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## POLICE DEVIANCE: STRUCTURES OF LEGAL RESTRAINT ON POLICE POWERS IN INDIA

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### 1. INTRODUCTION:

The police, as one of the actors in the criminal justice system, must play an important role in maintaining peace and enforcing law and order in their territory. Its main function is to protect people's life and property and to protect them from violence, threats, abuse and trouble. So police work has played an important role in the criminal justice system, and it has changed dramatically every day. Today's police officers must protect people from physical harm, save lives, control traffic and maintain law and order in the streets and public spaces. There is also clear action to prevent crime and violence from children to women and children.<sup>46</sup> Police deviance occurs when law enforcement officers behave in a manner that is —inconsistent with the officer's legal authority, organizational authority, and standards of ethical conduct<sup>47</sup> Article 21<sup>48</sup> of the Constitution of India gives hope to the lives of prisoners, under trial and accused persons. These citizens deserve to be treated humanely and legally. In the case of *Maneka Gandhi v. Union of India* AIR 1978 SC 597, the Supreme Court held that the State and the police as the main law enforcement agency have an inalienable duty to bring criminals to justice. However, the law and the measures taken by the government to achieve this social goal should be in line with international norms. Therefore, the procedure implemented by the authorities should be fair, just and fair.<sup>49</sup>

GRASP - EDUCATE - EVOLVE

<sup>46</sup> Vijaya Sampat Anandi Jagtap, —The Police Their Deviances with Special Reference to Some of the Crimes, *University*, 2010, <https://shodhganga.inflibnet.ac.in:8443/jspui/handle/10603/535131>.

<sup>47</sup> Deviance Notes - Unit – III POLICE DEVIANCE Police Indian Police Act, 1861 Enacted by British Still - Studocu, accessed October 11, 2024, <https://www.studocu.com/in/document/karnataka-state-law-university/llm/deviance-notes/91367211>.

<sup>48</sup> Constitution of India | National Portal of India, accessed October 11, 2024, <https://www.india.gov.in/my-government/constitution-india>.

<sup>49</sup> *Maneka Gandhi vs Union Of India* on 25 January, 1978, accessed October 11, 2024, <https://indiankanoon.org/doc/1766147/>.

## 1.2. IMPORTANCE OF LEGAL RESTRAINTS ON POLICE POWER:

Legal restrictions on police power are crucial to ensuring that law enforcement agencies operate within the law and respect the rights of individuals. These restrictions protect fundamental human rights, hold law enforcement accountable for their actions, prevent abuse of power, build public trust, regulate the use of force, ensure due process, uphold the rule of law, promote transparency, encourage ethical behavior, and provide legal remedies for those harmed by police actions. By working within a legally established framework, police strengthen public trust, cooperation, and confidence in law enforcement. These legal restrictions not only protect individual rights but also contribute to a fair and just society, promoting ethical conduct and accountability within police organizations. Ultimately, these legal limits are essential for upholding the rule of law and ensuring that law enforcement agencies operate in a manner that is fair, responsible, and respectful of the rights and freedoms of all individuals.<sup>50</sup>

### 2.1. HISTORICAL BACKGROUND:

The word "police" comes from the Latin word "politia" meaning government. Policing is about maintaining public order and protecting people and property. Policing has evolved over time, with different philosophies, practices, and attitudes shaping its current form in society.

#### 2.1.1. HISTORY OF INDIAN POLICE:

It dates back to the early 1800s. In 1774, Warren Hastings began introducing police reform measures under the Company's authority, which later became the Police Act 1861. Extent of new text appended. This system is based on these principles: 1. The police must be completely separate from the military. 2. They should work as a separate unit, 3. Help collectors carry out law and order responsibilities. The system assumes that police inspectors are

responsible for law and order. just in the government. . The provinces were divided into districts administered by police inspectors who administered the police department under the authority of magistrates.

#### 2.1.2. POLICE SYSTEM DURING ANCIENT INDIA:

The origin of the police can be traced back to the early Vedic period, when the Rig and Atharva Vedas mentioned various crimes that known to the Vedic people. Evidence shows the existence of security forces even during the Harapan period. Kautilya's Arthashastra (310 BC) deals with the criminal justice system. These days it's like a police manual. There are three types of police—Dandpal, Durgapal and Antpal. Dandikas are the highest officers. Others like Nagar Shreshthi, Rabasika are also mentioned. The criminal justice system developed during this period over five to six centuries. The only difference between the two periods is that the Mauryan system was assimilated while the Gupta system was being demoted. But the basic structure of the police system of village police, city police and palace police was the same, changed by different kings.

#### 2.1.3. THE POLICE SYSTEM IN MEDIEVAL INDIA:

Punishments under Islamic law were severe, such as death, cutting off the nose, ear or hand, violating elephant and cut. All of this made the police very hostile. The center of power and politics is the sultan, the fujdar is the head of the criminal justice system at the provincial level, responsible for maintaining peace and security. A Kotwal is a magistrate, a police chief and a municipal officer. The Mongol government was independent and military in nature. Judicial and police systems are currently weak.

#### 2.1.4. POLICE SYSTEM IN MODERN INDIA:

##### 2.1.4.1. PART OF BRITISH INDIA:

After the British victory at Plassey in 1757 and the decline of the Mughal Empire, the police system at that time deteriorated. In the region In 1862 the shape and panin Frocediam Cone

<sup>50</sup> Abhidhvj Law Journal, —IS THERE A NEED TO RESTRAIN POLICE OFFICERS TO USE FORCE?, Abhidhvj Law Journal, March 30, 2024, [https://www.abhidhvjlawjournal.com/blog-by-abhidhvj-law-journal- 2/](https://www.abhidhvjlawjournal.com/blog-by-abhidhvj-law-journal-2/).

were implemented. Constitution was implemented in 1872. Judges, muftis, pandis were replaced with Islamic and Hindu law. Appointed as Kotwals. Sanadar Parghana. Pharmacy, still. However, the Persian-Arab model and British policing were gradually modified.

