



## Police And Criminal Justice System: In India

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### ARTICLE INFO ABSTRACT

This Research Paper explores the structure, functions, and challenges of the police and criminal justice system in India, tracing its evolution from the colonial framework established by the Police Act of 1861 to the present day. It examines the constitutional provisions, various police acts, and the division of policing responsibilities between state and central police organizations. The duties of the police, including crime prevention, investigation, maintenance of law and order, and protection of human rights, are outlined alongside legal provisions under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The paper identifies key challenges such as personnel shortages, outdated laws, inadequate training, corruption, political interference, and lack of modern resources. It concludes with suggested reforms, including manpower expansion, modernization of infrastructure, improved investigation techniques, reduced political interference, and anti-corruption measures, to enhance the efficiency and credibility of the Indian police force.

**Keywords:** Police Act of 1861, Criminal Justice System, State Police, Central Police Organizations, Police Reforms

### INTRODUCTION

The police have always been and will continue to be the most important part of the system that administers criminal justice. In theory, the laws and the Constitution are what ensure people's safety and freedom. However, if there were no efficient police to enforce the law, legislative and judicial decisions would be nothing more than words on paper. When law enforcement officers are on the job, the law is put into effect. The criminal justice system has, when it has been pushed to its lowest point, been about defending the most fundamental requirement of human existence and social interaction. This is what the police in all countries, whether they are developed or developing, have to preserve and protect. The following is the conclusion that the Gazetteer of India arrived at after coming to the realization that the police play a significant role in society: For the purpose of ensuring the 'Rule of Law' in the contemporary social structure, it is vital to build and effectively operate a police force that has been equipped with current technology.

Following the events of the Indian Rebellion of 1857, British administrators in India had serious second thoughts about their plans to modernize India's police force and transform it into a highly effective instrument of civil administration. "In the year 1860, the central government of India established the First Police Commission. The Commission's suggestions led to the passage of the Police Act of 1861, which subsequently led to the establishment of a standardized policing system. The Act established a provincial police force and placed an IG of Police in command of the newly formed organization. The Police Act of 1861 did not initially apply to many regions of the country;" instead, local police acts were in force in those regions during its initial implementation. However, in later years, it was made applicable to the majority of those regions through the modification of police acts by the governments of the provinces and states or through regulations issued by the federal government. The Police Act of 1861, with a few minor amendments, continues to govern the organization, hiring, and discipline of the Indian police force. This law has been in effect continuously since it was passed in 1861.<sup>1</sup>

<sup>1</sup> The Police Act, 1861. (Act No. V of 1861).

## POLICE AND CONSTITUTION OF INDIA

By incorporating them into State List of the Seventh Schedule, the Constitution gives state legislatures the authority to enact laws that pertain to the maintenance of law and order within their respective states.<sup>2</sup> This comprises the police department, the sheriff's department, and even the police department of the railway and the village. In accordance with the Constitution, the Union Government is entrusted with the responsibility of exercising oversight and coordination over things that are related to the police authorities. However, preventive detention for security-related reasons, the maintenance of public order, and individuals who are subject to such detention fall under the concurrent authority of both the Parliament and the State Legislatures. This is in contrast of the fact that state legislatures are responsible for maintaining public order and police, respectively. In accordance with Article 249 of the Constitution, Parliament has the legislative authority to intervene in the administration of state police if there are adequate grounds.<sup>3</sup>

### POLICE ACT

Numerous federal and state statutes have evolved to structure policing at the local, regional, state, and federal levels, all building on The Police Act of 1861, which creates the framework for police. The necessity to establish hierarchies of police at various levels has led to the development of these laws.<sup>4</sup>

With the passage of the Police Act in 1888, it became possible to create general police districts that encompassed portions of not just one but multiple provinces. It stated that once a general police district had been established, ownership of the supervision of the police within that district would be transferred to the Central Government, which would also have control over that supervision. In order to criminalize any attempt to use intimidation, threats, or other forms of coercion to prevent police officers from performing their duties or to sow discontent among them, the Police Act, 1922 (Act No. 22 of 1922) was enacted in 1922. This act was also known as Act No. 22 of 1922.<sup>5</sup>

“Following India’s declaration of independence, the Central Government was granted the authority to establish a general police district that would encompass two or more Union Territories. The Police Act of 1861 was then applied to this newly established general police district. 1949 saw the passage of this brand new Police Act. According to the Police Forces (Restriction of Rights) Act, 1966 (Act No. 33 of 1966), the application of certain rights granted by Part III (Fundamental Rights) of the Constitution is restricted in its application to members of the forces responsible for upholding public order in order to ensure proper performance of their duties and maintain discipline among them. For the ensure proper performance of their duties. This was done so that discipline was maintained among them.

