



Police reforms: India

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Abstract

The present police system in India resembles the colonial Irish constabulary and Indian Police Act of 1861. Various police acts do not set up any mechanism for effective political and civic control of the police force. The jurisprudence of the Code of Criminal Procedure, 1973 and some other acts/rules enshrine the power and duties of the police. The image of police is not so bright since the general tendency of the male police Investigation Officers (IO's) is of hard core and canned style probing. Recently, the Government of Haryana has undertaken certain police reforms by introducing All Women Police Stations in each district, which, indeed, will infuse confidence amongst the women victims in getting their complaints registered without any hesitation at any of these women police stations by making the victims as comfortable as possible in their given state of trauma because the reported incidents will be investigated by women Investigation Officers (IOs) only.

Keywords: police system, investigation officers (IOs)

Introduction

India (Including Relevant Legislation, Compliance with Supreme Court Directives, Legislative Analysis, Strengthening Police Accountability as 'read more' tabs)

Each state and union territory of India has its own separate police force. Article 246 of the Constitution of India designates the police as a state subject, which means that state governments frame the Police Acts, rules, and regulations that govern each police force. There is also central legislation in place; states which have not passed their own Police Acts are governed by the central Police Act. In addition, different aspects of police work and procedure are governed by a multiplicity of laws. Case law and jurisprudence also lay down procedure to be followed. The detailed rules and regulations, which set out duties, policies, and operational procedures, are contained in state Police Manuals.

There has been almost 30 years of debate on policing and reform in India, with several government-appointed commissions submitting reports and recommendations for police reform to government. The most comprehensive recommendations came from the National Police Commission (NPC), which from 1979-81, completed eight reports and drafted a Model Police Bill. Two more official Committees have drafted model police legislation, with CHRI as an active participant on both. These model draft Police Acts have not moved forward. In 2006, the Supreme Court of India ordered directives on police reform, but the central and state governments are either not complying at all or complying by moving away from the Court's framework. CHRI actively monitors the state of implementation of the Court's directives across the country.

Under the Constitution, police is a subject governed by states. The centre is also allowed to maintain its own police forces to assist the states with ensuring law and order. Therefore, it

maintains seven central police forces and some other police organisations for specialised tasks such as intelligence gathering, investigation, research and recordkeeping, and training.

The primary role of police forces is to uphold and enforce laws, investigate crimes and ensure security for people in the country. In a large and populous country like India, *police forces need to be well-equipped, in terms of personnel, weaponry, forensic, communication and transport support*, to perform their role well.

Further, *they need to have the operational freedom to carry out their responsibilities* professionally, and satisfactory working conditions while being held accountable for poor performance or misuse of power.

Some of the issues in the policing system in India

Various expert bodies have examined issues with police organisation and functioning over the last few decades. Its chronology as follows-

- National Police commission 1977-81
- Rubeiro Committee 1998
- Padmanabhaiah committee 2000
- Malimath committee 2002-03
- Police Act drafting committee 2005
- Supreme Court directions in Prakash Singh vs Union of India 2006
- Second ARC 2007
- Police Act drafting committee-II 2015

Why police reform is necessary?

Police is an exclusive subject under the State List of the Indian Constitution. States can enact any law on the subject of police. But most of the states are following the archaic Indian Police Act 1861 with a few modifications. Also, police have become

the ‘subjects’ of Parliamentarians and legislators – with a high degree of politicization and allegiance towards ruling party. India still follows the Police Act, 1861, framed by the British, largely with an aim to crush dissent. The Act was a reaction to the sepoy uprising of 1857.

Facts

- Police is a state subject in Schedule VII
- NCRB Report
- Low conviction rates. Conviction rate is 46.9% under IPC crimes
- About 300% increase in agrarian riots. Depicts weak law and order in hinterland and rising lawlessness.
- The Supreme Court has ordered States and Union Territories to upload, on police or government websites, First Information Reports (FIRs) within 24 hours of their registration in police stations.
- The median ratio of police officers to constabulary is 5%
- There are a total of about 1.8 million police personnel employed by Indian state police organizations today and there are also 300,000 vacancies
- This results in a median 200 policemen for every 100,000 people, though it ranges widely from 76 in Bihar to 700 in Delhi

Challenges faced by police force in the country

- **Collection and analysis of preventive intelligence:** The most important and challenging task faced by the police today is the collection and analysis of preventive intelligence and follow-up action, especially pertaining to terrorists and insurgents who pose a constant challenge to internal security.
- **Criminal Investigation:** The other important, but badly neglected, aspect of policing is criminal investigation. Standards have declined sharply in the last few years. Unfortunately, the so-called premier investigation agencies like state CIDs and the CBI are no exception.
- **Vacancies:** Many states continue to have huge vacancies. Even the apex court’s direction to fill these posts has not yielded the desired results.
- **Outdated arms and equipment:** Most state police forces continue to use obsolete equipment and arms, and lack the latest technology that would help in investigation and intelligence-gathering.
- **Lack of Organisation:** There are no organisations to provide the police forces with tested and dependable specifications on equipment and technology. They are generally dependent on vendors, who often sell outdated or not-so-suitable technology.
- **Lack of proper training:** Well-trained and motivated human resources are key to any police force’s success. But, most training academies are poorly staffed and often don’t have the necessary facilities. Institutions need to be upgraded in terms of facilities, equipment and technology.