#### 2.1.4.2. INDIAN POLICE ACT 1861:

After the Mutiny of 1857, the British realized the danger of losing power and they worked hard to establish all laws and eliminate all challenges to their power. Therefore, in 1860 a police commission was established to make the police more effective in preventing and detecting crime. This Police Act was started in 1860<sup>51</sup>, but on March 22, 1861 it was approved by the Governor General, so it came into force. The system was designed in stark contrast to the British system, which was recognized throughout the world as a symbol of democratic policing. The main goal is to meet the needs of the organization and the company's products, and to ensure that the trade route is safe and that the material performance is maintained. The law introduced a uniform police system throughout the country. The police system established by this Act is still in force and has been established uniformly in its administration. However, the conditions for dealing with crime remained poor due to poverty, hunger and other adverse conditions such as lack of people. In 1902 the All India Police Deputy Commissioner was appointed to conduct a comprehensive inquiry and recommend improvements in various aspects of the administration. After independence, India retained the 1861 system largely unchanged.

#### 2.1.5. THE CURRENT STRUCTURE OF THE POLICE SYSTEM IN INDIA:

Districts consist of two or more ranges headed by an officer of the Inspector General of Police (IG). Districts are divided into divisions

such as circles and police stations, which are manned by officers of various ranks. It deals with crime, and the latter deals with the law and order situation, and is the reserve police of the area, which is retained to deal with emergencies.<sup>52</sup>

### 3. CONSTITUTIONAL PROVISIONS:

The Indian Constitution provides several mechanisms to ensure the legal obligations of the law enforcement authorities, balancing individual rights and legal interests. The most important provisions are:

#### 3.1. FUNDAMENTAL RIGHTS:

1. Article 14: Equality before the law – guarantees equality for all citizens.
2. Paragraph 1 of Article 15: Prevention of discrimination – prohibits discrimination based on race, religion, etc.
3. Article 19: Protection of certain rights of freedom of expression, freedom of assembly, freedom of movement and others.
4. Article 21: Protection of Life and Personal Liberty – safeguards individual rights.
5. Article 22: Immunity to arrest and detention – Protection against arrest and detention.

#### 3.2. LAWS RELATED TO ARREST AND DETENTION

1. Paragraph 1 of Article 22: The right to know the reasons for the arrest.
2. Paragraph 2 of Article 22: The right to consult a lawyer.
3. Article 22 (3): The right to appear before a judge within 24 hours.

#### 3.3. LAWS RELATED TO SEARCH AND SEIZURE

1. Paragraph 3 of Article 20: Protection against self-incrimination.
2. Article 21: Right to privacy and protection against legal searches.

<sup>51</sup> Drishti IAS Coaching in Delhi, Online IAS Test Series & Study Material, accessed October 11, 2024, <https://www.drishtiiias.com/printpdf/the-big-picture-police-commissioner-system>.

<sup>52</sup> Evolution of Police in India, | SlideShare, January 15, 2022, <https://www.slideshare.net/slideshow/evolution-of-police-in-india/251000582>.

### 3.4. LAWS RELATED TO THE INVESTIGATION

1. Paragraph 3 of Article 20: The right to remain silent during the investigation.
2. Article 21: The right to fair investigation.

### 3.5. LEGAL SOLUTIONS

1. Article 32: The right to use legal information.
2. Article 226: Power of the Supreme Court to issue court orders.
3. Article 227: Power of the Supreme Court to review the lower courts.

### 3.6. OTHER PROVISIONS

1. Article 35: Protection of the rights of those who have been arrested.
2. Article 36: Protection of the rights of persons detained under preventive detention laws.<sup>53</sup>

### 3.7. AMENDMENTS TO THE CONSTITUTION

1. The law on the prevention of illegal trade in drugs and psychoactive substances was approved in 1367 (amendment of article 22).
2. National Security Act, 1980 (Amendment of Article 22).
3. The Armed Forces (Special Powers) Act 1958 (amended section 21).

### 3.8. IMPORTANT DECISIONS FROM THE SUPREME COURT

In *D.K. Basu v. State of West Bengal (1997)*<sup>54</sup>. This landmark case established guidelines for arrest and detention to protect individuals from police harassment. The Supreme Court laid down specific conditions to be followed during an arrest, including informing the suspect of his rights and presenting him to a judge within 24 hours. *Joginder Kumar v. State of Uttar Pradesh (1994)*<sup>55</sup>: The court issued guidelines on arrests and emphasized the importance of protecting individual liberties and curbing police activities. *Nandini Sapaty Vs. P. L. Doney (1978)*<sup>56</sup>: This case

recognized the right to counsel during police questioning so that individuals are informed of their rights and protections from forced interrogation. *Khatri (II)*

*v. State of Bihar (1981)*<sup>57</sup>: The Supreme Court emphasized the right to speedy trial and emphasized the need for fair trial procedures to avoid prolonged imprisonment. *Vineet Narain vs Union of India (1998)*<sup>58</sup>: This case led to the creation of special investigative agencies like the Central Vigilance Commission to investigate corruption and ensure accountability. *Prakash Singh v Union of India (2006)*<sup>59</sup>: The court ordered police reforms to improve accountability, transparency and efficiency, including the creation of Prosecution Authorities of the Police and the internal Aram Committees.

## 4. CRIMINAL PROCEDURE CODE (CRPC), 1973

### 4.1. ARREST PROVISIONS CRPC GOVERNS POLICE ARREST POWERS THROUGH:

1. Section 41: Arrest by police without warrant.
2. Section 42: Arrest of individual and subsequent procedures.
3. Section 46: Mode of Custody.
4. Section 50: The arrested person must know the reasons for the arrest.
5. Section 55: A person arrested must be brought before the court without delay.
6. Section 57: An arrested person shall not be detained for 24 hours.

### 4.2. RESEARCH METHODS

CRPC describes the research methods:

1. Section 157: Inspection procedures.
2. Section 160: Powers of police to compel witnesses.
3. Section 161: Questioning of witnesses by

<sup>53</sup> Constitution\_of\_india.Pdf, accessed October 11, 2024, [https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution\\_of\\_india.pdf](https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf).

