

SCOPE OF POWERS AND FUNCTION OF POLICE IN INDIAN CRIMINAL SYSTEM

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ABSTRACT

The term "police" is often used as a metaphor for a system of social, cultural, economic, and political control over a community. The police force has evolved into a highly efficient branch of domestic government and an integral part of the criminal justice system. Despite the fact that they are collaborating with these perverted police force, the police are truly a governmental body with a wide responsibility for regulating crime and keeping order. In criminology, the police and their roles are crucial. Because preventing crime and holding suspects in custody until trial is the police's main priority. This research made some claims and offered some suggestions for improving police criminology and institutionalizing police reform in India.

Keywords: Police, Crime, Criminology, Justices and Indian Criminal System

INTRODUCTION

Police in the United States are responsible for crime suppression, crime investigation, and offender apprehending. This function is also known as law enforcement in other contexts. Within the bounds of constitutional and legislative obligations, and guided by the overarching premise that their work is done for the protection and benefit of the public as a whole, the police fulfill this function. In spite of police presence, some crimes are perpetrated and never recorded.

The police have the authority to investigate criminal activity, enforce criminal law, apprehend those responsible for criminal acts, and hand over their findings to prosecutors so that they can begin criminal proceedings, as well as to assist the prosecutors in their efforts to bring criminal charges against the suspects. There have been quick shifts in the police's responsibilities, even in a nation like India that values the rule of law. Since India's independence in 1947 and its subsequent transformation into a Republic in 1950, the country has undergone a dramatic transition from a police state to a welfare state. Recent, unprecedented changes in the country's governance, driven in large part by coalition politics, have, however, raised important questions about the difficulties faced by the police in today's welfare state's ever-evolving legal framework.

In recent times, greater shifts have been noted between political Leaders and government officials, especially police personnel, which may not bode well for a strong and stable democracy. As the Supreme Court serves as the ultimate arbiter, law enforcement is typically on the receiving end of the court's interpretations. Police are expected to use scientific techniques of inquiry, to avoid third-degree tactics, to be efficient professionals, and to safeguard and save the community. A police force's primary responsibility is to uphold the law and protect its citizens. In a police state, the primary role of government is to maintain law and order. Police officers play a key

role in ensuring this duty is met. This is still seen as the prerogative of the sovereign. Its governmental role is universally hailed as primary and indispensable. There are various policies that the state must enact for the people's own well and prosperity.

To achieve this goal, the police in a democratic society must be an efficient agency in its pursuit of enforcing the rule of law, investigating criminal activity, protecting citizens' rights and property, apprehending criminals, and serving the public with integrity and fairness. Nonetheless, the evolving nature of internal security has shifted police priorities and responsibilities, bringing the police closer to the heart of society. The state of governance within the increasingly precarious internal security situation in large parts of the country makes it an urgent imperative to secure a police organization that is structurally cohesive, functionally competent, and operationally oriented to fulfill the broad goals of the organization in providing efficient and qualitative services to the people; while doing so, the police must uphold the highest standards of integrity, respect for the law, decency, and duty to those served

LITERATURE REVIEW

Arun Kumar Singh et.al (2019) The police, and the roles they play, are crucial in the study of crime. As the police are primarily responsible for capturing and killing criminals prior to the conclusion of the crime reduction court. To maintain public order and safety, the police are authorized to use force, including the use of force based on fear. Having a basic knowledge of crime and criminology is essential for law enforcement, which is why there is a specialized police criminology unit in almost every country. To that end, the police force is comprised of trained professionals with a background in criminology. It's obvious that having a trustworthy, dedicated, and effective police force is crucial to maintaining peace and prosperity in any given area. Police may not be able to eliminate all forms of violence from society, but they may help keep it under control. Alternately, criminals will be equipped to make the life of the general people intolerable if police services are tough, unskilled, unlettered, and phony. The significance of police in the criminal justice system is reaffirmed by the results of this research.

Mr. Ashish Kumar Kulshreshtha et.al (2020) In India, the police play a crucial part in the administration of justice. The primary functions of the police force are to aid victims immediately, to prevent other crimes from occurring, to apprehend criminals, to conduct an impartial investigation of criminal activity, and to enforce and preserve peace and order. It is impossible to have a proper criminal justice system without a thorough and honest investigation by the police. However, following the Nirbhaya gang rape case and other horrible crimes, the government and the Supreme Court of India have recognized the necessity to reform the Police in accordance with the recent revisions in Criminal law. This critical analysis makes a claim and offers recommendations on how to improve our understanding of police investigations, the police's place in India's criminal justice system, and the urgent need to reform the police in that country.

