links between crime and politics. The Committee identified an almost comparable criminal ring operating in conjunction with the government. Criminals have entered politics, according to the study, and are thereby abusing the state police system for their own gain.

**Ribeiro Committee** - The Indian government constituted the Ribeiro Committee in May 1998 to adhere to the Supreme Court directives emanating from a PIL filed with the National Police Commission for Recommendation (1977). This committee was given further time to look at the actions taken "to execute the recommendations of the NPC, the National Human Rights Commission, and the Vohra Committee," according to the NPC. The Ribeiro committee made two recommendations to the Accountability Commission and the police Performance, including the formation of an advisory function and the development of an advisory position.<sup>24</sup>

## FUTURE PROSPECTS

The police's workload has grown recently. The police now have an even more essential role to play: maintaining law and order. They must plan arrangements for festivals, VIP visits, and other events. They must enact preventative legislation to safeguard the weakest members of society. During times of conflict, insurrection, diseases, and calamities, they

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<sup>24</sup> Aditya Singh, 'Judicial response to police reforms in India and their implementation' (*Ipleaders*, 2 June 2021) <<https://blog.ipleaders.in/police-policing-india-historical-perspective/>> accessed 02 December 2021

must preserve civic morale. In addition, the police must maintain national security by preventing turmoil, gang battles, and strikes, among other things. The police make an honest effort to carry out all of these duties. Despite their efforts, the police are not much liked by the general public. Instead, there is no chance to attack and blame the whole police department for the wrongdoing of a disgruntled officer. Because the police are a disciplinary agency, they are required to adhere to the highest standards of conduct and demonstrate exemplary behavior. Despite the public's lack of compassion and gratitude, the public expects the police to maintain its security and protect its people and property.<sup>25</sup>

### **POLICE MODEL ACT OF 2006**

The Police Model Act of 2006, in contrast to the earlier Act of 1861, set the path for more open and responsible police service. The Act included some novel ideas and attempted to bring police forces friendlier to the people. The Act establishes new security, accountability, and professionalism measures in the area. It will be more advantageous to manage on a local level, thanks to the stringent laws and many divisions of units that have been established. The ability to examine and investigate allegations of police officers who abuse their authority was a good note, and it has greatly contributed to the expectation that hereafter, there will be fewer occurrences of police misconduct as a result of the regulation of police officers' actions.<sup>26</sup>

Drafted by the Soli Sorabjee Committee, the Model Police Act of 2006<sup>27</sup> was set to have a primary goal of establishing an independent body to govern and monitor police officers' effectiveness. It was created to foster officers' detachment from political prejudice and to develop a framework for filing complaints against officers who fail to perform their duties. The Act specifies numerous positions and responsibilities that must be met at all levels, including rural, metropolitan, and even military officials. The Act also specifies police

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<sup>25</sup> *Ibid*

<sup>26</sup> Vishruti Chauhan, 'The Model Police Act, 2006 - a roadmap for the future' (*Ipleaders*, 2 January 2021) <<https://blog.ipleaders.in/model-police-act-2006-roadmap-future/>> accessed 06 December 2021

<sup>27</sup> RK Vij, 'Explained: Why it's a good idea to have police commissioners in the bigger cities' *The Indian Express*, 11 December 2011) <<https://indianexpress.com/article/explained/why-its-a-good-idea-to-have-police-commissioners-in-the-bigger-cities-6259456/>> accessed 10 December 2021

officer training, analysis, and advancement, as well as supervision and a welfare system for officers. A part of the Act also addresses the violations and penalties that apply to these officers. The Act is self-contained and does not need the application of any other criminal or administrative legislation. Moreover, the Act's preamble outlines a broad range of obligations for police officers, including the protection of human, political, religious, social, civil, and ideological rights, and even the protection of marginalized members of the population. The Act succeeds in broadening the scope of police functions.

These units are designed to be provided with scientific as well as skilled and trained human capital. These teams are tasked with combating significant crimes such as financial fraud, cybercrime, homicide, killing, abduction, rape, or structured crime, as well as any other serious crime. To solve such crimes, these units require specific skills and expertise, and officers assigned to such units are individuals who specialise in such talents or have prior experience in this type of situation. Also in rural locations, a Special Crime Investigation team must be established, with a Sub-Inspector in charge. Officers in these areas can only serve for a maximum of five years. The 2006 Act provides extremely clear and exact techniques of maintaining a check on the abilities of police personnel so that criminal proceedings are not jeopardised.<sup>28</sup>

## **AN ANALYSIS BETWEEN THE POLICE ACT, 1861 AND THE DRAFT MODEL POLICE ACT, 2006**

### **1. Scope of the Acts**

The Police Act of 1861 is neither the single nor the most important statute governing police activities. The Indian Penal Code, the Indian Evidence Act, and a wide variety of specific legislations are used to maintain public order and the criminal justice structure. In addition to the laws, each state has its own set of Police Regulations and Police Manuals that give out specific rules and instructions for the execution of police powers and functions. The Model Police Act aims at encompassing all the aspects of police administration. It is self-contained

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<sup>28</sup> Vishruti Chauhan (n 26)

in structure and does not rely on other substantive legislation for execution. It is a positive move on the right path that can be a decent substitute for the outdated old statute.

