



STUDY ON THE INDIAN JUDICIARY'S RESPONSE TO POLICE REFORMS

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ABSTRACT

The Constitution says the police are state-run. So each of the 28 states has its own police force. The Centre would also have its own police force to assist states. So it still collects intelligence, investigates researches, keeps records, and educates in seven Central Policing and many smaller police organizations. Police forces are essential in enforcing laws, punishing crimes, and preserving national security. In a country as populous as India, police forces must be well-trained in manpower, weapons, forensics, communications, and transportation. They require the right to act, while also being held accountable for poor outcomes or power abuse, as well as suitable working circumstances (i.e. regulating working hours and promotional opportunities).

1. INTRODUCTION

India's police and reform have been hotly debated. Several legislative commissions issue findings and recommendations on police reform. However, the central and national governments either disregard or reject the court's direction. The Commonwealth Human Rights Initiative (CHRI) keeps track of the standards' implementation across the country. This article will provide a quick review of Police Reforms in India, major Supreme Court judgments on Police Reforms, and the execution of Supreme Court instructions on Police Reforms in India. The State List does not include the police. A state legislature can pass any police law. But the cops are now politicians' pawns. The British adopted the Police Act of 1861 to suppress resistance in India. The Indian government and economy have grown, but the police have not. Changing the police administration is vital since the police face various obstacles. The Supreme Court of India has issued various directions for police reform, however they are not adequately followed.

1.1 HISTORY OF POLICE REFORMS IN INDIA

The police are regarded as the state's vital arm, rather than the active arm through which it exercises control and authority. The police have always been a part of society, but the formal and legal police force known as Darogah formed in British India in 1792 (lord Cornwallis) in western Bengal, which was later extended to the province of Bombay (1793). Due to a labour shortage, the Darogah system was unable to control local police and hence failed to satisfy official objectives.

A number of committees and commissions were formed before and after independence to address various areas of enhancing the country's police governance. The first Police Commission was established shortly after 1857 to ensure that the country's police were aware of the regulatory framework. The conclusions of this 1860 commission contributed to the passage of the 1861 Police Act, which still regulates the police today.

The 2nd Police Commission was founded in 1902 as part of a probe of the problems produced by the 1861 Police Act's execution. The Commission produced a comprehensive report that covered numerous aspects of police force organisation, planning, power, and pay, adequacy of crime reporting procedures, investigation of offences, adequacy of police supervision by the Magistracy, superior officers' control of crime investigations, and links between police railways. Even in the past, the police were considered as "corrupt and tyrannical" because they were ineffective, lacked formation, and were poorly organized.

The need to revise policing governance was felt many years after independence as a result of changing economic, political, and social situations in the country. Following independence in 1959, Kerala established the first Police Reform Committee. Then, in the 1960s and 1970s, many state governments created a flurry of police commissioners ("West Bengal in 1960-61, Punjab in 1961-62, Delhi in 1968, Tamil Nadu in 1971"). In 1966, the Commission for Administrative Reform established a Working Group on Police at the Federal Level.

The Gore Police Training Committee was founded in 1971, followed by the National Police Commission (NPC), which issued eight reports between 1977 and 1981, advocating substantial changes to the existing police system as well as a Model Police Act. None of the key guidelines established by the National Police Commission have been implemented by any government. Two former Director Generals of Police (DGPs) filed a "Public Interest Litigation" at the Supreme Court in 1996, requesting that the NPC's guidelines be followed (Prakash Singh vs. Union of India). In 1998, the Court appointed the Ribeiro committee to assess the efforts taken to put the recommendations into action.

"The Minister of Home Affairs constituted the Padmanabhaiah Committee to evaluate the needs of the police in the new millennium," when the case began in the Supreme Court in 2000. The Malimath Committee for Criminal Justice Reforms in India was established in 2003.

1.2 POLICE REFORMS: AFTER INDEPENDENCE

The topic of "Police" is included in Schedule seven of the State list following independence. On rare occasions, however, the federal government may compel state governments to enact the necessary police reforms in order to fulfil public expectations. Following independence, many committees and commissions were formed to study various parts of the Police Administration and provide recommendations for improvement. This article discusses a number of significant advances in police reform.

"Gore Committee" - In November 1971, the Indian government established a committee to examine existing police training programmes and provide recommendations on how officers may improve their efficiency. One of the most essential components in enhancing police morale and reliability is training.

Prof. M. S. Gore, a social scientist, chaired the committee, which proposed that training be required for the following reasons:

To offer the necessary expertise and talents to the police force; developing the most effective plan; potential for effective decision-making; and creative thinking is required to inspire and create.