Arzt, Clemens. (2016). The lack of accountability and professionalization of the organization is often at the center of the discussion surrounding police in India. Former high-ranking law enforcement officials are the most likely to write a book on this subject. In contrast, academic literature and the legal profession are considerably less likely to examine the law of the country approximately 70 years after

Independence and investigate police powers themselves. It is often held that analyzing gaps in statutory law is pointless since India is a common law nation and the Indian police do not enforce the law. Nonetheless, it is argued that providing the police with a set of clearly defined but also constrained legislative authorities would inevitably lead to the expansion of the police state. It is a given that expanding police powers in a way that is harmful to basic rights is a danger that comes with updating and revising legislative authorities, such as those found in Police Acts and the Code of Criminal Procedure. Police powers trend in the opposite direction from what may result from emphasizing rule of law ideals, which is the prioritization of basic rights. It may be premature to consider a basic rights-based idea of police powers in India in 2016, given that most of the current Indian legislation defining police powers is still based on a pre-constitutional model of police. Moreover, the existing law of the country, which allows the police extensive and not at all clearly circumscribed powers to trespass upon fundamental and human rights, must be examined in light of the unavoidable need to modernize the Indian police and to strengthen accountability.

Dr. Mudasir Bhat et.al (2020) The police, the district attorney's office, the courts, and the penal system are all components of the criminal justice system. Everything in the system is supposed to mesh together seamlessly. The effectiveness of the criminal justice system depends on the cooperation of these bodies. The prosecution system, a fundamental component of the justice system, must be free from external interference so that it may carry out its mandate. The prosecutor has the responsibility of maintaining objectivity as the minister of justice. The prosecutor's function in the criminal justice system, as well as their appointment and responsibilities, will be the focus of this research paper. It will also highlight the criticism of the function of prosecutors and the difficulties they confront in carrying out their jobs. In the last section of the study, the authors provide some helpful recommendations that will improve the efficiency of both the criminal justice system and the prosecution system.

Bhumika Datwani, (2019) Those who violate the law shouldn't go free and those who seek its protection shouldn't lose hope while the law does nothing. In ancient societies, the rule of "a tooth for a tooth and a life for a life" served as the foundation of criminal law. At that time, however, a sliding scale was established for dealing with minor infractions. The criminal law that developed within such a framework is now considered antiquated. Substantive criminal law, which defines the offense and provides punishment for it, and procedural criminal law, which administers the Substantive legislation, make up India's criminal justice system. Criminal law's purpose is to deter illegal activity and punish those who violate it for the benefit of society at large. The historical record, however, reveals a gradually increasing focus on offender care and an almost complete absence of consideration for crime victims. Finding the true victim of the system, following the developments in compensation law, and raising awareness within the judiciary are all goals. Hence, the most influential people in this system, the ones who really put the criminal law into action, are forgotten.

PRESENT FRAMEWORK & FEATURES OF THE POLICE

Function of the Police

India's police force serves several purposes. Police critics have resulted in a fairly diverse set of duties, many of which need to be contracted out. If that's the case, law

enforcement officials will have more time for important tasks like investigating crimes and preventing thefts. The upcoming additions to the police force are outlined in Section 23 of the IPA.

- a) comply with and carry out any and all legitimate orders and warrants issued to him by any appropriate authority.
- b) Gather and share information on threats to public safety.
- c) Stop criminal activity and disruptive behavior before it starts.
- d) Help find criminals and have them punished.
- e) Take into custody everyone he has justification to, according to the law.

These activities had been mentioned initially in 1861. The duties have widened and more or less changed since that time and a far more recent list of tasks would be: 158

- Maintaining law and order
- Riot control
- Crime investigation
- Protection of State assets
- VIP protection
- Traffic control

Each police station in a state is responsible for maintaining law and order in a certain geographical area. There are several beats that make up each area. Common police duties include neighborhood patrols to deter criminal activity, dealing with minor offenses, investigating major crimes, assisting prosecutors, bringing suspects and witnesses to court, serving court summonses, controlling crowds and riots, guarding critical infrastructure like power plants and monuments, protecting important public from harm, and so on. The Code of Conduct for the Police defines the responsibilities of the Police force, whereas the IPA specifies the obligations of the Police force. The Code's explanation of itself is really somewhat hazy, and it leaves a lot unsaid. Point four of the Code of Conduct, for instance, regulates the use of force. Point four leaves too much room for nuanced interpretation by not specifying when and how much force may be employed.

