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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE VISION OF POLICE IN INDIA: A CRITICAL ANALYSIS

AUTHORED BY - KAMAKSHI JOSHI

Abstract

Citizens in India shun the police and are afraid of them. This is because, ever since they filed their first information report to confirm directives, the police have been abusive in all aspects of their work, therefore citizens avoid them. Every day, the challenges that police departments must overcome can be categorized into various degrees. Despite the fact that the government has provided considerable power to the police, they have not received sufficient satisfaction. There are a great number of female constables who have been mistreated, the police are merely departments in and of themselves, and they are trying to make it between politics and their own roles, among other things. India has more explicit and distinguished Acts to deal with problems with police organizations, problems with guns, and problems with dysfunctional administration. Despite this, there are not enough checks and balances in place. The research aims for a comprehensive look at the administrative police neglect occurring in India, with a discussion of the advantages and disadvantages, grievance cells, and statements from those in charge. This research is compiled using information obtained from a wide variety of sources, such as reports published by the government, examinations of papers, and publications; to conduct research into the factors that contribute to the formation of problems inside police departments. Emotional, financial, and physical challenges that they are up against. This research is predicated on the Doctrinal Method, which is an exploration technique that was applied to the present review in order to elucidate the research strategy. Lastly, the research offers a number of recommendations and suggestions that can be used to solve or reform these problems.

Keywords: Indian Police, Jurisdiction, Judicial Review, Reforms, and Police Administration.

CHAPTER 1: INTRODUCTION

In Section 1 of the Police Act of 1861, the word 'police' is defined as "all those who will be recruited under this Act"¹. The term "police" in the English dictionary is derived from the Latin word- "Politia" that stems from ancient Greek². In a general sense, the word 'police' can be understood as a person belonging to the government of a nation or an organization that works to enforce the law in the country. The objective of such police personnel is to ensure that all the citizens abide by the law and act in accordance with the laws and regulations of that particular country.

Historically, it was ancient tribes that used to live in forests, kingdoms that practiced a monarchy system, and kings of different nations who were the leaders who introduced the idea of police to society³. In most cases, the King was the only person who had sole authority to appoint the individuals or soldiers who will be responsible for carrying out the duties of the army with upholding the rule of law in the country. This idea may be traced to a bygone era when humans first fought and used force on the weaker section of society in the name of their own self-improvement and for the good of society as a whole.

The police play a crucial role, not only in preserving the rule of law in the community, but also in setting up rescue operations or activities in the event of natural calamities or during terrorist attacks from an enemy nation, among other things; they provide their services nonstop for 24 hours a day, 12 months of the year, with no vacations or breaks; however, they also have to endure harsh treatment or wrong behavior from the general public, their subordinates, and political elites.

Taking into consideration the huge population and diversified cultures in India, the human rights of ordinary citizens are at stake. The police force follows the commands given by powerful politicians and neglects the needs and wants of the common man. Most officers go beyond the limits to infringe on the human rights of citizens for promotions and personal gains.

In the recent past, we have witnessed that the police force of India is indulging in many corrupt activities as well as improper behavior. It is important to note that both the words corruption and behavior are two distinct concepts, one should not mistakenly assume them to be a single topic. The difference between the two can be best understood as - improper behavior entails the

¹ The Police Act 1861.

² Anonymous, The Development of a Police Force - Victorian Crime and Punishment, (KS2 History 2022) <<https://www.ks2history.com/victorian-crime-punishment>> accessed on 9 April, 2023

³ Deepa Singh, *Human Rights and Police Predicament* (The Bright Law House 2002)

unauthorized use of physical power by police officers while indulgence in corruption practices means activities done for personal gain.

To sum up, these improper doings include killing innocent citizens without any court orders or authorization of power by senior or superior police officials. There are certain types of misconduct that are counted as police brutality by the Courts of India such as - Wrongful arrest and subsequent incarceration, Sexual Harassment, Racial discrimination, and Illegal detention by search and/or seizure. The country is in need of reforms to restructure the working of the police force.