The group focused on extending the scope and content of police training on human behaviour recognition from the most limited to the most comprehensive. The Committee is made up of

The training was stressed as a "change-agent/car of change" signalling marker that influences not just the personnel who serve, but also the people who are served.

"National Police Commission" - In 1977, the Union government founded the National Police Commission, which was led by Dharamveer. The Commission was provided specific information about new areas of the force, such as police-public relations and political engagement in police operations. The Commission presented eight conclusions and comprehensive recommendations on sensitive policing topics between 1979 and 1981. The committee proposes that all countries form a State Security Commission, as well as that the investigation process be free of outside influence, that the police chief be appointed for a set period of time, and, most critically, that a new Police Act be framed and drafted.

"Vohra Committee" - The Vohra Committee, chaired by Home Secretary N.N. Vohra, was established by the Indian government in 1993 to look into the issues of political criminalization and the links between crime and politics. The Committee identified an almost comparable criminal ring operating in conjunction with the government. Criminals have joined politics, according to the study, and are thereby abusing the state police system for their own gain.

"Ribeiro Committee" - In May 1998, the Indian government constituted the Ribeiro Committee to comply with Supreme Court directives emanating from a PIL filed with the National Police Commission for Recommendation (1977). This committee was given further time to look at the actions taken "to execute the recommendations of the NPC, the National Human Rights Commission, and the Vohra Committee," according to the NPC. The Ribeiro committee made two recommendations to the Police Performance and Accountability Commission, including the creation of an advisory function and the development of an advisory role. District Police Claims and Police Establishment Boards, which would oversee other parts of police administration, were suggested.

2. JUDICIAL RESPONSES TO POLICE REFORMS IN INDIA

Over the last thirty years, several attempts have been made to undertake major police reforms. Between 1978 and 1981, the National Policing Committee issued eight reports, making numerous recommendations but taking little action to implement them. The Supreme Court recognised the urgent need to execute those reforms in "Vineet Narian v. Union of India," and the Ribeiro Committee issued two reports: the Central Government's Padmanabhaiah Committee Reports of 1998 and 1999, 2000 and 2002, and the Malimath Committee's Malimath Report of 2002.

The Supreme Court's judgement in the "Prakash Singh Union" case led to these conclusions.

The decision concerns the police force's autonomy, accountability, and overall efficiency. The Supreme Court has issued unambiguous guidelines to the federal and state governments before legislation is implemented in this regard.

In the Prakash Singh case, the Supreme Court issued a landmark judgement in 2006, directing the establishment of a state Security Commission to lay out broad policies and give directions for preventive tasks and service, as well as the formation of the Soli Sorabjee Committee, which proposed a Model Police Force. The court ordered the creation of three institutions:

- "The State Security Commission," which would set broad policies and direct the police's preventative and service-oriented functions.

- Police Establishment Board," which is made up of the Director General of Police and four other senior officers from the Department and is in charge of deciding on departmental officer and man transfers, postings, promotions, and other service-related concerns; and
- Police Complaints Authority," which conducts district and state-level investigations into major police misconduct.

The Court further ordered that the "Director General of Police" be selected by the state government "from among the three senior-most officials of the Department" who have been nominated for promotion to that level by the UPSC, with a two-year minimum tenure."

Officers entrusted to operational responsibilities in the region, such as the IG Zone, DIG Range, SP i/c District, and SHO i/c Police Station, would be obliged to serve for at least two years.

Furthermore, the court ordered that investigative officials and law enforcement officers be separated in order to ensure a faster inquiry, better expertise, and better public relations. "The Union Government was asked to set up a National Security Commission to appoint and position heads of Central Police Organizations," as well as improve the efficiency of these forces and the working conditions of their employees.

One technique of holding the police accountable is through trials, in which complainants can sue specific police personnel for alleged misbehaviour. The police may be held liable under criminal, public, or private tort law. Liability under criminal law can be traced back to the Criminal Code of 1973 and the Indian Penal Code of 1860, among other sources. For policing misbehaviour, the Indian Constitution and administrative law generally hold public officials accountable, whereas private law responsibility for policing misconduct through torts has yet to emerge in India.

3. ACCOUNTABILITY OF PUBLIC LAWS

In relation to police forces, the Indian Constitution and administrative law form the framework for public law liability. The courts have repeatedly held that the police are liable under public law and have imposed monetary liability on the State in compensation for harm caused by violations of "fundamental rights specified in Part III of the Constitution," such as the rule of law, "the right to life and liberty, the protection from arbitrary arrests and illegal detention, the protection from discrimination and unequal treatment, and the protection from unequal treatment." A series of Supreme Court rulings beginning in the early 1980s established key notions that established monetary compensation as a crucial remedy for holding a state accountable for police misbehaviour and power abuse.