<sup>54</sup> D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 (S. Ct. India).

<sup>55</sup> Joginder Kumar v. State of Uttar Pradesh, (1994) 4 SCC 260 (S. Ct. India).

<sup>56</sup> Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424 (S. Ct. India).

<sup>57</sup> Khatri (II) v. State of Bihar, (1981) 2 SCC 493 (S. Ct. India).

<sup>58</sup> Vineet Narain v. Union of India, (1998) 1 SCC 226 (S. Ct. India).

<sup>59</sup> Prakash Singh v. Union of India, (2006) 8 SCC 1 (S. Ct. India).

the Police.

4. Section 162: Do not sign explanations to the police.
5. Section 173: The report of the police at the end of the trial.

### 3.3. THE FUNCTION OF THE JUDICIAL INVESTIGATION:

The judicial investigation ensures the responsibility of the police:

1. Section 167: The judge can authorize the arrest.
2. Section 169: The Magistrate may waive his presence.
3. Section 170: Procedures to be followed by the Judge.
4. Section 207: The Magistrate shall satisfy himself that the evidence is sufficient.
5. Section 209: Admission of case to court.

Additional rules:

other applicable rules:

1. Section 41 A: Notice to the police.
2. Section 54: Examination of the person arrested by the doctor.
3. Section 56: A person arrested must be brought before the court without delay.
4. Section 76: Judgment of the public prosecutor.<sup>60</sup>

## 5. INDIAN PENAL CODE (IPC)

The Indian Penal Code (IPC) contains several provisions dealing with police misconduct and ensuring legal consequences of misconduct by law enforcement officials. Here is an overview of the relevant sections and their implications:

### 5.1. POLICE PROCEDURES

1. SECTION 220 – PUNISHMENT FOR WONG CONTENT:-

This section deals with authorities who wrongfully arrest a person, i.e. arrest a person

there is no reason. According to this article, the police can arrest criminals.

2. SECTION 357 – COMPENSATION OF THE OFFICER:- This section allows the courts to order compensation from those wrongfully arrested or detained, and to hold the police accountable for their actions .

3. Section 161 – Allowing All Officials to Use Personal Influence:- This section deals with bribery and corruption among public officials , including the police, to favor individuals or to cancel activities

4. Article 166 – Disobedience of the leader of the people to the word of praise of the leader of the :- The action of the police beyond the limits of legal orders, including abuse of power, is a violation.

5. Section 349 – Unlawful:- This section punishes anyone including the police who restrains another person.

6. Section 376 – Punishment for adultery:- Adultery can also include sexual offenses committed by the police. Section 376 is important to control violence against individuals and increase the accountability of the police.

7. SECTION 462 – PROVISION FOR THE EXERCISE OF EXERCISES :- This section applies when public servants, including the police, are liable for their wrongdoings, and thus open the possibility of prosecution for abuse of power.

### 5.2. LEGAL PROCEDURES FOR IMPEACHMENT:

1. Criminal Definitions:- Police officers involved in criminal activities can be prosecuted under various sections of the Islamic Penal Code. depending on the nature of the crime, such as illegal imprisonment, corruption. , Assault and abuse of power

2. Civil Status:- Victims of police brutality can file civil lawsuits against the police

<sup>60</sup> THE CODE OF CRIMINAL PROCEDURE, 1973, I n.d.

and authorities for damages resulting from illegal actions, such as illegal arrest or force.

3. **DISCIPLINARY ACTION:-** Police misconduct may result in prosecution and disciplinary action by the department, including suspension, dismissal or other sanctions against officer involved.

4. **Legal Supervision:-** The judiciary plays an important role in dealing with police violations. A Civil Litigation (PIL) can be filed in higher courts to try to answer for abuse of power.

5. **PERSONAL VIOLENCES:-** Police abuses also lead to investigations by human rights committees, as these actions violate constitutional protections and human rights

The IPC provides a framework for accountability in police misconduct while determining the legal consequences for misconduct between police. The purpose of enforcing these laws is to protect citizens and ensure that the police work within the law. Awareness and knowledge of these laws is essential to maintain justice and modernize policing in India.

#### 6. POLICE ACT OF 1861

Many state governments have passed police laws against SC decisions on police reforms. The center also did not follow a legal model. While the federal government talks about 'one nation, one ration card', 'one nation, one registration' and 'one nation, one vote' for police purposes, it is decided by Each state has different police laws. Eighteen states have passed police laws. These rules are made based on the directives of the General Security Council on Police Reforms published in 2006. The purpose behind these laws is to conform the law to the existing requirements and prevent the implementation of the directives of the General Security Council.

#### 6.1. OBJECTIVES OF POLICE REFORMS:

1. The goal of police reforms is to change the values, culture, policies and practices of police organizations.
2. The police are expected to perform their duties in a manner that respects democratic values, human rights and the rule of law.
3. Increasing cooperation between the police and courts, law enforcement and authorities to improve cooperation and oversight in the security sector.

#### 6.2. NEED FOR POLICE REFORMS:

Although the police is a state project, most of the state police laws are influenced by the Central Police Act, 1861, the Model Police Act, 2006. The police are considered puppets by politicians, who destroying their integrity. The emergence of new crimes like cyber crime and counter-terrorism calls for a technological upgrade of the police system in India. When registering crimes, there are problems such as serious crimes that cannot be registered. The CBI is one of the most important areas in need of reform. There is a need to review the performance of the CBI and address the upcoming gap in the organization. India wants to be the "cyber security provider" in the region. It is necessary to review the police updates.

#### 6.3. ISSUES IN THE POLICE DEPARTMENT:

##### Colonial legacy:

The policing system in India dates back to the old Indian Police Act of 1861, which was passed by the colonial government to suppress dissenting voices.

##### Accountability to political leaders and freedom of administration:

The police system in India is run by political leaders. This neglected power has had a negative impact on the police system and has resulted in criminal activity. The Second Administrative Reforms Commission recommended that political power be limited to



ensure that the police work according to the laws of the land. The National Police Commission: Political oversight should be defined so that it does not interfere in operations, transfers and recruitment.