The Bombay Police Act of 1951 (Act No. 22 of 1951), the Kerala Police Act of 1960 (Act No. 5 of 1960), and the Mysore Police Act of 1963 are just a few examples of the numerous States that have passed legislation to establish, reorganize, and regulate their police forces (Act No. 4 of 1964)”.

In addition to the Police Acts, numerous other federal and state criminal laws, such as the Criminal Procedure Code, the Evidence Act for Indians, and a great number of others, also give the police authority. These laws can be found here. Chapters IV to VII and X to XI2 of the Criminal Procedure Code contain specific provisions that relate to the powers that are granted to the police. These provisions include the ability to make arrests, search property, conduct investigations, disperse unauthorized gatherings, and take preventive action.

In India, there are two main types of police organizations: (1) Central Police Organizations and (2) State Police.<sup>6</sup>

### STATE POLICE

When it comes to the structure of the state police department, the entire police establishment that is run by a state government is considered to be one police force. To the extent that it is not prohibited by “the provisions of the Police Act of 1861, the State Government possesses” the authority to supplant or exercise control over any police functionary located anywhere within the State. This authority is delegated to the State Government, which is responsible for its implementation. According to the requirements of the Police Act of 1861, the Union Territory police force is responsible for maintaining public order in the Union Territories, even though it is administered by the Central Government. As a consequence of this, whenever the term “State police” is mentioned, the police of the Union Territory are also included, unless it is explicitly stated that they are not.

<sup>2</sup> Seventh Schedule, The Constitution of India

<sup>3</sup> Article 249 of the Constitution of India.

<sup>4</sup> Chaturvedi, J. C. (2012). Central police organizations in India: Role and responsibilities. Concept Publishing Company.

<sup>5</sup> The Police Act, 1922 (Act No. 22 of 1922)

<sup>6</sup> Verma, A. (2005). The Indian police: A critical evaluation. Regency Publications.

One official who has the position of IG of Police is designated with the responsibility of exercising general supervision over the entire state's police force. This responsibility is in accordance with the Police Act of 1861. Due to the fact that the majority of states, after winning their independence, established the positions of DGP and Additional DGP, both of which are higher than the rank of IGP, an officer with the rank of DGP is currently appointed as the head of the state police force. However, in compliance with the requirements of the Police Act, the individual who is in control of the State police force is still referred to as the DGP and the IG of Police.

The organisation of the state is accomplished through the employment of functional geographic divisions known as police ranges. Ranges like these can be found in every region of the country. Under most circumstances, an official who holds the rank of Deputy IG of Police is the one who is in-charge of the police range. The practice of designating an IG of Police to supervise the police range, on the other hand, has gained growing favour in certain states, such as Maharashtra and Haryana. A zone that is placed under the supervision of an IGP in certain states, such as Uttar Pradesh and Madhya Pradesh, is composed of numerous police ranges, each of which is controlled by a Deputy IG. In these jurisdictions, the IGP is responsible for overseeing the zone. Generally speaking, a police range will include a number of different districts at the same time.

According to the District Magistrate, a police officer who holds the rank of Superintendent of Police is accountable for administering and supervising the district police force. This responsibility falls under the District Magistrate's general direction and supervision. It is a widely held belief that the numerous police stations, which are regarded as the fundamental elements of the State police, are responsible for covering the entirety of the land that is encompassed within the district. The official who is in charge of the police station is often either an Inspector or a Sub-Inspector. This is the case in every single instance. This position is also known as a Station House official in other areas, such as Haryana, particularly in the Indian state of Haryana. Despite the fact that its scope is further subdivided into police outposts, police chowki, or police beats, the police station remains the fundamental component of the police forces of the state and the United Territories. As a consequence of this, the police station holds the position of being the most significant component. When a group of police stations come together to form a single entity, this is the beginning of the formation of a police subdivision. After that, the subdivision is overseen by either a DSP or an ASP, depending on the circumstances. The official who is in charge of a subdivision is typically referred to as a Sub Divisional Police Officer. This is the general term used. However, in some states, such as Uttar Pradesh, the person in charge is referred to as a Circle Officer at the state level.