Issues

- **Police accountability:** Police forces have the authority to exercise force to enforce laws and maintain law and order in a state. However, this power may be misused in several ways. To check against such abuse of power, various

countries have adopted safeguards, such as accountability of the police to the political executive, internal accountability to senior police officers, and independent police oversight authorities

- **Crime Investigation:** Each police officer is responsible for a large segment of people, given India’s low police strength per lakh population as compared to international standards. While the United Nations recommended standard is 222 police per lakh persons, India’s sanctioned strength is 181 police per lakh persons. After adjusting for vacancies, the actual police strength in India is at 137 police per lakh persons.
- **Crime investigation and Underreporting of crime in India:** In 2015, the conviction rate for crimes recorded under the Indian Penal Code, 1860 was 47%.¹⁹ The Law Commission has observed that one of the reasons behind this is the poor quality of investigations.
- **Poor Police infrastructure:** Modern policing requires a strong communication support, state-of-art or modern weapons, and a high degree of mobility. The CAG has noted shortcomings on several of these fronts.
- **Police-Public relations:** Police requires the confidence, cooperation and support of the community to prevent crime and disorder. A police-public relation is an important concern in effective policing. The Second Administrative Reforms Commission has noted that *police-public relations is in an unsatisfactory state because people view the police as corrupt, inefficient, politically partisan and unresponsive.*

Directions of the Supreme Court in Prakash Singh vs Union of India

In 1996, a petition was filed before the Supreme which stated that the police abuse and misuse their powers. It alleged non-enforcement and discriminatory application of laws in favour of persons with power, and also raised instances of unauthorised detentions, torture, harassment, etc. against ordinary citizens. The petition asked the court to issue directions for implementation of recommendations of expert committees.

In September 2006, the court issued various directions to the centre and states including:

- Constitute a State Security Commission in every state that will lay down policy for police functioning, evaluate police performance, and ensure that state governments do not exercise unwarranted influence on the police.
- Constitute a Police Establishment Board in every state that will decide postings, transfers and promotions for officers below the rank of Deputy Superintendent of Police, and make recommendations to the state government for officers of higher ranks.
- Constitute Police Complaints Authorities at the state and district levels to inquire into allegations of serious misconduct and abuse of power by police personnel.
- Provide a minimum tenure of at least two years for the DGP and other key police officers within the state forces
- Ensure that the DGP of state police is appointed from amongst three senior-most officers who have been empanelled for the promotion by the Union Public Service Commission on the basis of length of service, good record

and experience.

- Separate the investigating police from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people.
- Constitute a National Security Commission to shortlist the candidates for appointment as Chiefs of the central armed police forces.

Why is that urgency in implementing Police Reforms?

As India makes rapid advances towards becoming an economic and political superpower, our police cannot continue to remain frozen in the frame of a past era.

- The avalanche of social and technological changes fuelled by the internet and the *new social media are fast changing the nature*, intensity and the reach of crime leading to *unprecedented lawlessness and frightening dimensions of global terrorism*.
- There is an urgent need to strengthen our Criminal Justice System and our grassroots level policing institutions;
- to prepare our police to deal with the present and emerging challenges and
- Strengthen its investigative capabilities and emergency response infrastructure.
- Traditional and linear devices used in the past towards police reform may not be sufficient.
- Considering the multiple causes and their complex interdependencies associated with today's policing issues, there is a realization that these challenges require broader, more collaborative and innovative approaches and would involve a range of coordinated and interrelated responses.

It was in this context that the Indian Police Foundation and Institute was established, bringing together the multiple stakeholders to collectively work for reform and modernization of the police. However this could form only part of the solution.

Innovative Steps taken

- Government has launched a Digital Police Portal
- It is a platform for citizens to file online crime related complaints and also request for antecedent verification.

Significance of this Prakash Singh vs Union of India Case

Supreme Court in the Prakash Singh vs Union of India case was the landmark in the fight for police reforms in India. In its directions, the court had pulled together recommendations generated since 1979. They make up a scheme, which, if implemented holistically, will cure common problems that perpetuate poor police performance and unaccountable law enforcement.

The design requires states and the Centre to put in place mechanisms to ensure that

- The police have functional responsibility while remaining under the supervision of the executive.
- Political control over the police is kept within legitimate bounds.
- Internal management systems are fair and transparent.
- Policing is increased in terms of its core functions.
- Public complaints are addressed through an independent mechanism.

What were 2006 directions?