#### **Public perception:**

The police are not seen as protectors of citizens, but as tools of oppression. The use of torture and death in prison has become common in recent years. In the 20th century, many died in police custody by torture or corporal punishment. The Administrative Reform Commission found that people say the police are bad, ineffective, biased and unresponsive.

#### **Protocol on Torture:**

Although India has recently signed the 'UN Convention against Torture', it has not yet got a national protocol or law on torture. The police are responsible for laying down protocols based on state or central guidelines.

#### **Overcapacity:**

The police to population ratio in India is 192 policemen per million population. Job diversity and understaffing (up to 24%), undermine the quality of police work, lead to long working hours and psychological distress among police officers. The UN has recommended 222 police officers per million population.

#### **Cases involving the police:**

The share of the police force reaches 86% of the police force. The Padmanabiah Committee and the ARC 2: The work ethic of the Trustees was poor. The range of responsibilities they were given and their poor training added to the existing problems. The promotion process is stricter, and a Constable can only rise to the rank of Chief of Police.

#### **Mental pressure:**

Changing jobs and lack of staff lead to long working hours (14 hours a day). The issue was highlighted in 2018 after the death of a security guard who refused to leave despite his illness.

#### **Infrastructure issues:**

The CAG report revealed serious weaknesses in the police infrastructure. More traffic is required, so the response will take longer. In addition, the weapons of the state police must be updated. For example, Rajasthan and West Bengal have 75 percent and 71 percent cards respectively. Toilets and clean drinking water are required. Control rooms need to be updated to meet the changes of time. This is because most of the police spending is spent on police salaries and less money is available to buy weapons, vehicles etc..

#### **6.4. DIFFICULTIES EXPRESSED BY THE POLICE FORCE:**

Overworked due to understaffing, long working hours during holidays and lack of shift work. The uncooperative nature of the public. Lack of logistical support and mortgage. Lack of state-of-the-art institutions in research, especially continuing education. Lack of coordination with other subsystems within the criminal justice system. Lack of faith in laws and courts. Financial abuse and expected financial conditions. Command the police for non-police activities. Stop the investigation by leaving Law and Order in the middle of the investigation. Political interference and control. Current prohibition laws are ineffective in curbing the criminal interests of criminals.<sup>61</sup>

<sup>61</sup> Police\_Reforms.Pdf, accessed October 12, 2024, [https://loksabhadocs.nic.in/Refinput/New\\_Reference\\_Notes/English/Police\\_Reforms.pdf](https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/Police_Reforms.pdf).

## 6.5. MAJOR COMMISSIONS ON POLICE REFORMS:



Source: PRS.

### 1. **The National Police Commission 1977-81:**

It was established in 1977 and produced eight reports from 1979 to 1981. It included a review of police training procedures. Creation of a security commission in each state. Limit the authority of the authorities to ensure that the police do their work in accordance with the laws of the land. The minimum wage for a police chief in each state. DSP is only for postal officers in charge of police stations. SPs are issued only by the police chief. The internal administration of the police should be under the authority of the Superintendent of Police.

### 2. **The Ribeiro Commission 1998:**

The Ribeiro Commission was established by order of the S.C. in Prakash Singh v. UOI and another case. Key Recommendations: A Police Eligibility Board (PEB) should be set up in every state with DGP and four senior officers to look into matters of transfer, promotion, pay and punishment. Replace the Police Act 1861 with a new Police Act. A separate Police Registration Board (PRB) should be established in each state to recruit subordinate police officers. Quality training to improve policing.

### 3. **Padmanabhaiah Committee 2000:**

Lowering the age of recruitment of Trustees. Teach current police officers to adopt the right attitudes. Guards who do not complete training must be disabled. A Police Training Advisory Council (PTAC) should be established at the central and state levels to advise on matters related to police

training. Separation of research from

legal and ethical practice. Police Commission for Criminal Investigation and Investigation. District officers specializing in crime prevention operate crime prevention cells. The District Police Complaints Authority (DPCA) should be established.

### 4. **Malimath Committee 2002-2003:**

The Committee on Criminal Justice Reforms made 158 recommendations, including the creation of a law enforcement agency.

### 5. **Police Profile Committee 2005 - Model Police Act, 2006:**

The Police Profile Committee was formed under the chairmanship of Soli Sorabji. He was given the task of drafting a new police law. **DISCLAIMER** The State Government is responsible for supervising the police. The National Security Commission (SSC), on the advice of the National Police Commission, shall be known as the National Police Board. The DGP should be among the top three officers selected by the National Police Board. All officers, regardless of retirement age, must serve two years. A police station should be manned by a Station House Officer (SHO) not below the rank of Inspector of Police. Transfer authority is given to different officers according to their powers and positions. Transfer from a jurisdiction other than that specified in the law is prohibited.

### 6. **NHRC Recommendations: 2021 on Police Reforms**

Burden of Faith: The MHA and Law Ministry should implement the recommendations of Law Commission Report 113 to add Section 114 B to the

Indian Evidence Act, 1872. Explain another time A misdemeanor committed in a police custody is the responsibility of the authorities, if the misdeeds were committed by the police. Tech-friendly criminal justice system Legal framework should be in place to speed up the technology-friendly criminal justice system. Prepare for response The December 2020 SC order to install night vision CCTV cameras in all police stations will be implemented to ensure "quick" response. Community Policing Inclusion of trained social workers and law students and police departments as part of community policing and introducing community policing to police guidelines, laws and directives. Application of SC guidelines in Prakash Singh case Union Minister of Home Affairs (MHA) and state governments should set up Police Complaints Authorities (PCAs). Implementation of SC's other directions for Prakash Singh.