“The key duty of the Police is actually preventing disorder and crime and also the Police should recognize that the test of the effectiveness of theirs is actually the absence of both rather than the noticeable evidence of Police activity in offering with them. “

Several high-profile instances, such those involving Jessica Lall, Priyadarshini Matto, and the greatest Bakery, show, however, that the police have grown inefficient and purposefully contradict the effort of the investigation, leading to the failure of the police by their own definition. Perhaps the most fundamental traditional aspect of law

enforcement is dealing with criminals in the act; this aspect necessitates investigation, the gathering of evidence, and the arrest of suspects and perpetrators alike.

Dr. Jerome Hall has made an excellent point in arguing that the police have neither the authority nor the responsibility to administer punishment, given that their job consists primarily in removing criminals from society. They're essential to bringing those responsible to justice. To control and capture offenders in the face of counterviolence is often believed to be an obligatory part of police work. The Supreme Court has correctly emphasized that an investigating officer's job is not only to enhance a prosecution case with such evidence as could allow the Court to get a conviction, but rather to elicit the true, unfiltered truth.

DEVELOPMENT OF POLICE ORGANIZATION OF INDIA

Throughout India's known history, there have been two separate Police systems for urban and rural regions throughout the times of the Maurya Gupta and Mughal Empires; both systems continue to exist, although in a diminished capacity, today. Cities under Imperial rule had a far more complex system of police oversight. This position of Kotwal as head of the Police administration may have originated during the Mauryan period, but the clearest notion of this role comes from Moghul sources in AIN-I-AKBARI. Guests were under the Kotwal's constant watchful eye. Migrants and spies, in order to maintain jails and to minimize alcohol use and prostitution, capture criminals. 162 In 1706, the East India Company unveiled its first manufacturing capabilities. The company didn't alter the existing Police process until 1792, when Lord Cornwallis arrived for the first time, took Police administration away from the larger land owners, and also created a new Police force accountable to the company under this scheme, the content of Daroga was developed in each district, Darogas had been made answered to district Judges, and it became the responsibility of the district Judges to monitor the village landowners and head male Policin.

Both the Indian Penal Code and the Criminal Procedure Code had their genesis in the chaotic legislative climate that followed the failed Munity of 1857 and the subsequent 1858 takeover of the country by the British monarchy. In 1860, the federal government established a police commission, and the following year, the police act was enacted on the panel's recommendation. The action of 1861 established a framework for police business strategy that continues to guide operations to this day. While discussing police work and responsibilities, the National Police Commission made an important observation.

“The police duty must be for perfectly impartial service to law in total independence of policy we hold this as probably the most essential idea for observance in the police process in a democracy. The foundation job of police is usually to perform as police agency & render impartial service to law indication or maybe ideal, oppressed by government as a situation of policy which often are available in conflict with or perhaps don't conform to provisions in our law or constitution duly enacted there under”.

PRESENT POLICE STRUCTURE AND ORGANIZATION IN INDIA

Although the Constitution does provide the federal government some limited authority over policing, this authority is limited. Parliament has the authority to move

an item from the state list to the concurrent list if doing so is deemed to be in the national interest, including the residuary powers of the central government over the Central Bureau of Investigation, the Main Reserve Police Force, and the police forces of centrally administered territories. Given the importance of local control in a democratic system, it makes sense to delegate police authority to the individual states rather than the federal government. There is a risk that bringing in outside police may anger the locals, making it difficult for them to do their jobs. Officers from neighboring or nearby jurisdictions have an advantage in that they are familiar with the locals and their circumstances.

CLASSIFICATION OF POLICE AND THEIR HIERARCHY

There are now four sources of recruits for the Indian police. 166 On the one hand, having a single recruiting activity for all Police recruits may be inefficient because of the large number of applications. On the other hand, it prevents lower-ranking recruits from moving on to the next fitness level. The fact is that this 4-tiered approach has produced a phone network with huge inconsistencies. In order, the four tiers are:

1. qualification equivalent to the Indian Police Service (IPS);
2. ranking of Dy. SP (Deputy Superintendent of Police);
3. Sub-Inspector/Assistant ranks of Assistant and Subsequent Inspectors (SI/ASI);
4. Constable level

Each tier has a separate set of minimal requirements. An undergraduate degree is required for the top three salaries, while an Intermediate (10+2) exam score is the bare minimum for the constable position. In most states, the youngest applicant must be at least 18 years old, while the oldest might be anywhere from 20 to 27. 167 The Police Department's different ranks have their own separate recruitment processes. When it comes to the IPS Police, only the best of the best is accepted into the force. If a police officer is hired at the patrol officer level, for example, he or she is unlikely to be promoted any time soon. The police constables are the least desirable employees since they are at the bottom of the hierarchy and have the least contact with the public. 168 Written tests, personality tests, and interviews are all a part of the selection process for the Indian Police Service (IPS). Those who join the Indian Police Service (IPS) start at the lowest possible rank of Assistant Superintendent of Police (ASP), but they have the potential to rise all the way to the position of Director General of Police (DGP). In order to be considered for a position in the IPS, candidates prefer to have at least a Bachelor's.