In addition to the basic field structure that was just outlined, there are specialist units and branches within the state, districts, and police commissioners that carry out the auxiliary responsibilities and collaborate with the executive police. These units and branches are responsible for performing their duties. These units and branches can be found in all of these levels. These include the criminal investigations division, the intelligence division, the traffic division, the wireless division, the motor transport division, the dog units, the training facilities, etc.

### **POLICE COMMISSIONERS**

In a few cities, some states have established police commissioners. With this system, a Commissioner of Police rather than a Superintendent of Police is given control over a specific area within one or more districts. Initially, only metropolitan cities were assigned police commissioners; however, a recent trend has been to establish police commissioners even in smaller cities. "Depending on the size and sensitivity of the area, a commissioner of police may hold the rank of D.I.G.P. or I.G.P. or even Addl. D.G.P./D.G.P. According to Kerala custom, officers with the rank of S.P. can also be appointed as commissioners of police". There are currently 32 police commissioners spread across seven States/UTs, with Andhra Pradesh having three, Delhi one, Gujarat six, Karnataka four, Kerala three, Maharashtra nine, and Tamil Nadu six.

Because the authority to direct and control the police in police commissioners is reserved for the Commissioner of Police, the DM does not have the general authority to do so. Rather, that authority rests with the Commissioner of Police. The C.P. is also permitted by various laws to grant licenses for the possession of weapons and ammunition, to license and oversee public amusement and entertainment venues, to issue prohibitory orders, and to detain individuals in accordance with preventive laws. In the regions outside the purview of the Commissioner of Police, the District Magistrates are in charge of exercising these powers.

Regions, zones, divisions, and other types of territorial divisions are used to organize a police commissioner. In order to provide assistance to the commissioner of police, officers holding "the ranks of D.S.P., S.P., D.I.G.P., and I.G.P. are assigned to the positions of respective assistant commissioner of police, deputy commissioner of police, additional commissioner of police, and joint commissioner of police. All of these officers have the authority necessary to carry out their responsibilities for the maintenance of law and order as well as the prevention of crime in accordance with the provisions of the Criminal Procedure Code as well as other state and central Acts".

## TRAINING

“The Central Police Training College was established in Mount Abu, India, in 1948” for the purpose of training the newly formed Indian Police Service. In 1975, the College moved to a new campus in Hyderabad under the name “SardarVallabhbhai Patel National Police Academy.” For both newly hired and currently employed Indian Police Service officers, it is the top training facility.

Police training is typically institutionalized at the state level in “State Police Academies, Police Training Colleges, and Recruit Police Training Schools”. At the district level, training is also organized for recently hired police constables and policemen who are already on the job.

As a result of the widespread employment of modern weaponry such as carbines and AK-47s, the rise of wireless communication, the ubiquity of computers, and the introduction of new scientific methods into the police force, it became essential to update the training system in the age that followed the country’s independence. The adoption of the recommendations made by “the Gore Committee by the Union Government” in 1974 paved the way for a revamp of training course curricula across the States. This revamp included the incorporation of topics such as management, behavioral science, contemporary socioeconomic issues in India, and the application of science and technology in law enforcement.

## CENTRAL POLICE ORGANIZATIONS

To aid the state police forces, during elections, natural disasters, VIP security, and other special events, the Central Government has established its own central police organisations to conduct investigations, maintain vigilance, and gather intelligence. Due to their obvious role in supplementing and supporting state police forces, central police organisations play a crucial part in the criminal justice system. The primary Central Government police agencies are briefly outlined below.

### Central Bureau of Investigation

In 1963, the C.B.I. was established. The Delhi Special Police Establishment Act, passed in 1946, gave the organization its previous name, Special Police Establishment. In 1963, this organization’s responsibilities were expanded to include not only investigation but also the Central Forensic Science Laboratory and the National Central Bureau for India under INTERPOL. “The C.B.I. is the primary investigative arm of the Union Government and is tasked with looking into serious allegations of inter-state or international corruption, fraud, cheating, or cases involving organized gangs or professional criminals. The Delhi Special Police Establishment Act of 1946” grants the C.B.I. investigative authority.

### Intelligence Bureau

When it comes to gathering information for the good of our country, the I.B. is the go-to place. Its network spans the entirety of India, and its primary objective is to collect intelligence concerning India’s national security as well as the protection of its tourists. The I.B. maintains close relationships with state-level organizations that have structures comparable to its own and provides consultation in areas of mutual interest.