CHAPTER 2: ORIGIN AND DEVELOPMENT OF POLICE IN INDIA

The 'construction of society at the initial level was really peaceful and cooperative, they used to cooperate 'with each other in every aspect. Gradually with the pace of time, the population "flourished and people came to realize the shortage of food & shelter. The lack of resources gave rise to greed, stupidity, hatred, and 'carelessness in society. The action leads to dacoit, the use of physical power on vulnerable people resulting 'in the exploitation of weaker strata of the society. The concept of Police and Policing dates back to the Vedas, there were two types of criminals mentioned in "The 'Rig "Veda – TAYA and SATAS, robbers, and further the concept is more detailed in manuscripts. At that time the monarch with the help of his informants and state intelligence used to investigate kingdom crimes and penalize the offenders. Dogs were used to catch criminals during this time.⁴

During the Medieval Period in India, the "Zamindars acted & functioned as state Police. They have to act as watch persons or delegate the role to watchmen who had to look after strangers and keep a keen eye on crime reports in the village. An incidence of loot had to be reported to the "headman or "Zamindar. In case the watchman ' is not able" to trace or recover the "stolen items he had to repay "the worth of valuables" to the villagers.⁵ In towns, 'kotwals" were" hired ' to maintain peace & order and he was also" answerable for any crime rate that arises in the town.

In Modern India, when East India Company entered India, after defeating the Mughals they researched 'and found out the traditional methods 'practiced in India to maintain law & order.

⁴ Giri Raj Shah, *An Attitudinal Study of Indian Police*. (1993) 95.

⁵ Mehta, *Advance Study in History of Medieval India*. (Volume 1, 1979)207.

They can realize the importance of policing system and its need in a criminal justice system.⁶ The ‘enforcement body first enacted under British rule under a significant part of India is The “Police Act of 1861. The nature of work to be done by the police and the differentiation between civil and ‘military policing systems was clearly defined by the ‘Police ‘Commission of 1860. The main aim of the Britishers was to protect themselves from outer pressure and to avoid a recurrence ‘of incidence like in 1857. The Indian Penal Code and Criminal Procedure Code were newly enacted in 1860 and 1861 to enable protection for British Government. As a result, they also ‘established a police force to ‘defend themselves from the citizens.

In “1866, the governor of Bengal ordered the establishment of a ‘Railway Police. Similarly, in 1946, the “British government also passed one final piece of legislation intended to investigate instances of corrupt behavior and bribery cases in the country. This piece of legislation was referred to as the Delhi Special Police Establishment Act.⁷As the country gained its independence in 1947, lawmakers and the then-freedom fighters decided to pass a number of acts. In addition to the CRPF Act of 1949, other acts such as the Kerala Police Act of 1960, the Mysore ‘Police Act of 1963, and The ‘Police “Forces (Restriction of ‘Rights) Act of 1966 were also passed. In 1951 The Indian ‘Administrative “Service and the “Indian Police ‘Service “were both established by the “All India “Services Act “(LXI of 1951)“ and were announced as law in India.

CHAPTER 3: POLICE BRUTALITY IN INDIA

The police portray the image of being ‘violent and create a ‘widespread ‘negative perception when they ‘mistreat the accused, the ‘family members of the victim, ‘the victim himself, and ‘others who are directly or ‘indirectly involved in the case. There are ‘huge debates ‘questioning the work culture of police and most ‘of them discuss ‘unethical or ‘criminal behavior followed by officers toward society⁸.

The harsh and ‘rude behavior of the police affects ‘a number of casualties (Immediate Nature) and also ‘undermines the faith of ‘citizens in the ‘authority of the ‘police department. There are officers who ‘obey their powers and ‘duties with all ‘discipline but due to ‘the negative perception created among ‘the citizens they get ‘included among the ‘corrupt officials. Lack of ‘confidence and issues trust in any ‘officer irrespective of his ‘rank in the ‘department is the ‘key problem

⁶ Mehra and Lavy, *The Police State and Society: Perspectives from India and France* (2010) 262.