The position of director general of police is often the highest-ranking law enforcement position in most jurisdictions, followed by inspector general and other officials. One of the most important roles, among many related to maintaining law and order and reducing crime, is prosecuting those who break the law. A special division of the police force, the "prosecution branch," has been set up to deal with these cases. One of their main functions is handling criminal prosecution in several jurisdictions. These authorities are provided for by the law of criminal process, and in certain jurisdictions the prosecution is completely autonomous from the police command structure. Major metropolises like Delhi, Kolkata, Mumbai, Hyderabad, and Chennai present a quite

different picture. For the sake of maintaining peace and order, the position of police commissioner combines the duties of the district police chief and the magistrate.

1) Investigation by Police

The filing of a First Information Report (FIR) for a crime that meets certain criteria is the first step the police must do before beginning an investigation. A total of four copies are made: the original is kept as a permanent record at the police station, the complainant or informant receives one free of charge, the SP/DCP is copied on all four copies, and the magistrate's seal must appear on all four copies. The information included in a FIR includes the details of the crime, including who perpetrated it, where it took place, and against whom it was committed. To conduct a thorough investigation, the FIR registration process is strictly for facilities only. The police may submit a closure report where there is insufficient prima facie evidence.

- **In a situation the Supreme Court held that:**

The purpose of the initial information is to make known the informant's case against the alleged offenders as soon as possible, if the occurrence occurred; therefore, if at trial a story is actually provided against the alleged offenders which differs in material particulars from that provided in the info, it has always been regarded with grave suspicion and also the accused have been given the benefit of doubt a.

- **In a case the Supreme Court held that:**

The spirit and law of the Criminal Procedure Code both demand a speedy investigation and trial.

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If the police are certain, based on the available information, that additional people whose names aren't in the FIR are generally engaged in the crime, they may take action against those people as part of the inquiry under Section 156. It has been noted that the police often brush off concerns by texting a "no cognizable object" response. The Supreme Court has reaffirmed that there is no provision in the Criminal Procedure Code for a preliminary investigation; as a result, police are not required to conduct a preliminary enquiry prior to filing a FIR; rather, the CBI is authorized to do so per the CBI's own guidelines.

2) Difficulties of Police

Protecting the defenseless from the ravages of lawbreakers is the police's principal mission. This necessitates two major things, namely, keeping vigil and spreading the news in order to apprehend those responsible for stealing and bring them before a judge for trial and punishment. Under this framework, law enforcement officials face a number of challenges. That's what we'll be discussing below.

3) Inadequacy of Staff

Most major police problems may be traced back to a lack of qualified investigators. The police personnel are overworked and spread out, making it impossible to dedicate

enough time to searching. According to a survey conducted on behalf of the National Police Commission in six different states, police officers only spend 27% of their time on searching work, while the rest of their time is taken up by other activities related to keeping the peace. These activities include, but are not limited to, interacting with the public to gain their trust and cooperation, attending court, handling traffic, protecting high-profile individuals, patrolling, and maintaining administrative records. Due to the insufficient amount of I.O.'s and the less percentage of their time being allocated to investigative work, the investigation was superficial and took too long, allowing the accused to be acquitted.

The Supreme Court ruled in one instance that an investigating officer must use his or her judgment to determine whether or not a case is suitable for trial, in addition to gathering evidence for a successful prosecution. Hence, it's easy and practical to have whomever is in charge of the inquiry be someone who isn't invested emotionally in the outcome and has no prior knowledge of the details.

- **In a case the Supreme Court held that:**

The Investigating Officer's duties include not just gathering evidence for a successful prosecution of the case, but also using his own judgment to determine whether or not the case is even suitable for trial. Hence, it's easy and practical to have whomever is in charge of the inquiry be someone who isn't invested emotionally in the outcome and has no prior knowledge of the details.

4) Statements Taken by the Police

The great majority of witnesses are indeed illiterate and inarticulate, but we have also seen that pressure exerted by the accused guy and his supporters may compel them to change their original testimony while in the witness box. In its fourteenth report, the Law Commission made the following observation. There has been a rise in the percentage of acquittals in criminal cases, and it's not always because the police lack evidence to present to the courts. What often happens, however, is that witnesses, if they appear to submit testimony in courts, show a tendency to diminish the effectiveness of their evidence by deposing to a version different from that offered by next in their statements to the police. At least half all police situations in Bihar, according to the state's inspector general, fail because witnesses become absolutely violent after being influenced by the accused and his supporters.