A precedent can be found in the case of "Rudul Sah versus State of Bihar" (1983), in which the Supreme Court's three-judge bench exercised writ jurisdiction and ordered indemnification for infringement of Articles 21 and 22 of the Indian Constitution. The petitioner had been wrongfully imprisoned for 14 years following his acquittal in this case. He demanded restitution for wrongful incarceration, saying that his detention was unjustified. Although the petitioner had the right to seek compensation in a conventional civil action, the Supreme Court decided that instead of granting a warrant for release, it had the ability to appeal compensation to the State Government.

In "Sebastian Hongray vs. Union of India," the Supreme Court found that two women's husbands had gone missing while being escorted by military personnel in Manipur to an army post, and that the detaining authority had failed to produce missing persons, resulting in torture, suffering, and violence.

In the case of "Bhim Singh vs. the State of Jammu and Kashmir," the Supreme Court awarded compensation to the claimant after he was arrested by police without cause. Bhim Singh was a member of Jammu and Kashmir's State Legislative Assembly. Its goal was to keep him from attending the Legislative Assembly session on September 11, 1985, which was scheduled while he was in illegal custody. "There was a blatant infringement of Article 21 and 22(2) by the police personnel, who were in turn carrying out orders obtained from higher echelons," the court concluded.

The following points emerge from an examination of the precedents cited above. To begin with, it should go without saying that a breach of fundamental rights as a result of police misconduct can result in culpability under public law as well as criminal and tort law. Second, monetary compensation might be paid for such a violation of fundamental rights. Third, because the State is culpable, compensation is the obligation of the State, not the individual police officers who have been found guilty of misbehaviour. Fourth, the Supreme Court has found that establishing police wrongdoing such as brutality, torture, and custodial abuse, as well as holding the State accountable, carries a high burden of proof. Such a remedy is only available in the case of evident and unmistakable infringement of basic rights. Fifth, sovereign immunity does not apply in circumstances of abuses of basic rights, and so cannot be invoked as a legal defence. The Supreme Court has generally ruled on instances involving "severe police misbehaviour, including as wrongful deaths in custody, police violence, torture, and forced disappearances." Courts have repeatedly ordered the State to pay the victim and the victim's family in circumstances of evident and "gross violence that shocks the conscience of the court." There is no single approach for calculating compensation amounts that is universally acknowledged.

"Unlike public law vicarious liability, police personnel' criminal liability is personal."

4. IMPLEMENTATION OF SUPREME COURT DIRECTIONS

The Union and the States were given until the end of 2006 to comply with the Court's orders. After then, the deadline was extended to March 31, 2007. The directions will remain in effect until the Central Government draughts a model Police Act and/or the State Government passes the appropriate legislative measures, according to the Court. Initially, the Court was responsible for overseeing all of the Union's states and territories.

In 2008, however, it established a three-member Monitoring Committee with a two-year duty to determine conformity and report on a regular basis for each State. Justice Thomas has also been chosen to chair a committee that will give a report in 2010.

"Dismay over the States' utter indifference to the topic of reforming the functioning of the Police," it was expressed. "Another committee formed under Justice Verma to review amendments to criminal law deplored the lack of implementation of the Court's seven directions not being implemented in the Prakash Singh case," "another committee formed under Justice Verma to review amendments to criminal law deplored the lack of implementation of the Court's seven directions not being implemented in the Prakash Singh case," "another committee formed under Justice Verma to review amendments to criminal law deplored the lack of implementation of the Court'

5. CONCLUSION

We looked at the history of police reform in India as well as the situation after independence. Given today's complex security concerns, a fast-growing economy like India urgently requires secure surroundings. Terrorism, left-wing extremism, cybercrime, and law and order challenges all require the creation of a substantial and effective internal security police force. A review of the police governance structure, administrative process, and difficulties facing the force, all of which indicate that policing reform should be one of the country's top objectives. For this, we analysed numerous case laws in order to have a better understanding of the judiciary's responses to police reforms in India. The victim of police misbehaviour has recourse under public law or criminal laws under judicial responsibility. Victims or their family members may be compensated in any of these forums.

The remedy of public law, on the other hand, is the most frequently utilised. Then, in this article, the Prakash Singh verdict was examined, which was a major decision for police reform in which the Supreme Court issued directions for police reform.

However, only a few states have adopted these recommendations, and the process is still in its early stages. Despite the fact that it has the "institutional framework necessary to become a potentially successful vehicle of police accountability," there is little evidence of political will on the ground to do so.

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