



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 6 AND ISSUE 4 OF 2026

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 4 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-4-of-2026/>)

Publisher

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POLICE POWERS AND CITIZEN REMEDIES: A COMPARATIVE LEGAL ANALYSIS OF INDIA, THE UK, AND THE USA

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BEST CITATION – SAHAJDEEP SINGH, POLICE POWERS AND CITIZEN REMEDIES: A COMPARATIVE LEGAL ANALYSIS OF INDIA, THE UK, AND THE USA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (4) OF 2026, PG. 01-05, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

This paper examined the structure and functioning of policing systems in India, the United Kingdom, and the United States with specific emphasis on the availability and effectiveness of remedies against police misconduct. It analyzed the legal foundations governing police powers, including statutory frameworks such as the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam in India, the Police and Criminal Evidence Act 1984 in the United Kingdom, and constitutional protections in the United States. The study compared how these jurisdictions regulated police authority and responded to misuse of power.

The research identified that although India established a comprehensive legal framework, enforcement of remedies remained inconsistent and often ineffective in practice. It evaluated key structural issues such as political interference, custodial violence, and absence of independent oversight mechanisms. In contrast, the United Kingdom and the United States demonstrated relatively stronger enforcement structures where procedural violations directly affected prosecution and accountability outcomes, though challenges such as excessive force and bias persisted.

The paper further assessed the limitations of existing remedial systems and proposed targeted reforms, including the introduction of a remedy trigger mechanism, independent complaint authorities with binding powers, and stricter liability standards. It concluded that the legitimacy of policing depended not merely on legal provisions but on the certainty and effectiveness of remedies in addressing misconduct.

Keywords: Policing, usa police, indian police, uk police, police misconduct, remedies, bnss, bns, bsa.

I. Introduction

Policing is the true institutional expression of a particular state authority through which legal norms or legal aspects are enforced and individual conduct is regulated. Its modus operandi is as the coercive arm of state because it carries the power to restrict personal liberty as well as, whenever needed, to apply force within the limits that are predefined by legal structure. In India, the present policing state system continues to reflect the decades-old colonial framework established under the Police Act 1861¹⁷⁵⁵, which was specifically designed to secure administrative control rather than promote public accountability. However, despite the transition to constitutional

governance, along with infusion of updated criminal laws such as Bharatiya Nyaya Sanhita¹⁷⁵⁶, Bharatiya Nagarik Suraksha Sanhita¹⁷⁵⁷, Bharatiya Sakshya Adhinyam¹⁷⁵⁸, which replaced the Indian Penal Code, the Code of Criminal Procedure and Indian Evidence Act, highlights the potential misuse of police powers as well as limited effectiveness of accountability mechanisms. When it is put into comparison, the United Kingdom and the United States have developed systems that place stronger emphasis on enforceable safeguards, which are further infused by oversight.

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https://www.mha.gov.in/sites/default/files/250883_english_01042024.pdf

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https://www.mha.gov.in/sites/default/files/2024-04/250884_2_english_01042024.pdf

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https://www.mha.gov.in/sites/default/files/2024-04/250882_english_01042024_0.pdf

¹⁷⁵⁵ https://www.mha.gov.in/sites/default/files/police_act_1861.pdf

The United Kingdom's statutory regulations are derived out of the Police and Criminal Evidence Act 1984¹⁷⁵⁹. On the other hand, the United States framework is specifically shaped by constitutional protections, which are being interpreted through decisions such as *Miranda v. Arizona*¹⁷⁶⁰ case. Therefore, this paper argues that India possesses a detailed legal framework which governs policing, but the enforcement of remedies against abuse remains largely weak in practice. It adopts a comparative approach focused on evaluating the availability along with effectiveness of remedies across these jurisdictions.

II. Conceptual Framework of Policing

Policing operates through a predefined set of a large spectrum of legal powers which authorizes the state agents to intervene in individual liberty when needed. Police powers primarily include search, seizure, and arrest, each of which must be exercised within procedural limits in order to prevent any sort of arbitrariness. In India, these powers are governed by the BNSS 2023, which prescribes the conditions and safeguards for lawful exercise of policing. Furthermore, scholarly analysis confirms that procedural regulation of police power is essential in order to prevent any sort of abuse as well as maintain legitimacy in the long run¹⁷⁶¹. The use of force doctrine furthermore regulates the extent to which coercive force may be applied by the police officials. The guiding light of this particular doctrine are the principles of necessity and proportionality, which ensures that force is applied only when required, and it shall remain limited to the situation. Furthermore, in the same aspect, empirical research highlights that absence of any sort of clear enforcement standards will always lead to excessive use of force. It becomes worthwhile to mention the accountability mechanisms by referring to the

institutional and legal processes through which police misconduct is examined and put under scrutiny, as well as provided the remedy for the same. These include judicial review, internal disciplinary system, as well as independent oversight structures. Their effectiveness determines whether policing remains subject to law or might become an instrument of unchecked authority¹⁷⁶².

