

Role Of Police In Administration Of Criminal Justice System In India- Problems And Prospects

Deepak Kumar Sahu¹, Dr. Pooja Khetrpal²

¹Research Scholar (Department of Law), Oriental University, Indore, Madhya Pradesh, India

²Research Guide (Department of Law), Oriental University, Indore, Madhya Pradesh, India

Abstract

This research paper investigates the pervasive issue of Police role in the Indian criminal justice system, focusing on the examination of existing legal gaps.

This examines the protection and enforcement of human rights within the Indian criminal justice system, with a focus on constitutional provisions and international human rights standards.

Criminal Justice can be defined as a system of institutions and governing bodies that are set up to maintain law and order in the country along with punishing the perpetrators. Human pleasure and personality development depend on respect for human rights.

Ultimately, this research serves as a catalyst for dialogue and action, advocating for a more just and rights-respecting criminal justice system in India.

Through an analysis of key issues such as the right to a fair trial, the presumption of innocence, protection against torture, and the rights of victims, this paper examines the ongoing efforts to harmonize justice and liberty.

Keywords:

Criminal Justice System, Human Rights, Law Enforcement, Offender-Victim-and Witness, Judiciary, Indian Police, Law and Human Rights in India

1.Introduction

1.1 Meaning and Definition:

Police system, as the State-controlled 'bureaucratic organisation of professionals' to ensure the essentials of civilised life, namely, law and order, protection of life and property, is a modern concept.

The word 'Police' is derived from the Greek word, Politeia which means 'Government'. It refers to that segment of Government, which deals with the protection of life and property, preservation of public tranquillity and maintenance of order, and the prevention and control of crime.

The Concept of Police:

The term '**Police**' is derived from the Greek word 'polis' and 'politeuein', which refers to the citizen who participates in the affairs of a city or state. The meaning describes the role of a police officer in contemporary times- a citizen who actively participates in the affairs of the state.

Police as a part of criminal justice system, has to play a crucial role in maintenance of peace and enforcement of law and order within its territorial jurisdiction. The primary responsibility of the police is to safeguard or protect the lives and property of the people, as well as to protect them from violence, oppression, and disorder.

The 'Police' is one of the means by which State seeks to meet its obligation to protect human rights that are also called as fundamental rights which are enshrined in part III of Indian constitution. Indeed effective maintenance of law and order, enable people to enjoy not only their civil and political rights but also social and economic rights.

The Oxford dictionary defines:

"Police as an official organization whose job is to make people obey the law and to prevent and solve crime."

The police is a social institution which is a responsibility of the State. The State came into existence to provide peace and security to the individual. To fulfil this purpose, the State created an administrative system, the police being an important part of it. The police is the main agency of the government which is responsible for providing such an atmosphere.

Police can be termed as an organised body of civil servants whose primary duties are the preservation of order, the security of persons and the safety of property.

According to Cambridge dictionary: "Police means —The official organisation that is responsible for protecting people and property (public and private property), making people obey the law, finding out and solving crime, and catching people who committed a crime."

After reading these definition, we can say that police means the organisation which is established by State Government for the maintenance of public order, protecting the property (public and private property), solving the crime and arrest the person who committed the crime.

1.2 Objective of Study:

- i. To know the role of police in administration of criminal justice system.
- ii. To explore the relation of investigative role of police with the human rights (right to justice) of victims of personal violence crime under Indian Criminal Justice System.
- iii. To identify the methodology of misuse of investigative powers by police.
- iv. To reveal which type of problems faced by police officer's.
- v. To remove the demerits of our police system.

2.Review Of Literature

K.D.Gaur in his essay, "Justice to Victims of Crime: A Human Rights Approach", discusses about compensatory schemes for victims of crime and suggest measures to make them more comprehensive.

N.R.Madhav Menon in "Victim Compensation Law and Criminal Justice System: A Plea for a Victim-Orientation in Criminal Justice" advocates for victim-oriented criminal justice system with greater respect for victims of crime, then come back to the 'Victim Compensation Scheme' as a recognition of victims' rights in Criminal Justice System.