### 6.6. S.C ON POLICE REFORMS:

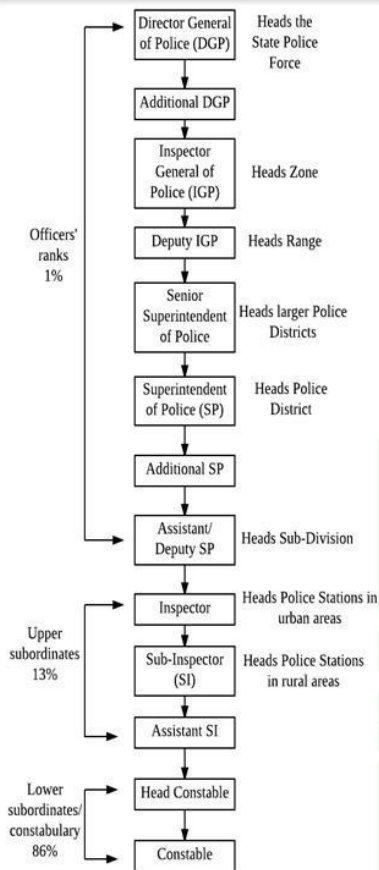
The case of Prakash Singh fought against the Union of India. Prakash Singh was the DGP of UP Police and Assam Police. He filed a PIL in SC after his resignation in 1996 seeking police reforms. In a landmark judgment in 2006, the SC ordered all states and UTs to carry out police reforms. These are to ensure that the police can do their job without political interference. The SC order for Prakash Singh fixing the power and selection of DGP to avoid giving posts to retired officers. The time for the Inspector General of Police (IG) to ensure that they are not swayed by politicians is short. The PEB appoints officers to separate transfer authority from political leaders. The PEB consists of police officers and senior management. Service life for SP and SHO is two years. State Police Complaints Authority (SPCA): A platform where ordinary people can complain about the actions of the police. Decentralization of investigations and orders to improve police

efficiency. State Security Commissions (SSC): This commission will have community membership. Establish the National Security Commission. Implementation of S.C. Guidelines. As of 2020, not a single state has fully complied with the SC Guidelines. Although 18 states have enacted their own police laws so far, none have been fully consistent with the draft laws. Five defamation lawsuits have been filed in the past decade against non-compliant governments. Big states like Maharashtra, TN and UP are the worst in changing the system as state judges. Only the north-eastern states followed the spiritual changes.

#### Case Study: Maharashtra:

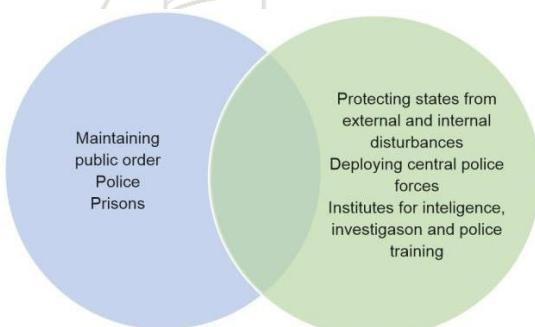
Maharashtra enacted the Maharashtra Police (Amendment and Continuity) Act, 2014. In the revised Maharashtra Police Act 2014, section 22 (N) (2) was also added. This gave the CM exclusive powers to transfer officers if there was an "administrative requirement". CMs have used this feature for proxy transactions, so they retain full control over transactions. Government capacity despite PEB. State Police Complaints Authority (SPCA) In 2017, the SPCA was established by the Government of Maharashtra. The Complaints Authority received many complaints, but the SPCA could not register complaints from rural areas due to the lack of rural offices. SPCA Toothless: Although the SPCA can order action against an officer found guilty, the decision to take action is ultimately up to the authorities. The SPCA is also struggling with staff shortages. Supreme Court Guidelines (For DGP), 2018 All states should submit their applications to UPSC at least three months before the current DGP retires. The government selects one of the candidates appointed by UPSC. None of the states should appoint a person ex officio to the post of DGP as there is no program for appointment to the Director General of Police. However, many states have made laws to avoid the UPSC process.<sup>62</sup>

<sup>62</sup> PMF IAS CA Team, —Police Reforms in India, | PMF IAS (blog), February 3, 2024, <https://www.pmfias.com/police-reforms-in-india/>.



**6.7. RESPONSIBILITIES OF CENTRE AND STATES:**

The IC provides for the separation of legislative and executive power between the Center and the states. The police is a state project under Schedule 7 IC. State and central police have different responsibilities. State police are responsible for local affairs - crime prevention, investigation and maintenance of law and order. While state police also provide the primary response to internal security challenges, central forces are experts in handling these conflicts. CRPF is better trained to quell large-scale riots with less loss of life and property. The center is responsible for policing the seven districts in the group. The center also provides education and financial



support to state police. Article 355 IC: The duty of the government to protect the states from foreign invasion and internal problems. Accountability of center and states to police-

**7. SPECIAL LAWS AND DIRECTIVES:**

In India, there are a number of special laws and directives aimed at creating a legal framework for law enforcement, especially on torture and corruption. These laws demonstrate a commitment to the protection of human rights and accountability in legal proceedings. Here is an overview of the main actions to resolve these issues:

**7.1. IMPLEMENTATION MEASURES:**

1. The Prevention of Torture Bill, 2010:- Although not yet ratified, this law aims to clarify and criminalize torture by law enforcement officers. This plan is designed to provide compensation to victims and create accountability for those who work.- The most important provisions are:- Definition of torture to include physical and mental suffering.- Create guidelines for handling suspects and prisoners.- Punitive measures against persons guilty of torture.<sup>63</sup>
2. Constitution of India:- Article 21: Guarantees the right to life and liberty. This article, as interpreted by the judiciary, includes the right to torture and harm.- Article 22: Provides protection against arrest and detention, and guarantees dignity and respect to detained persons.<sup>64</sup>
3. Supreme Court and Supreme Court Justices:- Many important cases have been issued emphasizing the unconstitutionality of torture and ordering governments to of the government to take measures to prevent torture and to be accountable.
4. National Human Rights Commission (NHRC):- The NHRC has the power to intervene in cases of torture and violation of human

<sup>63</sup> The Prevention of Torture Bill, 2010, | PRS Legislative Research, accessed October 12, 2024, <https://prsindia.org/billtrack/the-prevention-of-torture-bill-2010>.