Therefore, the weak accountability structure will always correlate with the higher instances of misconduct. The distinction is reflected in contrasts between the rule of law and a police state. Under the rule of law, police authority is constrained by legal standards as well as external oversight, whereas in police states such constraints are minimal and remedies are nearly ineffective.

III. Policing Structure in India

The foundation of policing in India can be dug out to the colonial framework which was established under the Police Act of 1861, enacted after the 1857 revolt to secure administrative control. This particular statute centralized the authority as well as prioritized executive dominance over public accountability. It becomes worthwhile to mention that this model was designed to control rather than provide a well-suitable service, which still continues to influence present-day policing¹⁷⁶³. The main legal and modern framework for the policing aspect are *Bharatiya Nyaya Saintha*, *Bharatiya Nagrik Suraksha Sanhita* & *Bharatiya Shakshya Adhinyam*, which replaced the Indian Penal Code, Code of Criminal Procedure, and Indian Evidence Act. While these statutes modernize language as well as procedure, their structural issues of policing persist despite legislative change¹⁷⁶⁴. A significant issue is political control over police functioning, particularly in matters of investigation and transfers. This undermines operational independence and affects impartial enforcement of law. Empirical studies show that

¹⁷⁵⁹ <https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>

¹⁷⁶⁰ <https://www.britannica.com/summary/Miranda-v-Arizona>

¹⁷⁶¹ David H. Bayley, "The Police and Political Development in India", Princeton University Press

¹⁷⁶² Samuel Walker, *Police Accountability: Current Issues and Research Needs*, National Institute of Justice

¹⁷⁶³ <https://journals.sagepub.com/doi/10.1177/0011392113489979>

¹⁷⁶⁴ <https://www.jstor.org/stable/4417701>

executive interference distorts policing priorities and weakens rule-based governance. The violence on a human being while he or she is put under custody often linked to weak enforcement of procedural safeguards, which shows that accountability is often misplaced. Despite constitutional protections which are provided under Article 21 of Indian Constitution, instances of abuse continue due to lack of effectiveness based out of deterrence. The absence of an independent complaint authority further compounds the problem, because the victim face institutional barriers in seeking redress.

The Supreme Court in *Prakash Singh v. Union of India*¹⁷⁶⁵ recognized these systemic deficiencies and directed structural reforms including the establishment of independent oversight bodies. However, implementation remains inconsistent across states, which limits the effectiveness of these directives in practice.

IV. Policing Structure in the United Kingdom

Policing in the United Kingdom is characterized by a decentralized structure in which multiple territorial police forces operate with functional autonomy, subject to statutory regulation and public accountability. Unlike the centralized and executive-dominated policing model historically observed in India, UK policing is organized at the regional level, with forces such as the Metropolitan Police Service and other county-based constabularies functioning under local oversight frameworks. This decentralization enables context-specific policing and reduces direct political interference in day-to-day operations. Scholarly analysis has highlighted that decentralized policing enhances responsiveness and accountability by aligning police priorities with community needs¹⁷⁶⁶.

The legal foundation of police powers in the United Kingdom is primarily governed by the Police and Criminal Evidence Act 1984. This statute provides detailed procedural safeguards regulating police conduct in areas

such as stop and search, arrest, detention, and interrogation. It establishes clear codes of practice that police officers must follow, thereby limiting discretionary abuse. Empirical research has shown that the codification of police procedures under PACE has significantly reduced arbitrary exercise of power and improved evidentiary reliability in criminal trials¹⁷⁶⁷.

Oversight of police conduct is further strengthened through independent institutions such as the Independent Office for Police Conduct. This body operates independently of the police and has the authority to investigate serious complaints, including allegations of excessive force, corruption, and deaths in custody. The existence of such an external oversight mechanism ensures that complaints are not handled internally in a manner that could compromise impartiality. Studies indicate that independent oversight bodies enhance public trust and increase reporting of misconduct¹⁷⁶⁸.