Given these facts, we believe that

- Statements made in court should be recorded as per proposed changes to Section 161 of the Criminal Procedure Code
- All investigations, whether written as a story or as a series of questions and answers, must be reviewed and signed off on as true if the investigators have found any.
- The witness should be provided with a copy of the statement right away.
- As such, the statement should be utilized for corroboration and contradiction, which requires an amendment to Code Section 162.

5) Lack of Co-ordination with Other Investigation Agencies

Without a thorough investigation, no case can succeed in court. Throughout the course of the research, we've seen a lack of coordination between these organizations, which has led to a miscarriage of justice. Obtaining the commodity of criminal justice systems. Investigators, forensics experts, and prosecutors all need to work together.

The following are possible points of application: -

- The first level of investigation begins at the crime scene.
- Make a demand for lab testing.
- Laboratory findings interpretation.
- If necessary, prosecutors will assess the value of the findings.
- Consultation with the prosecution before to trial.

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1. The preliminary investigation begins at the site of the crime.
2. Make a demand for lab testing.
3. Laboratory findings interpretation.
4. If necessary, prosecutors will assess the value of the findings.
5. Consultation with the prosecution before to trial.

7) Improper Investigation and Directly

impacting the probability of conviction There are other causes of faulty investigations that have a direct impact on the conviction rate. Supervision Lack of timely and efficient supervision by senior officers is another key reason for the reduction in the quality of the inquiry. They don't put in the time and effort necessary to be an effective supervisor. Officers in charge must provide accurate direction from the outset to ensure that those who are innocent are protected and those who are really at fault are brought to justice. There must be performance, expertise, experience, etc., among the supervisory staff. The IO, low on the totem pole, cannot do this alone; he needs the moral and professional backing of his superiors, which he rarely receives due to political pressures or incompetence.

Improving the effectiveness of the search process requires the work of exceptional officers at the helm.

- Stop at the scene of the crime to check it out.
- Crucial eyewitnesses who must confirm that they and their account are accurate. The police have looked into whatever leads they could see.
- Have a chat with the cop who's looking into it so they can keep an eye on it.
- Features shared with other instances were identified, and investigations into those cases were given coordinated direction.

8) Inadequate Training of Investigating

Officers As criminal investigation has become such a specialized role, it is imperative that officers conducting searches have the proper training, experience, and understanding to accomplish their jobs effectively. There's a significant need for in-service training to help police officers develop their investigative skills. Shop and seminar events need to be scheduled at least five times each year. There has to be a massive expansion of educational institutions, using whole new pedagogical approaches, to meet the requirements of the times. As the nature of crime is evolving rapidly, it is important to develop and implement training programs in developing fields like forensic science and information technology, among others, to better equip today's investigators to face tomorrow's challenges.

9) Transfer of Investigation Officer

while the investigation is still ongoing the constant passing of cases from one IO to another is not a good policy. This kind of instruction is designed to discourage both law enforcement agents and criminals from cooperating with investigators. A second investigating officer will have a hard time understanding what happened unless they were there at the first stage of dealing with the matter. When one investigating officer hands over a case to another, it's a perfect opportunity to conduct a thorough search before the judge rules on guilt or innocence.

- At the state's police headquarters, a Police Establishment Board must be established, and on its recommendation, publications detailing the transfer, promotion, etc. of officers at the district level must be created.
- Unless in the most dire of circumstances, cases should not be passed from one investigating officer to the next without first being documented in writing by the relevant authorities.

CONCLUSION

The role of the police in the administration of criminal law is distinct. Further to the widespread belief that police officers are the system's "gate keepers," their work directly affects the operations of the criminal justice system as a whole. When a crime is committed, the first step in the Criminal Justice System is for the police to investigate. The police's primary function is to look into complaints filed with the

station. The Indian Penal Code 1860, the Code of Criminal Procedure 1973, and the Indian Evidence Act 1972 govern the administration of justice in India. It turns out that law enforcement routinely violates the principles outlined in various statutes. The police process is outlined in the Code of Criminal Procedure, yet officers often disobey the law. The purpose of the Indian Evidence Act, which applies to both civil and criminal proceedings, is to assist legal authorities in determining the facts at issue in pending cases. The dynamic social environment calls for proactive police strategies that include community engagement and a focus on specific problems.

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