Kode, Nagnath Shankarappa (2016) in his research “The critical study of criminal laws and powers of police in India with special reference to functioning of police in Nanded range” he stated -Consequently, the present system of Police has not helped the authorities in achieving the desired results. Hence, it may be affirmed over again that neither the incidence of crime has reduced nor the individual victims have been able to reap the benefits of criminal justice system. So much so that there is need for reform with regard to the nature and extent of the powers of police and their duties and responsibilities.

Jayasimha B (2016) in his research “Protection of Victims Rights in Criminal Justice System a critical study” he described that The primary function of the Constitution and the laws is to fulfil the aspirations of the common man. Criminal justice system is that instrumentality which is looked at by the people to redress the harm done against them and seek justice to improve the quality of their life.

Websites: Websites as mentioned under the head bibliography played an important role in getting an insight into the contemporary developments occurring in the field of victim-justice. Without such an enormous help from technology, this work would have not taken place. Where researcher could not reach physically, the material collected online provided the needed support and the vast data required for this research work.

Newspaper: FreePress and Dainik Bhaskar were mainly studied to find the depth of the problem and plight of victims in social context. It helped the researcher to formulate the problem.

3.Discussion

Administration of Criminal Justice System:

According to Oxford Dictionary: Criminal Justice System means —The system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing, and punishing those who are suspected or convicted of criminal offences.

Any society's support structure is its criminal justice system, which ensures the preservation of law and order, the defence of individual rights, and the administration of justice.

Criminal Justice System of any country is the basis of establishing peace and tranquillity. It includes not only the judicial system but the investigating machinery as well. Criminal Justice is one of the critical areas of human rights where the legal system is tested on a continuous basis for preservation of peace and security in society on the one hand, and prevention of human dignity of both victims of crime and person accused of it, on the other. In a modern welfare state, the purpose of criminal justice system is to protect the rights of individuals and punish the wrongdoer for the violation of basic norms of society.

Criminal Justice System in India comprises all the machinery established by the government to ensure Law and Order in the country. It involves crime prevention, adjudication of crime and criminals, compensation and rehabilitation of victims, maintenance of the rule of law in the country, and deterrence of offenders from committing any crime in the future. The main aim of the Criminal Justice System is to prevail Justice in the country.

Criminal justice is a system of policies and organizations used by national and local governments to maintain social control, prevent and regulate crime, and penalize those who break the law. Law enforcement like police and prosecutors, courts, defense attorneys, and local jails and prisons are the central agencies charged with these duties, which oversee the procedures for arrest, charging, adjudication, and punishment of those found guilty.

The need for criminal justice administration arose from the state's decision to impose the high standard of human conduct required to protect people and communities. It seeks to fulfill its protection goal through enforcement by reducing crime risk and apprehending, prosecuting, convicting, and sentencing those who violate rules and laws promulgated by society.

The purposeful administration of criminal justice cannot be effectively implemented without proper orientation at all levels and the coordinated functioning of all three agencies involved in this process, i.e., the police, the criminal courts and the correctional administration consisting of the prison service, the probation service and the correctional agencies.

Criminal Justice System divided into three parts:

1. Law enforcement or Police Force.
2. Adjudication (Courts)
3. Corrections (jail, Prisons,)

But some jurists say that criminal justice system has five pillars:

- (i) The community.
- (ii) The law enforcement.
- (iii) The prosecution.
- (iv) The courts.
- (v) Corrections.

Criminology

Criminology is the scientific study of crime, its causes, consequences and prevention. It involves analysing criminal behaviour, understanding why individuals commit crimes and developing theories that explain the criminal activity. Criminologists utilise various methods and perspectives to examine crime, including sociology, psychology and biology.

Penology

Penology is the study of the processes and institutions involved in the punishment and rehabilitation of offenders. It examines the effectiveness of different types of punishment, the conditions within correctional facilities and the broader societal implications of punitive measures.

Victimology:

Victimology is the study of victims, their experiences and their interactions with the criminal justice system. It seeks to understand the impact of crime on victims and to develop measures to support and protect them.