⁷ The Delhi Special Police Establishment Act, 1946.

⁸ Deepa Singh, *Human Rights and Police Predicament* (The Bright Law House 2002)

prevailing in the country. Each & every reaction by citizens is the result of the ruthlessness on part of police officers.

When it comes to fulfilling their obligations as per the rules and regulations mentioned in the Police Manual, the police officers at certain Ranks hold a lot of leeways and it is acceptable on the part of law enforcement bodies to allow the use of physical power against hostile individuals. Not just physical strength but barbaric methods have been practiced in some circumstances. In accordance with any event, the use of power made by the police is not even required but still, they go far beyond the freedom allotted to them and conduct harshness in high magnitude. A country like India with its huge population considers it routine for people to file legal suits for some other reason and on the other hand such cases are the ones where physical abuse is done without any instructions or authority.

The Constitution of India, The Indian Penal Code, Criminal Procedure Code, and Indian Evidence Act guarantee justice to the common man of India but somewhere due to the brutality made by the police the results are extremely unfavorable. In order to fetch confession in any manner, the police do not even spare the individuals or third parties who are somehow related to the case and perform torturous interrogation. This violates every law imaginably.

Cases of using physical power on poor sections of society small pretexts and even taking away all of the money from them, accepting money from truck drivers who cross borders from one state to another, taking 'hafta' (A particular sum on monthly basis) and other instances like these are very common examples of corruption. The rate differs in the police department, from ten rupees to two thousand rupees for constables, from two thousand rupees to ten thousand rupees for sub-inspectors and inspectors, and from ten thousand rupees to twenty thousand rupees or more for superintendents and deputy superintendents.

CHAPTER 4: CASES

After facing harsh behavior and cruelty from the police department, citizens generally file cases against them under Public Law, Private law, and criminal law. However, there are cases, in which justice had not been delivered to the police department.

1. Saheli, A Women'S Resources vs Commissioner Of Police, Delhi⁹

In this case, a 'nine-year-old boy died 'due to the brutal ' beating of police. The court held that the 'compensation of Rs ' 75000 must be ' awarded to the parents of the child and not to the ' police officers who were ' injured.

2. Rudul Sah v. State of Bihar (1983)¹⁰

Even after 'being found not guilty, the ' petitioner in this instance 'was held in prison in violation of the 'law for a total of '14 years. As a ' result of the state's 'violation of the fundamental rights ' that are guaranteed ' in Articles 21 and 22 of the 'Constitution, the Supreme 'Court of the Land ruled that the state ' should be required to pay a 'writ-based compensation in the sum of Rs. 30,000.

3. Pp Unnikrishnan And Another vs Puttiyottil Alikutty Anr Another¹¹

In this matter, the S.L of 'Police and the Police 'Constable in 'Perambra ' Police Station unfairly 'detained the 'respondent and 'physically abused him for 'four days without ' charging him or ' bringing him to court.

On appeal, the Supreme Court stated that "There must be a reasonable nexus between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of his duty."

4. Nilabati Behera vs State of Orissa ¹²

'A lady reported a custodial death when 'her kid died from 'police wounds. The 'Supreme Court awarded 'compensation under Article 32 of the 'Constitution because police misconduct 'caused the death.

5. In PUDR v. Delhi Police Headquarters and Anr¹³

The death of a laborer was the result of violent beatings. In this particular case, the court had directed the government of Delhi to pay a sum of 'compensation equal 'to 50,000 Indian Rupees.