A defining feature of UK policing is its emphasis on community-oriented practices. Police forces engage with local communities through structured programs, public consultations, and neighborhood policing initiatives. This approach seeks to build cooperation between the police and the public, thereby improving intelligence gathering and crime prevention. Additionally, strict procedural compliance is enforced through judicial scrutiny, where courts regularly examine whether police actions conform to statutory requirements. Failure to adhere to procedural standards can result in exclusion of evidence or disciplinary action against officers. For instance, the application of stop and search powers under PACE requires officers to demonstrate reasonable suspicion. If such suspicion is absent, any evidence obtained may be challenged in court. This creates a direct link between procedural compliance and the success of prosecution, which acts as a deterrent against misuse of authority.

¹⁷⁶⁵ <https://indiankanoon.org/doc/1090328/>

¹⁷⁶⁶ <https://journals.sagepub.com/doi/10.1177/0038038510387190>

¹⁷⁶⁷ <https://www.jstor.org/stable/23638601>

¹⁷⁶⁸ <https://www.tandfonline.com/doi/full/10.1080/10439463.2018.1443235>

A detailed illustration may clarify the practical functioning of this system. Consider a situation where a person is stopped by police in London on suspicion of carrying illegal substances. The officer is required under PACE to inform the individual of the legal basis of the search and record the interaction. If the officer fails to comply with these requirements, the individual may later challenge the legality of the search. Suppose the search leads to recovery of contraband, but procedural safeguards were violated. In such a case, the court may exclude the evidence, thereby weakening the prosecution. Simultaneously, the individual may file a complaint with the Independent Office for Police Conduct, which can initiate an independent investigation into the officer's conduct. If misconduct is established, disciplinary action may follow, including suspension or dismissal. This layered system of statutory regulation, judicial control, and independent oversight ensures that police powers are exercised within legally defined limits and that remedies for misuse are accessible and effective.

V. Critical Evaluation along with Suggestions & Reforms

The structural weakness in Indian policing lies not in absence of law but in its selective and inconsistent application where institutional bias continue to shape outcomes in favour of authority rather than accountability, remedies exist on paper but their realisation remain delayed and often ineffective, this delay dilute the very purpose of legal protection and creates an environment where misconduct does not invite proportionate consequence. The system was expected to evolve after statutory reforms under BNS, BNSS and BSA, but the ground reality reflects that enforcement mechanisms are still operating within an older mindset where protection of institution is prioritised over protection of rights.

In contrast the UK and USA have developed enforcement oriented frameworks where procedural violations can directly weaken prosecution and expose officers to

consequences, however these systems are not free from defects as concerns relating to racial profiling and excessive use of force still persist, the difference lies in the certainty of response rather than the absence of violation. In India the probability of consequence is uncertain which reduce deterrence and indirectly normalises deviation from procedure.

A more effective reform approach must focus on converting remedies into automatic triggers rather than optional recourse, an independent police complaints authority with binding powers is essential so that findings are not reduced to recommendations, strict liability for custodial violence should be imposed where once injury is established the burden shift upon the State to justify conduct, mandatory body cameras should be enforced not as pilot projects but as evidentiary safeguards integrated into trial process, separation of investigation from law and order duties is necessary to remove conflict of function and improve objectivity.

The proposed Remedy Trigger Mechanism becomes critical in this context, where any custodial injury automatically initiate judicial review without requiring victim to approach court, this would shift system from complaint based accountability to event based accountability which increases immediacy and deterrence.

Consider a scenario where a detainee was brought to a police station and later found with injuries, the officer claim that force was necessary but no immediate review was initiated, evidence was delayed and the victim family struggle to approach courts, under the proposed system the mere occurrence of injury would trigger judicial scrutiny, video recordings would be examined and the burden would shift on authorities to justify conduct, if unjustified liability would follow without procedural evasion, this approach ensure that remedies are not theoretical but operational in real time.

VI. Conclusion

The analysis is demonstrating that policing systems are not merely being evaluated on the basis of statutory frameworks but are being

judged on the effectiveness of remedies that are accompanying the exercise of power. The Indian legal system is continuing to possess a detailed and structured framework under BNS, BNSS, and BSA, yet it is simultaneously revealing gaps in enforcement where accountability is not consistently being realised. The comparison is showing that jurisdictions such as the United Kingdom and the United States are placing greater emphasis on enforceability, where procedural violations are directly impacting outcomes and are exposing misconduct to tangible consequences.

The discussion is further indicating that the legitimacy of policing is not being derived solely from the existence of laws but is being sustained through certainty, immediacy, and accessibility of remedies. The proposed reforms are emphasizing a shift from passive complaint-based systems to active accountability mechanisms where institutional response is being triggered automatically. As policing powers are continuing to expand in scope and intensity, the legal system is increasingly being required to ensure that such powers are being exercised within enforceable limits. The future of policing is therefore depending on how effectively remedies are being operationalised in practice.