The 2006 SC directions included

- Establishing a State Security Commission (SSC) as a watchdog with members from the government, judiciary and the civil society. The commission was supposed to frame policies which make sure that "state government does not exercise unwarranted influence or pressure on the state police".
- The order asked for tenure of DGP and field officers to be fixed at two years. However, Centre told the Supreme Court that states were misusing the SC direction to give two-year tenures to directors general of police and were appointing officers nearing retirement to the posts to give them two additional years in service.
- A police establishment board, instead of the government, would deal with transfers of policemen.
- It also asked for separation of investigation and law and order units for speedy probe.

What's the problem now?

- Directions of SC have not been implemented by the states
- While few states actively resisted the court's order, few states did nothing.
- While few did something but did it wrong and finally, got out from under the Supreme Court's orders by passing laws which not only do not conform to the court's orders but actually give statutory sanction to bad practices.
- Since the 2006 SC order, 17 states have passed new Acts while 12 have issued executive orders. For instance, in the majority of the 17 Police Acts passed since 2006, state governments have given themselves the sole discretion to appoint police chiefs instead of choosing from a panel recommended by the UPSC.
- In many of the nine operational Police Complaints Authorities currently in place, their design has been subverted by appointing serving police officers as judges in their own cause. Elsewhere, their functioning has been hobbled by the lack of independent investigators.

What has the centre done in this regard?

The Central government had formed committees to create a Model Police law in line with the Court's directions. It also came up with the Model Bill in 2006. However, the Model Bill of 2006 drafted under *Soli Sorabjee's* chairpersonship has been adopted in breach by 17 states and entirely ignored by the Centre.

Another Police Act drafting committee was also formed in 2013 to make revisions to the 2006 model. Dutifully, it has given its recommendations, which now lie mouldering in bureaucratic caverns measureless to man.

What are the challenges faced by police set up?

Administrative Challenges

1. Too much political interference in police functioning
2. Frequent transfers/postings
3. 24X7 working conditions; Low salary; No respect

Logistical Challenges

1. Lack of training
2. Weak infrastructure

3. Low people: police ratio

What to do?

- Numerous commission have given their recommendations in past like Dharam Veera commission, Julia Ruberio Committee, Soli Sorabjee Committee (Model code), SC 7 point recommendations (Prakash Singh Case) etc.
- We need political will to implement these.

Reforming the police in India is sine qua non to ensure a functional democracy where citizens enjoy their rights without fear. In this regard, critically examine how the Supreme Court has played its role in enforcing police reforms and with what outcome.

In the Indian political context, it is the institution of police that didn't get its share of reforms till date. It is still dependent on the colonial police act, 1861. The citizens enjoy rights without fear only with harmonised order that can be guaranteed by police reforms. This made the Supreme Court to identify the problems and recommended the following:

1. To set up state security commissions to insulate the state police from extraneous pressures;
2. Set up Police establishment boards to give autonomy to the department in personnel matters; and
3. Police complaints authorities to ensure better accountability of the force.
4. In addition to these, the court also laid down a procedure for appointment of the DGP and gave him a fixed tenure of two years, mandated two-year tenure for officers performing operational duties in the field, and gave directions for the separation of investigation from law and order.

But, many state governments passed executive orders and some passed weak laws to circumvent this decision and still there is no implementation of above direction. Still, Police works under the extraneous pressure and agents of high politicians. So, if India has to become a vibrating democracy where there is rule of law and right of citizens are ensured, police reforms are much needed.

Recently the Bureau of Police Research and Development (BPR&D) released a report highlighting the inability to staff police forces with adequate personnel for ensuring public safety and crime fighting.

What does the report says?

- Nearly 21% of the sanctioned posts are lying vacant, which translates to one cop for every 663 people against a sanctioned police population ratio of 1:518.
- With just 150 cops per lakh population, India's general conviction rate of 47% in 2015 and a conviction rate of just 21.7% in crimes against women reveal that most cases brought to trial end in acquittal.
- In a 2014 BPR&D study, 68% of surveyed SHOs reported that their subordinates worked more than 11 hours daily and 73% were summoned to work on holidays too.

There has been a rise of public demand for an efficient, accountable and people-centric police that steadfastly upholds the Rule of Law in all situations. Since independence, the National Police Commission as well as multiple expert committees have submitted successive reports recommending

extensive reforms in the Police. These recommendations have mostly remained unimplemented.

Conclusion

The transformative reforms in the Indian Police is possible through appropriate interventions in skill building and attitudinal training, through reforms that are both bold and practical, and through collective action of all stakeholders to drive a nationwide campaign for change, keeping in mind, the difficult conditions under which our police functions.

The demand for police reforms is over 100 years old with the first such attempt made by Indian Police Commission of 1902-03 under British rule. Since then, it has seen five state commissions and six national-level commissions with all their reports gathering dust. But, it is imperative that more needs to be done than mere structural changes within the system. It is essential to now look at the police as a service organization meeting those needs of the society that are essential for safety, security, quality of life and peace. Community involvement, problem oriented policing and proactive policing strategies need to be adopted in the changing scenario of society.

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