⁹ *Saheli, A Women'S Resources vs Commissioner Of Police* [1990] SC 513

¹⁰ *Rudul Sah v. State of Bihar* [1983] SC 1086

¹¹ *Pp Unnikrishnan And Another vs Puttiyottil Alikutty Anr Another* [2000] SC 2952

¹² *Nilabati Behera vs State of Orissa AIR* [1993] SC 1960

¹³ *PUDR v. Delhi Police Headquarters and Anr* [2000] SC 2952

CHAPTER 5: PROBLEMS & CORRUPTION IN THE **POLICE DEPARTMENT**

In every nation, there exists a 'direct relationship between the citizens and the police. At each and every phase of 'its 'functioning, the police' are highly criticized by the citizens even though they are the ones who are responsible to safeguard the human rights of all the individuals in the country. The public doesn't hold a positive image of police officers as t 'hey are mostly indulged to follow instructions given by wealthy and powerful personalities. The police 'help corrupt humans to escape from 'punishment and work to cover up illegal practices done by them.

With each passing day, the level of corruption in the police department is touching heights. According to a 'report in 2005, '87% of 'police officers were found to be indulged in corruption activities¹⁴. The root cause of the corruption problem can be best identified as the police officers having to around the clock because they lack the freedom to enjoy their personal life. They do not have access to some of the basic amenities such as restrooms and a supply of drinking water at the place of work. Even the officers who are in lower rank pressure them and they also face the involvement of politicians during the process of promotion or transfer. At times they are suspended to maintain discipline in the department.

Mainly the corruption practiced by police officers is by way of 'harassment, they collect 'bribes from innocent 'citizens, shop owners, 'vendors on the street, 'drunkards, and other 'allied people who are 'associated with crime in some or the other way. If any citizen denies 'contributing to the corruption 'activity they are 'threatened by policemen with actions like handcuffing, making them 'fearful of 'third-degree torture and creating challans on them. It has become a 'common practice for 'police to extract money from ' low-income citizens or the ' common man. Instead of solving criminal cases with all integrity, police officers 'make money from 'Investigation reports, interrogation of 'witnesses, and 'creating false charges on innocent men.¹⁵

The aim to develop and evolve the system of police 'was to help the community as a whole but unfortunately, due to the ease of performing corrupt activities, the police officers had started to act inappropriately. The main source of income is made from cases 'relating to smuggling,

¹⁴ Centre for Media Studies.' India Corruption Study 2005 to Improve Governance'.(Vol- 9. Issued by Transparency International India) 12-20.

¹⁵ Martin, J.M. & A.T. Romano, *Multinational Crime: Terrorism, Espionage, Drug and Arms Trafficking* (Sage Publications 1992)

prostitution trade, and other criminal operations that are conducted on public platforms. Even the cases relating to 'minor offenses are treated by policemen as a source of income and the department 'accomplishes a gain of Rs. '3899 'crores every year¹⁶. Other Factors that influence the police to indulge in corruption activities are -the work and tasks they are allotted on daily basis, hours of work without any breaks, salary, hurdles to finding proper housing, and the influence of other administrative officers¹⁷. In the recent 'past, the number of unethical officers is highly 'noticeable. The reforms have not been made according to advancements in the economy and changes in the working style of the government. 'Even the superiors contribute to corruption activities making 'less chance for bringing changes in the department.

CHAPTER 6: MAJOR REASONS BEHIND

CORRUPTION IN POLICE DEPARTMENT

Police officers face the 'nonavailability of resources 'to a great extent, basic resources like 'stationary' are sometimes unavailable and the officers 'have to buy papers in their individual capacity to write 'FRI' or reports. The salary of such 'police officers' is limited in nature and at times they ask 'victims' to pay for the 'papers', which in turn is 'considered as 'corruption' by society.¹⁸ In most 'police stations, even the 'minimal facility of a 'blackboard, course, or 'reference material is absent. When the 'officers ask victims to pay, they 'claim to be robbed 'by officers in charge of the 'station.¹⁹

A huge portion of officers in the 'Police Department works as 'Constables. During a television show, 'Satyamev Jayate, an 'IPS officer named 'Mr. Shivaji 'Mahan stated the surprising fact that many 'constables work as 'servants in the homes of 'IPS officers or powerful 'politicians. Not just that, they also work as laborers on agricultural lands owned by the IPS officers or corrupt politicians. He further shared that 'the work culture in Indian Police System 'was adopted as per the guidelines established by the 'British government during the rule of the 'East India Company.²⁰ This thinking needs to be ratified at a mass level in response to the negative image 'of police officers that 'has been portrayed 'among citizens.