## **2. Control and Supervision of Police**

The State Government has police supervision under the Police Act of 1861, and the authority to which the Police Officer is subordinate. According to the legislation, as the State Government deems appropriate, the Inspector-General of Police, as well as Deputy and Assistant Inspectors-General are vested with the responsibility of the police. In the Model Police Act, the applicable state government is in charge of the police vests. The state government is in charge of providing a police force that is quick, successful, responsive, and accountable. The scope of supervision is confined to enhancing “police professional effectiveness” and ensuring that “police performance is always in compliance with the law.” The Director-General of Police is in charge of police administration. The government can only intervene with the Director General’s authority if there are specific rules in place or if there are extraordinary situations. The administration will have the power to supervise, appoint the lower ranks of officers below Deputy Superintendent of Police’s rank, deploy, transfer or disciplinary actions with officers of the rank of Inspector of Police or lower ones, and advise on the posting of officers of the rank Assistant/Deputy Superintendent of Police and also of the ones with higher ranks to the government.<sup>29</sup>

## **3. Provision for State Police Board**

The Police Act of 1861 does not include a provision for the creation of a State Police Board, although the Model Police Act of 2006 does. Here, the state police board’s members are the Chief Secretary, Director General of Police as member secretary, Opposition party’s leader in the state assembly, Home Secretary, retired judge of the High Court selected by Chief Justice of High Court, other five persons without a political background of proven integrity and competence from different fields.

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<sup>29</sup> Sonia Saini, ‘Police Act 1861 and Model Police Act, 2006: an analysis’ (*S S Global Law Firm*, 20 July 2021) <<http://ssglawfirm.in/police-act-1861-and-model-police-act-2006-an-analysis/>> accessed 02 December 2021

#### **4. Security, Transfer, Promotion, and Appointment**

The 1861 Police Act does not include any provisions addressing term security, transfer, and promotion. It states that the Inspector General, Assistant Inspector-General, District Superintendents of Police and Deputy Inspector-General may remove, suspend, or reduce any police personnel of lower ranks whose activities were seen to be negligent while performing his or her duties, or unsuitable for the same, during any time. The police are subject to transfers according to the will of the state government. According to the Police Act of 1861, their recruitment is according to article 311 of the constitution and any rules that the State Government may adopt under the act occasionally.

The Model Police Act of 2006, on the other hand, stipulates that all personnel must be assigned to a specific station for a minimum of two years to guarantee that they are free to accomplish their duties without interference. Transfer of officers of a specific rank or post can be done before the two-year period has passed, but only if circumstances are recorded bestowed upon different authorities. The Draft Police Act of 2006 makes precise provisions for promotion, which must be assessed by a qualifying test and a progress report. The appointment procedure goes through three levels - Indian Police Service, Deputy Superintendent of Police, direct recruitment to non-gazetted ranks through Union Public Service Commission, State Public Service Commission, state-level Police Recruitment Board respectively. There is also a separate recruitment criterion for armed police.<sup>30</sup>

#### **5. Strengthening police investigations**

*“Whereas it is expedient to reorganize the Police and to make it a more efficient instrument for the prevention and detection of crime,”* the preamble of the Police Act of 1861 declares. The provisions of the Code of Criminal Procedure control police investigations, no explicit section is mentioned in the Police Act of 1861 that addresses it. The Model Police Act of 2006, on the other hand, stipulates that the tasks of examination and maintenance of law and order must be separated without impacting the chain of command. Specialized criminal

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<sup>30</sup> *Ibid*

investigation units require suitable facilities, technological aids, and competent and trained personnel. At the state level, for the detection of inter-state and inter-district crimes, Crime Investigation Department must be established. Led by the Deputy Inspector General of Police, units with expertise should be established to investigate homicide, cybercrimes, economic offences, and other areas that require particular investigation skills. In all rural and urban areas, there should be Special Crime Investigation Unit at the level of the police station. To investigate cases related to kidnapping, robbery, murder, misappropriation, etc.

## **6. Police accountability**

The Police Act of 1861 is completely devoid of any responsibility for the police's actions. By adopting some particular measures in this respect, the Model Police Acts have made the police organisation more responsive to the public. The statute stipulates that the State Government, in cooperation with the State Police Board, should prepare a Strategic Police Plan for the period of five years, outlining the policing targets to be attained during that time and putting forth an action plan for their enactment. The blueprints will be developed after the District Superintendents of Police provide feedback on the districts' policing requirements, which they will then formulate in cooperation with the community.

In 2006, the Model Police Act put forth a lot of provisions. At the state level, the government of the respective state must set up a Police Accountability Commission to investigate extremely "serious misconduct", which is defined as serious injury; rape or attempted rape; death in police custody, and unlawful arrest or detention. Internal probes will be replaced by Commission inquiries, and the Commission's conclusions will be imperative on the police headquarters and the government. In such circumstances, the police or the government's only option or power is to impose punishment if the Commission deems an officer guilty.<sup>31</sup>

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<sup>31</sup>*Ibid*

## **CONCLUSION AND SUGGESTIONS**

This article was about the Police Act of 1861. We talked about the reason due to which this act was enacted and what was the aftermath of passing this act. This article unveils the benefit that the police provided to the East India Company. It discussed the problems in the police system before and after independence. It examines a few major reports by a few committees which were assigned the task to present recommendations. This checked the validity of the act with respect to the current time. Finally, this article looked into the future prospects of this act. Not much has been done even after the judgment of the Supreme Court so I suggested some implementations to the legislation and also studied the Model Police Act, 2006 by comparing it with the Police Act of 1861, this article justifies why this draft should be made into an act.