Crime & Victim:

Crime:

“A crime is an unlawful act punishable by a state or other authority.”

Crime in Indian context "Crime is a activity that involves breaking the law and enforcements.”

Stages of Crime:

- i. Intent
- ii. Preparation
- iii. Attempt
- iv. Completion

Victim:

As per Macmillan dictionary victim “Someone who has been harmed injured or killed as the result of a crime”.

As per Collins English Dictionary: “Victim means a person or thing that suffers harm, death etc. from another or from some adverse act, circumstance etc.”

Classification of Crime Victims:

- i. Innocent Victim
- ii. Depressive Victim
- iii. Greedy Victim
- iv. Wanton Type Victim
- v. Tormentor Victim

Criminal Justice System divided into three parts:

- i. Law enforcement or Police Force.
- ii. Adjudication (Courts)
- iii. Corrections (jail, Prisons,)

According to Schedule VII of the Constitution, "Police" is a "State subject." It is thus the responsibility of the state to maintain its own police force in order to maintain peace and security.

Law Enforcement or Police Force:

As rightly observed by D. H. Bailey, —The Indian police system which is developed on the basis of **The Police Act 1861**, has three basic characteristics: -

- i. The police force is organized, maintained and directed by the several states of Indian Union;
- ii. The Indian police system is horizontally stratified like military forces organized into different cadres; and
- iii. The police in each state are divided vertically into armed and unarmed branches.

Accountability of Police: According to the Commonwealth Human Rights Initiative (CHRI) Report, there are primarily four types of accountability or oversight over police services. These are listed below:

Governmental Accountability: - Legislative, judiciary, executive- the three branches of the governance provides the basic architecture for police accountability. The police are likely to be held accountable to all three pillars of states in a thriving democracy.

Independent External Accountability: - Due to the complexity of policing and the importance of police organisations to governments, more regulations are implemented. Authorities that can monitor the police and prevent police abuse of power include national

human rights commissions, state human rights commissions, and public complaints authorities. Any democracy must have at least one such impartial, civil organisation.

Social Accountability: - It is regarded as a growing tool for external responsibility in contemporary democratic societies in addition to those already mentioned. In a democracy, citizens have the right to hold police accountable, in addition to official institutions that serve as the people's representatives. For improved performance, the media, community organisations, NGOs, and individuals all keep an eye on and comment on police actions.

Internal Accountability: - Internal mechanisms, processes, and procedures form the foundation of every effective accountability system. The necessary mechanism to hold policing to high standards is created by effective disciplinary processes, adequate levels of training and supervision, and mechanisms for monitoring, assessing, and documenting performance and crime data.

Adjudication (Courts):

This is second component of this system. It includes prosecution and defence lawyers, judges and juries. When any accused appears before it, Court considers his case. If prima facie it seems that he has no committed any crime. Court discharged the accused. In India, court procedure is divided into many parts according to offence. If a court thinks that prima facie he has committed the crime, court gives opportunity to plead the guilty. Accused plead guilty then court gives punishment and declare he is the accused. If he does not guilty then hear the arguments of both (prosecution and defense lawyer). After hearing the arguments he may convict or acquit the accused.

Corrections (jail, Prisons, probation and parole):

The last and final component of the Criminal Justice System is Corrections. It includes jails, prisons, probation and parole officers and borstal institution. After conviction of the accused, the sends to these institutions. In this accused totally lose his liberty. These institution help in the rehabilitation of the accused in the society again.

Criminal Justice Process : Case Flow/Steps

- i. Registration of the FIR
- ii. Investigation : Interrogation, Examination, Arrest and Detention
- iii. Final Report
- iv. Charge Sheet
- v. Trial
- vi. Correction : Bail/Jail/Fine etc.

Procedure: In our country the procedure of administration of criminal justice is divided into three stages namely - investigation, inquiry and trial. Under the Indian Penal Code or under any other law The Criminal procedure code 1973 provides for the procedure to be followed in investigation, inquiry and trial, for every offence. There are certain basic terms one should be aware of these being before discussing the procedure of administration;

- Cognizable offences.
- Non cognizable offences.
- Inquiry.
- Investigation.