¹⁶ Centre for Media Studies. India Corruption Study 2005 to Improve Governance'.(Vol- 9. Issued by Transparency International India) 12.

¹⁷ Afzal Qadri S M,' Police Corruption: An Analysis',(1994), Vol.22 (1) Indian Journal of Criminology,8.

¹⁸ 'Human Rights -. Broken System Dysfunction, Abuse, and Impunity in the Indian Police'. (Human Rights Watch). <<http://www.hrw.org>> accessed 7 April 2023.

¹⁹ Thomas, K.V. 'CORRUPTION IN INDIA' (2004) Vol 56 National Policy Academy Journal, 36

²⁰ Khan, A. (2014). 'Police. Satyamev Jayate Star Plus' (March 09, 2014) <<https://www.youtube.com/watch?v=ah7zm8ZMOh4>> accessed 13 April 2023.

The conditions of police officers those of lower ranks can be well compared with daily wage workers in India. They receive extremely low pay plus there are not even eligible to receive promotions in the Department. No sought of Training is conducted for them and they live in deplorable circumstances. These officers are usually the ones who were caught taking bribes and were engaged in corrupt practices in some or the other 'way. But the 'researcher 'believes that money 'acquired through corrupt practices 'ultimately goes into the hands of 'powerful figures or superiors 'who pressurize lower rank 'officers to conduct such malpractices. Though the police officers are punished, it is the politicians who gain the most and blame the department & its officers.

INVOLVEMENT OF POLITICS

When the connection that exists between lawbreakers and elected officials grows stronger, they're able to corrupt the loyalty of officials at every level of the authority structure, notably the police. This includes the ability to commit crimes. The criminalization of politics has, over time, led to a progressive erosion of the power of the police force, which has, in turn, led to an erosion of the force's professionalism. The police force is organized in a hierarchical fashion. In the event that the efficiency of the management is called into question, the entire organization is put at risk of being influenced in the wrong way, and the staff members operating at the various levels will go somewhere for safety and rewards. It not only fosters a culture of lawlessness inside the force, but it also fosters an atmosphere in which lawlessness can grow. The public's faith in the authorities is ultimately undermined as a result.

PUBLIC OPINION FOR POLICE FORCE

Whenever there is a spike in overall criminal activities' or when a 'crime that is', particularly of heinous 'nature or' destructive, 'people have a' tendency to lay the finger of 'blame on law enforcement. This is a 'common occurrence in countries' like India. 'The idea that' any increase in 'crime must be 'directly 'attributed to 'the acts of law 'enforcement 'is one that has' gained broad 'traction in 'recent years. The way in 'which law 'enforcement' 'authorities respond to criticism 'from members of the' 'public is another 'factor that' leads 'to the development of this' 'mentality. They either present data on 'crimes that aren't extremely 'noteworthy or bring up restrictions on the quantity of personnel and 'supplies that 'they have available to them. Neither of these is a particularly' 'compelling argument. One of the' key causes for the occurrence of this' phenomenon is the fact that the' performance of police work is evaluated primarily on' crime rates.

According to this the National Police 'Commission, compels law enforcement agencies to 'adopt questionable methods of tracking and managing crime and even encourages them to resort to illicit action in order to achieve their goals. 'They suggested that one of the criteria for evaluating the effectiveness of the police force should be the' correct 'reporting of 'crimes. This would be one of the' 'recommendations made by the group. However, 'whenever something like this is done, it leads to a' huge increase in the number 'of crimes committed. This, in turn,' 'produces an 'uproar in the 'media and 'legislative bodies and places' the government in a 'situation that is 'extremely 'embarrassing for them. 'The police 'have reverted to their 'previous practice 'of covering up' illegal 'behavior by not 'recording it as a crime. This practice was previously abandoned. As a 'consequence of this, 'access to 'justice is denied to a 'considerable 'number of people, in particular 'those who come from' economically ''deprived and socially' marginalized 'parts of society.