<sup>64</sup> Constitution\_of\_india.Pdf. |

rights. Able to investigate complaints, recommend corrective actions and monitor necessary repairs.<sup>65</sup>

5. INTERNATIONAL AGREEMENTS:- India is a signatory to the United Nations Convention on Punishment, which mandates the countries to adopt measures to prevent torture, and to pay attention to the legal framework and implement the measures.

## 7.2. FRAMEWORK FOR FIGHTING CORRUPTION:

1. The Anti-Corruption Act, 1988:- This is the first anti-corruption law in India that applies to public servants, including the police. The 2018 revision strengthened penalties and introduced clarifications to address violations.- The most important tasks are:- Definition of corruption and bribery.- Procedures for prosecution for bribery.- Actions to confiscate assets obtained through corruption.<sup>66</sup>

2. Lokpal and Lokayuktas Act, 2013:- Establishes a Ombudsman (Lokpal) at the national level to deal with complaints of corruption among public servants . This encourages transparency and accountability in law enforcement agencies.<sup>67</sup>

3. CENTRAL VIGILANCE COMMISSION (CVC)<sup>68</sup>:- An apex body set up to monitor and supervise the vigilance activities of various government agencies including the police. The CVC helps investigate allegations of corruption against the police.

4. Whistleblower Protection Act, 2014<sup>69</sup>:- Protects those who disclose corruption or wrongdoing in public authorities, thereby encouraging transparency and accountability among the police

5. Right to Information Act , 2005:- Promote transparency in government activities, including police departments, by allowing citizens to request information about activities, thereby preventing corruption.<sup>70</sup>

6. State Level Complaints Department:- Many states have established their own anti-corruption agencies to handle corruption-related complaints against employees the public, including the police. The structure of the legal framework of the law enforcement authorities in India consists of various laws and policies aimed at ensuring accountability and protection of the rights of citizens against torture and corruption. Although progress has been made, the implementation of these measures is essential to create an effective and efficient regulatory framework. Efforts must be made to amend and implement existing laws to achieve these goals.

## 8. LEGAL INVESTIGATION AND JUDGMENTS FOR THE BENEFIT OF THE PEOPLE:

Legal oversight plays an important role in ensuring police accountability in India. The judiciary not only interprets laws but also supervises the actions of law enforcement agencies and ensures that their actions are consistent with legal rights and obligations. Public interest litigation (PIL) has emerged as an important mechanism through which individuals and organizations can seek legal redress for matters of public interest, including torts. of the police and incompetence. Below is an overview of the areas of judicial review and public interest litigation related to police accountability in India.

### THE ROLE OF THE COURTS IN POLICE ACCOUNTABILITY:

1. Guardian of the Constitution: The role of the judge is to be the guardian of the constitution and to ensure that the actions of the police do not violate the constitutional rights guaranteed in

<sup>65</sup> National Human Rights Commission (NHRC), accessed October 12, 2024, <https://www.drishitias.com/daily-updates/daily-news-analysis/national-human-rights-commission-nhrc-1>.

<sup>66</sup> Prevention of Corruption Act, 1988, September 9, 1988, <http://indiacode.nic.in/handle/123456789/1558>.

<sup>67</sup> Lokpal and Lokayuktas Act, 2013, January 1, 2014, <http://indiacode.nic.in/handle/123456789/2122>.

<sup>68</sup> Central Vigilance Commission, Unacademy (blog), accessed October 12, 2024, <https://unacademy.com/content/karnataka-psc/study-material/polity/central-vigilance-commission-2/>.

<sup>69</sup> Accessed October 12, 2024, <https://prsindia.org/billtrack/prs-products/prs-legislative-brief-2452>.

<sup>70</sup> Rti Act, 2005 (Amended)-English Version.Pdf, accessed October 12, 2024, [https://rti.gov.in/rti%20act,%202005%20\(amended\)-english%20version.pdf](https://rti.gov.in/rti%20act,%202005%20(amended)-english%20version.pdf).

article 14 (right to equality), 21 (right to life and liberty) and 22 (Protection from arrest and detention) ) The Act.

2. Issuance of Directives: Courts have the power to issue specific directives to police agencies to implement remedies in case of violation of rights. This may include establishing procedures for the arrest, detention and treatment of prisoners.
3. Habeas Corpus Petitions: The Supreme Court and the Supreme Court hear habeas corpus petitions to review illegal prisoners. These petitions are an important tool for individuals seeking redress for unlawful arrest by the police.
4. Investigative powers: Courts can order special investigations into allegations of police misconduct, including death in custody, torture and ill-treatment authority, which is delegated to other agencies or special commissions appointed to ensure impartiality.
5. Intervention in the legal framework: The judiciary has emphasized the need for legislative changes to address systemic issues affecting police work, such as the introduction of the Bill on Preventing Simplification and Innovations in the Police Behavioral Framework.
6. Inspection Procedures: In some cases, the Magistrate has established continuous inspection procedures to monitor compliance with his decisions on police conduct and ensure proper implementation of the evidence presented.

## 8.2. LANDMARK JUDGMENTS IMPACTING POLICE CONDUCT:

*Prakash Singh v. Union of India (2006)* This case focused on the need for police reforms to prevent abuse of power and increase accountability. Ruling: The Supreme Court laid down a set of guidelines for policing, including: Separation of investigative and law

enforcement and police command. The law on federal safety inspection commissions. Organize the work of the Director General of Police (DGP). Avoid politics in police matters. *DK Basu v. State of West Bengal (1997)* This case focused on custodial violence and the rights of detained persons. Ruling: The Supreme Court issued comprehensive guidelines for arrest and notification, including: Issuing arrest warrants, informing the arrested person of his rights, and informing family members. Medical examinations for those arrested. Prevention of torture and ill-treatment. *Vishaka v. State of Rajasthan (1997)*: Although this case is primarily about harassment, this case has implications for the police's handling of such complaints. Ruling: The Supreme Court laid down guidelines for handling suicide cases, which the police must