Police Organisation / Administration

The police are responsible for preventing crime and maintaining law and order in society. However, it would be more accurate to refer to these functions as the primary functions of the police, because the primary purpose of policing is 'to preserve the peace and prevent robberies and other felonies, as well as apprehending offenders against the peace. It is to act as an agency of the criminal justice system to stop those committing further offences; it is intended to punish them while also serving as a deterrent to other potential offenders. In other words, it is intended to deter future crime. The ultimate goal of police all over the world is to maintain social order and prevent crime, thereby ensuring the security and safety of people and their property.

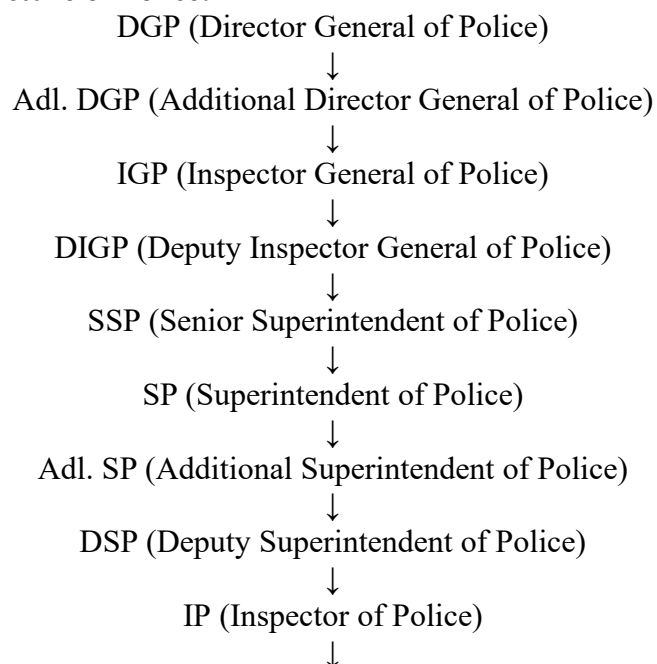
The National Police Commission further elaborates function of police in view of the preamble of Indian Constitution. Law enforcement by police should cover the following two basic functions:

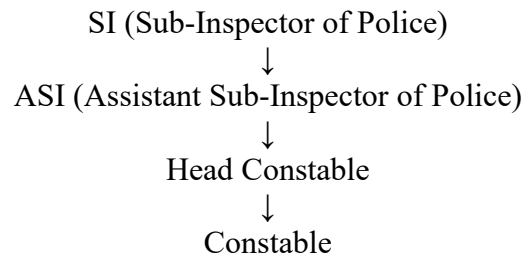
- (i) Upholding the dignity of the individual by safeguarding his Constitutional and legal rights. Police secure this objective by enforcing laws relating to the protection of life, liberty and property of the people, and
- (ii) Safeguarding the fabric of society and the unity and integrity of the nation. Police secure this objective by enforcing laws relatable to maintenance of public order.

So, the main objectives of the police system in India are:

- (i) To safeguard the lives and rights of the people.
- (ii) To uphold human rights under all circumstances.
- (i) To act with integrity, efficiency and impartiality at all times.
- (ii) To coordinate with other units of the criminal justice system.
- (iii) To ensure peace and improve the quality of life in the society.
- (iv) To treat everyone uniformly, irrespective of caste, creed, religion, color, language or political and economic power.
- (v) To improve professional knowledge and skills.

Organizational Structure of Police:





Role of Police / Various Responsibilities:

Functions that the Police Perform Police perform a wide range of functions, nonetheless, the question that what is the end of police and what are their powers and functions generally lead to two points:

- i. The police are the fighters against crime and criminals concerned with enforcement of law;
- ii. The police are the upholders of law concerned with maintaining peace and providing social service to the community.

The goals and objectives of the police can be divided into primary and secondary categories. Primary goals encompass maintaining law and order and safeguarding life and property.