'When a 'high number of 'offenders are allowed to' 'walk free after 'committing ' their crimes when 'victims are 'not given justice, and when cases are 'permitted to drag on in the 'legal system for an 'unlimited number of years, 'public' faith and 'confidence in the' effectiveness of the legal 'system 'declines.

The police 'believe that 'occasionally, both' the authorities and the ''general population treat them unfairly.' 'When the threat of' 'terrorist attacks is at its 'worst, they are given' 'carte blanche to handle it any way they see fit, but when 'calm and 'normality come back their 'strategies are called into doubt. This specifically occurred in' 'Punjab, where once the 'state was free of the 'threat of terrorism, 'civil society 'organizations got involved 'and began 'pressing for the 'prosecution of police officers 'for all the 'wrongdoings 'committed in the past.

CHAPTER 7: SUGGESTIONS AND RECOMMENDATIONS

Listed below are a few of the recommendations that can be used to improve corruption activities in the department which will lead to the establishment of better functioning of the police force. If the corruption activities are curbed to a level, the behavior of police toward the citizens will also improve and the mindset of citizens toward the working of police will drastically change.

1. **Policing at the local level** - There are various functions of policing that are concerned with the daily activities of common citizens and are relatively local in character, including

duties like surveillance, the management of traffic, and the investigation and prosecution of offenses like public disturbance or eve teasing. The responsibility of enforcing the law in these situations could be given to a local force that is answerable to panchayats or citizen committees. This localized force will have a limited region under its authority, resulting in better connection and involvement with citizens as a result of the force's proximity to those citizens. This will result in increased responsiveness and accountability in the enforcement of law and order in the country. It will also curtail involvement in corruption activities.

2. **Achieving Transparency in Transfers and Promotions** -Bribery contributions are a well-known occurrence in the police force for transfers and promotions. The outcome is that the Police officers who have made their way through an attempt to retrieve the money as soon as possible, and dishonesty turns become a strategy for obtaining a greater return on "investment". As a kind of pressure against officers, transfers are frequently employed as a method of retaliation. A significant amount of corruption may be reduced, though, if an approach could be developed where postings for each employee are generated mechanically by computer software after a specific amount of time. A similar set of objective promotion criteria may be developed and made widely known, limiting the influence of personal judgment. The necessity for bribes to obtain promotions will diminish as a result.
3. **Use of Latest Technology**- The most frequent complaint from people interacting with the police is that their concerns weren't registered. A citizen is required to pay a bribe since filing a complaint or filing an FIR is the initial stage in the justice delivery process. The use of electronic devices for reporting and case management can be crucial in stopping corruption. Cases can be filled out online, and if further information is needed, it can be provided later. To increase openness and hold police officers more responsible, case status might be made publicly accessible online. FIRs may be filed and receipts issued at checkpoints or by mobile vans.
4. **Performance Evaluation**- The transparency of the police force can be significantly increased by creating a system for tracking their performance. To track the effectiveness of the police force, measurable effectiveness, and performance metrics might be chosen.

This will result in the force having specific improvement goals based on quantifiable metrics.

5. Increasing Functional Independence while Reducing Political Interference

According to the National Police Commission, a State's chief of police should have a set term in office to promote functional independence. Indian police commanders frequently held affiliations to political groups because it was usually the practice to utilize officer transfers and postings as a form of reward and punishment. Additionally, a team of experts (perhaps led by the UPSC chairwoman) might be chosen to choose the Police Chief. The committee might be given a predetermined pool of applicants to choose from, with the number being determined by seniority.

- 6. Establishing Accountability-** It is crucial to identify the various levels of officials responsibilities, introduce a level of closeness to the populace, and allow for outside involvement. As evidenced by tests with other services, open meetings could be a useful instrument for this aim. A system might be implemented in which a few allegations against police are selected for public hearing once a month (or at some other predetermined period). A group of eminent individuals and retired judges may preside over the public hearings.