follow while registering complaints and investigating. *Kailash Chandra v. State of U.P. (2008)* This case is about police inaction in confiscation cases. Verdict: The Supreme Court upheld the duty of the police to register FIRs expeditiously and ordered prompt action in response to complaints of sexual offences. *Lalita Kumari v. Government of Uttar Pradesh (2013)* The case is the failure of the police to register the FIR. Ruling: The court said it is mandatory for the police to register an FIR when a cognizable offense is reported. Failure to do so would violate the law and the plaintiff's constitutional rights. *Ranjit Singh v. State of Punjab (2008)* The case of prison deaths and police misconduct. Ruling: The Supreme Court found that violence in prisons is a violation of constitutional rights, and that police officers must prove that detainees have been abused. *Shafi Muhammad v. State of Himachal Pradesh (2018)* This case is about the protection of minorities and the role of the police in maintaining harmony. Ruling: The Supreme Court emphasized the need to guide police operations in accordance with the law and justice, and to eliminate the arrests of people, as if based on evidence and actions. Murders and Extrajudicial Encounters (*Pramud Kumar v.*

*State of Uttar Pradesh, 2011*) Concerns about extrajudicial killings or police encounters. Ruling: The Supreme Court ruled that all accidents must be fully investigated and that the police cannot take the law into their own hands, and that all deaths caused by police action must be monitored. *Executive Committee for Inspection v. State of Bihar (2018)* This involved the powers of CBI to investigate cases involving the police. The decision: This decision established the authority of the CBI to condemn police misconduct and arrest officials for activities that violate the law and order. *Rajendra Singh v. State of Uttar Pradesh (2018)* This case showed the importance of accountability in policing. The Verdict: The Supreme Court sought to enforce the conditions in police investigations and prohibit the use of illegal methods such as torture and coercion during the investigation process.

## 9. POLICE ACCOUNTABILITY MECHANISMS

Police accountability mechanisms are important to ensure that law enforcement agencies operate within the law and protect the rights and liberties of citizens. A number of frameworks and programs have been put in place to increase accountability, including internal complaints mechanisms and public oversight programs. Below is an overview of these methods:

### 9.1. INTERNAL COMPLAINTS AUTHORITIES:

Internal Complaints Authorities (ICA) work within police departments to deal with complaints about police misconduct. These groups were created to ensure that police departments have internal procedures for handling complaints fairly and transparently.

1. Function and structure: ICAs are mainly senior police officers, sometimes as independent members of the local community. Their structure may vary from state to state. They are responsible for investigating complaints about police actions, such as misconduct, abuse of power or abuse of power.

2. Action: Citizens can file complaints with the ICA, and the authority is supposed to conduct a fair and impartial investigation. Recommendations may be made based on the findings of the investigation, which may result in disciplinary action against the offending officers. ICA findings may result in disciplinary or corrective action, which may include suspension or termination of the officer.
3. Transparency and reporting: ICAs should be transparent by reporting their findings and statistics on complaints and outcomes to the public, thereby increasing the credibility of the process. ICA's performance can be reviewed at any time to ensure accountability in their work.
4. Limitations and challenges: There are potential challenges to the independence of ICAs, especially if they are mostly police. Concerns that lack of public awareness of the existence or operation of ICAs may limit their effectiveness.

### 9.2. CIVILIAN OVERSIGHT INITIATIVES:

Public oversight programs involve the involvement of non-police officers, community members to monitor police behavior, and ensure that law enforcement agencies are held accountable. These programs can take many forms and provide a structured way of monitoring.

1. Function and structure: People's investigation teams can be established at different levels, including federal commissions, regional investigation teams, and special task forces. These groups include community members, experts and representatives from human rights organizations who provide different perspectives on policing.
2. Activities: Civilian investigation teams usually investigate serious incidents

involving the police, such as use of force, fatal accidents, or complaints of harassment. They may hold public meetings to gather information from individuals and community members about policing and operations. Recommendations from regulatory bodies can influence changes in police guidelines and training programs.

3. Evaluation and Review: These programs can lead to performance evaluations of police departments, and encourage positive changes and best practices in law enforcement. Public oversight encourages accountability by providing community feedback on police effectiveness and addressing public safety concerns.
4. Community Empowerment and Engagement: Citizen policing increases community trust in law enforcement by showing citizens that they have a voice and are empowered to hold the police accountable. These programs also serve to educate the community about police policies and citizens' rights, thereby promoting more informed citizens.
5. Challenges: Police agencies may impose surveillance programs on people, especially when they are suspected of interfering with or interfering with law enforcement. Access to funding and resources for organizational teams is a major challenge that affects effectiveness. Internal complaint mechanisms and public oversight programs are an important part of the police accountability framework. These measures work to strengthen transparency, trust and accountability in law enforcement, ultimately increasing human rights protections and promoting better police-community relations. Although both methods

present many challenges, their successful implementation will lead to significant improvements in police behavior and public safety.

## 10. CHALLENGES AND RECOMMENDATIONS

The enforcement of legal obligations on police powers is essential to ensure effective and ethical policing. However, there are many challenges that can hinder the implementation of these legal frameworks. Below we outline the challenges and make recommendations for reforming the police system to increase legal compliance.

### 10.1. CHALLENGES OF IMPLEMENTING LEGAL RESTRICTIONS

1. Lack of Awareness and Training:- Many police officers may not be properly trained or informed of the legal limitations of their authority and the ethical standards they must uphold. This creates a gap in understanding their responsibilities.
2. Culture support:- There may be an ingrained culture in police organizations that values honesty over accountability, leading to the adoption of new or standards that exceed legal obligations
3. Political influence and interference:- Political pressure can interfere in policing and lead to the abuse of police power for political purposes, thereby weakening legal constraints. Officials are forced to work against better ideas to meet the demands of political leaders.
4. Inadequate Inspection and Enforcement:- Weak measures to hold officers accountable for wrongdoing can create an environment of impunity legal action. Complaints about policing are often related to bureaucratic problems or a lack of proper investigation.
5. Public Trust:- Cases of police misconduct and excessive use of force destroy public confidence in law enforcement. This misunderstanding can hinder community cooperation with the police and hinder the process of enforcing the law.