The secondary goals include the following:

- i. Preventing crime;
- ii. Arresting and prosecuting offenders;
- iii. Recovering stolen property;
- iv. Assisting the sick and injured;
- v. Enforcing non-criminal legislations;
- vi. Delivering services not available elsewhere in the community.

What is investigation?

Investigation has been defined in section 2(h) CrPC. According to this section —Investigation includes all proceedings which is used for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) under this code.

Main objectives of the Police investigation :

- i. To collect evidence for purpose of evidence.
- ii. To inspect the place of occurrence.
- iii. To collect all the articles used in the commission of the offence.
- iv. To record statements of all those who have witnessed the commission of the offence.
- v. To identify and apprehend the suspect.
- vi. To recover stolen property if any.
- vii. To establish that in fact, that a crime has been committed.
- viii. To assist the state in prosecuting the party charged with the offence.

Reasons behind Negative Role of Police:

The present police act of 1861 is inadequate in upholding the rule of law and give due respect to human rights. There must be some change in our police system. Our police system is failures to prevent crime due to some reason these are followings :

- i. Our police system doesn't work independently. Generally it works under political pressure.
- ii. Inadequate laws.

- iii. They do not have sufficient staff.
- iv. They have not sufficient modern electronic equipments for tracing the criminals.
- v. Police evade registration of cognizable crime.
- vi. Police false implicate innocent persons in criminal cases.
- vii. Police gives third degree torture to the criminal.
- viii. Police is not used modern techniques in the investigation.
- ix. Misbehaviour with complainants.
- x. Illegal detention.
- xi. Fabrication of False Evidence.
- xii. Police behaviour's is not good towards the people.
- xiii. Use of more of power crowd control.
- xiv. Pleasing political Masters & police also indulge in corruption.

Human Rights and Law Enforcement:

Fundamental Rights are important for the fact that they are considered inherent for every citizen and thus, their violation gives the citizens, the right to move to the Supreme Court and the High Courts under Article 32 and Article 226 of the Indian Constitution respectively.

The way we handle crime cases now is often criticized when human rights concerns are discussed at national and international forums because it is antiquated, outdated, and repressive.

Human rights in criminal justice system are the central pillar of administration of criminal justice. Criminal justice is the beacon of the light. Therefore human rights is the sovereignty of man, peaceful co-existence in the family, society, nation and international context need human rights. Human rights have to be followed in letter and spirit. It is the reservoir of life. Liberty equality and dignity of the individual. It is precious beyond all prices.

Human rights are the very wheels of justice in criminal administration. In criminal Justice System Police is first law enforcement agency which has to mind well human rights in context of offender, victim or witness.

National Human Rights Commission, India

The NHRC is the National Human Rights Commission of India. The National Human Rights Commission (NHRC) of India was established on 12 October, 1993. The statute under which it is established is the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006.

The Protection of Human Rights Act, 1993

Human rights are standard that allow all people to live with dignity, freedom, equality, justice and peace. Every person has these rights simply because they are human beings. They are guaranteed to everyone without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human rights are essential to the full development of individuals and communities.

Justice Verma Committee Report

Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The Committee submitted its report on January 23, 2013.

On December 23, 2012 a three member Committee headed by Justice J.S. Verma, former Chief Justice of the Supreme Court, was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals

accused of committing sexual assault against women. The other members on the Committee were Justice Leila Seth, former judge of the High Court and Gopal Subramaniam, former Solicitor General of India. The Committee submitted its report on January 23, 2013. It made recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms.

Time to time there were various steps had been taken for reforms in Police Administration. These are:

- i. Gore Committee On Police Training (1971-1973)
- ii. Ribeiro Committee on Police Reforms 1998
- iii. Padmanabhaiah Committee on Police Reforms 2000
- iv. Malimath Committee on Reforms of Criminal Justice System (2001-2003)
- v. Police Act Drafting Committee (PADC) (2005)
- vi. Supreme Court Directives on Police Reforms (2006)
- vii. Madhav Menon Committee on Criminal Justice Reforms (Report Submitted 2007)
- viii. Justice Verma Committee on Criminal Justice System (2012)

Conclusion

(Finding / Suggestions)

As per the provisions of the Police Act, 1861, the police officers are to be considered to be always on duty and they are not allowed to have regional or national holidays. Due to the continuous work without rest the police personnel tend to become mentally and physically unfit and they become highly insensitive to human rights. They should be given special allowances for the duty. Man power should be increased in the police stations. Better living and service conditions should be provided to curb the corruption in police system.

In spite of all recommendations and judicial directives, there has been no sincere exercise by the legislature to make the Indian criminal justice system more victim sensitive. Victim-witness protection mechanism should be provided by enacting a Special legislation or by incorporating new provisions under Indian Penal Code and in the Code of Criminal Procedure wherein victim can claim protection as a right.

Numerous commissions at the State and Central levels have been established to recommend reforms, but the government has largely given their suggestions only superficial consideration. Consequently, the police force remains much the same as during British rule. Incidents of police brutality are still reported, and those who dare to challenge the status quo may face harassment or even persecution. This disparity highlights a troubling aspect of India's development, where reforms do not match technological and infrastructural advancements in crucial areas like law enforcement.

Law Commission in its 154th Report also mentioned that victims of crime should be given priority attention because they suffer substantive harm due to the incidence of crime.

Complainants, witnesses and others at risk should be protected from intimidation and reprisals. A witness protection programme should be established in every State. Methods and findings of investigation should be made public and the victim or the victim's family must be allowed access to the complete records of the enquiry.

During the police training the main focus is on physical training. But, there should be modification, instead of ‘muscle police’ we require a police having ‘brain’ and ‘heart’ since they have to deal with their own fellow human beings and not with their enemies.

Under the Indian criminal justice administration, after taking a person in custody the investigating officers are usually trying to get confession by torture. It should be clear that use of torture and ill-treatment as a means of extracting confessions from the accused or testimony from witnesses is unlawful.

Taken together, these reforms offer a comprehensive pathway toward safeguarding human rights through a more accountable, impartial, and professional police force. For India to truly achieve the goals of its constitutional mandate, the police must operate as an independent and unbiased institution, free from external interference. Only then can it ensure the protection of citizens’ rights, foster public trust, and uphold the rule of law. The path to meaningful reform may be challenging, but it is needed for the evolution of policing in India and the better protection of the Human Rights of the people.

As suggested by Supreme Court investigation wing should be separated from law and order police wing. To improve police performance in investigation of the case of victims of personal violence crimes, it is required that the investigation police be separated from the law and order police.

Justice V.R. Krishna Iyer said, “Custodial Torture is worse than terrorism.”

References:

- i. Constitution of India, 1950.
- ii. Code of Criminal Procedure, 1973. (BNSS)
- iii. Indian Evidence Act, 1872. (BSA)
- iv. Protection of Human Rights Act, 1993.
- v. Police Act 1861 (Amended Acts are: 1888, 1922, 1949, 1966)
- vi. Paranjape N. V. Criminology and Penology 14th Edition, Central Law Publication
- vii. The Universal Declaration of Human Rights (1948).
- viii. The International Covenant on Economic, Social and Cultural Rights (1966).
- ix. The International Covenant on Civil & Political Rights (1966).
- x. The National Human Rights Commission (Procedure) Regulation 1994
- xi. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

Abbreviations

CBI : Central Bureau of Investigation
CID : Crime Investigation Department
CCTNS : Crime and Criminal Tracking Network and System
CRLJ : Criminal Law Journal
CrPC : Criminal Procedure Code, 1973 (BNSS 2023)
DGP : Director General of Police
DM : District Magistrate
FIR : First Information Report

HC : High Court

HRC : Human Rights Commission

ICC : International Criminal Court

IEA : Indian Evidence Act, 1872 (BSA 2023)

IG : Inspector General of Police

INTERPOL : International Criminal Police Organisation

IPC : Indian Penal Code, 1860 (BNS 2023)

NCRB : National Crime Record Bureau

PIL : Public Interest Litigation

SC : Supreme Court

SCC : Supreme Court Case

SEC. : Section

SP: Superintendent of Police

Vol. : Volume