6. Additional Resources:- Financial and human resources may be required to implement extensive training programs, social programs and special monitoring measures designed to ensure compliance with obligations law.

7. Inadequate legal framework:- Existing laws may not provide clear guidelines for police behavior and legal obligations may be challenged. Ambiguous requirements can lead to different interpretations and conflicting requests.

## 10.2. RECOMMENDATIONS FOR EFFECTIVE REFORM

1. Increase training and education:- Create a comprehensive training program that focuses on legal rights, ethical policing and use of force. Regular workshops and seminars should be held to inform officials about legal obligations and best practices.

2. develop a culture of accountability:- Encourage cultural change in police organizations that emphasizes ethical behavior and accountability based on integrity. Management must model transparent practices and foster an environment in which violations can be dealt with.

3. Strengthening of governance mechanisms:- Establishing independent institutions to investigate complaints about police actions. These groups should have the authority to hold officers accountable and ensure transparency in handling allegations of wrongdoing.

4. Establish a collaborative policing program:- Promote community policing strategies that actively involve citizens in policing. Building community relationships can build public trust, increase cooperation and create an environment conducive to legal obligations.

5. Participating in political and legal reforms :- Review and update the current laws and regulations governing police work. Clear, specific and comprehensive legal frameworks must be established to guide police operations and demonstrate appropriate behaviour.

6. Using Technology for Transparency:- Use technology, such as body cameras and citizen feedback platforms, to increase transparency in police operations. This can help monitor the police's actions and provide a record that can be used to review disputes.

7. Public Awareness Campaign:- Launching programs to educate people about their rights and the role of the police, with an emphasis on compliance community's role in law enforcement. This allows citizens to keep tabs on the police and report violations.

8. Resource distribution:- Distribution of sufficient resources to educate and inform the community. It is important to ensure that police departments have the funds and personnel to properly implement the law and receive training.

9. Encourage Ethical Leadership:- Promote ethical leadership in police organizations by promoting leaders who care about the law, social issues and accountability. Management training should include techniques as a key component.

10. Periodic Monitoring and Feedback Procedures:- Implement procedures for regular review of police performance, including community feedback and performance review based on legal obligations and ethical standards. This revolutionary process can identify areas for improvement and promote continuous improvement. Meeting the challenges of implementing legal obligations for law enforcement requires a multi-pronged approach that includes education, cultural change, and community involvement. , and active screening methods. By adopting the recommendations outlined above, law enforcement agencies can increase accountability, respect for human rights, and ultimately strengthen relationships with the communities they serve. them. These efforts are essential to building trust, justice and policing in India.

## 11. CONCLUSION:

The challenges associated with police powers and the necessity for legal restraints are critical issues in the Indian context. Addressing these challenges through effective reform is essential for ensuring accountable, ethical, and community-oriented policing. This conclusion encapsulates the main points addressed throughout the discussion and outlines potential future directions for police reform in India.

### 11.1. SUMMARY OF KEY POINTS

1. Importance of Ethical Conduct:- The need for ethical behavior and integrity in policing is paramount. Ethics training and a strong code of conduct are essential for equipping officers with the knowledge to navigate the complexities of their roles while adhering to legal limits.

2. Legal Restraints:- A robust legal framework is necessary to define the boundaries of police powers. Existing laws may need revision and clarification to prevent abuse and ensure clear accountability measures.

3. Challenges in Implementation:- Various challenges hinder the effective enforcement of legal restraints, including inadequate training, cultural resistance, political interference, resource constraints, and insufficient oversight mechanisms. These challenges contribute to a lack of public trust in law enforcement.

4. Recommendations for Reform:- Comprehensive approaches to reform must incorporate training and education, foster a culture of accountability, strengthen oversight, and engage the community in policing efforts. Utilizing technology and fostering ethical leadership within police agencies are also crucial.

5. Community Relations:- Building positive relationships between police and communities is vital. Engaging communities in policing not only enhances trust but also encourages collaboration in maintaining law and order.

## 11.2. FUTURE DIRECTIONS FOR POLICE REFORM IN INDIA

To advance police reform in India, the following future directions may be considered:

1. Comprehensive Training Programs:- Regularly updated training programs should be instituted to encompass emerging legal standards, human rights issues, and modern policing practices. This will cultivate a law enforcement culture rooted in respect for legal restraints and ethical behavior.

2. Strengthening Independent Oversight:- Establishing independent commissions or oversight bodies is crucial to investigate and address complaints against police conduct effectively. These entities should have the authority to enforce accountability and transparency within police organizations.

3. Legislative Reform:- Politicians should make it a priority to review and revise the laws that govern police behavior and ensure they are in line with new social values and legal standards. Clear instructions on the use of force and the treatment of natives must be clearly communicated.

4. Improve citizen participation:- Increase citizen participation in policy making and policing to build community trust. Initiatives like neighborhood policing and advisory boards comprising community members can help bridge gaps between law enforcement and the public.

5. Utilization of Technology:- Embrace technological advances to enhance transparency and accountability. The use of body cameras, data analytics, and digital communication platforms can facilitate better monitoring of police actions and improve community relations.

6. Focus on Mental Health and Wellness:- Addressing the mental health and wellness of police personnel should be an integral part of reform. Providing support services can improve decision-making and reduce instances of misconduct derived from stress or burnout.

7. Global Best Practices:- Learning from global best practices in policing can provide valuable insights. Collaboration with international organizations and law enforcement agencies can promote knowledge sharing and the adoption of successful models of policing.

8. Evaluation and Continuous Improvement:- Implement assessment mechanisms for police practices, including regular reviews of policies and protocols. Engaging in systematic evaluations can help refine strategies to ensure that they remain effective and relevant. In conclusion, the path forward for police reform in India must involve a concerted effort to align policing practices with principles of accountability, transparency, and ethical conduct. By addressing existing challenges and implementing comprehensive recommendations for reform, India can make significant strides toward fostering a law enforcement system that truly serves and protects its citizens while upholding their rights and dignity. Such reforms are not merely necessary—they are imperative for the realization of a just and equitable society.

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