### Central Reserve Police Force

In charge of domestic safety in one way is the paramilitary Central Reserve Police Force (CRPF). It was renamed in 1949 from its original 1939 designation, the Crown Representative’s Police. When it comes to elections, ethnic unrest, and natural calamities, the CRPF is there to help state police forces keep the peace.

### Border Security Force

“The B.S.F., established in 1965, is the Union’s largest paramilitary force. It has the responsibility of keeping constant watch over India’s international borders”. The B.S.F. is tasked with fostering a sense of security among residents of border regions and stopping transnational crimes like smuggling, infiltration, and other illegal activities.

Assam Rifles, Railway Protection Force, Central Industrial Security Force Special Protection Group, Indo-Tibetan Border Police, National Security Guards, Bureau of “Police Research and National Crimes Record Bureau are also important”. These are all in addition to the ones that have already been mentioned. These groups maintain border security, carry out counterinsurgency operations, guard industrial and railroad properties, protect VIPs, coordinate police training and research, and carry out ancillary tasks. The Central Government also controls the police forces of the Union Territories, but because they are governed by the Police Act of 1861, they operate similarly to the state police.



## RECRUITMENT

The Union Government recruits gazetted cadre officers of central police organisations on the advice of the Union Public Service Commission, whereas “other officers and personnel are recruited directly by the chief of the appropriate C.P.O. or the U.P.S.C. Most C.P.O.s” allow candidates to join as Constable, Sub Inspector, or Deputy Superintendent of Police. Promotions are the only way to rise.<sup>7</sup>

The C.P.O.s' officers and men have comparable ranks to state police officers and don badges, too. However, they are categorized differently based on industry standards and job requirements.

## ADMINISTRATION AND TRAINING

The organisational structure of each central police organisation is distinct from the others. A member of the police force who holds the rank of a director general is in charge of each and every central police organisation. There are additional D.G. Ps, I.G.Ps, D.I.G.Ps, and S.Ps ready to assist him in the headquarters of the C.P.O. In the process of doing so, each C.P.O. is subdivided into a number of different territorial and functional units in order to fulfill the requirements. Officers with grades ranging from Special Police Officer to Assistant Director of General Police are posted in order to maintain control over the various field units.

Each of the chief executives has their very own private training facilities at their disposal. Ghaziabad is the location of the Central Bureau of Investigation Academy. Mount Abu is home to the Internal Security Academy, while Indore is the location of the Advanced Weapons Training Centre of the Border Security Force. Both of these sites are located in India. These three academies are among the most prestigious training facilities for central police organisations, and others like them are also available.

It is evident from the information above that the police are crucial to the administration of criminal justice and the preservation of the integrity and unity of the country. The pre-independence police structure put in place by the British colonial rulers is still in place in India. The main piece of legislation governing the basic structure of the Indian police force is still the Police Act of 1861, which was passed following the Revolt of 1857. Furthermore, there has been no change to the 1973 amendment to the Code of Criminal Procedure that significantly incorporates police authority. Although there have been some efforts to modernise the police force and improve administration and training, the majority of the antiquated techniques and methods that have been used by the police force are still in use.<sup>8</sup>

## THE DUTIES AND FUNCTIONS OF THE POLICE

The functions and duties of the police divided into four main areas: 1. Prevention of crime, 2. Investigation of crime, 3. Maintenance of law and order, 4. protection of human rights.

### 1. Protection of Human Rights

The Protection of human rights is a key responsibility of the police. They ensure that individuals cannot be discriminated against on the basis of caste, religion, or gender. They have to work to check on physical abuse and mental harm and to ensure that citizens can access justice this is how their constitutional rights can be protected.

### 2. Prevention of Crime

The police force is responsible for preventing crimes. It can be done by identifying potential offenders and taking measures to stop criminal activities. Preventing crimes requires regular patrolling, surveillance, and proactive policing.

### 3. Investigation of Crime

The police play a critical role in the investigation of crimes. It is so because it collects evidence, questions witnesses, and identifies suspects. They utilize modern scientific techniques such as DNA testing and fingerprint analysis to solve cases. Forensic experts assist in gathering and analyzing evidence to ensure thorough investigations.

### 4. Maintenance of Law and Order

Maintaining law and order is an essential duty of the police. It ensures compliance with laws, manages traffic and controls public protests and protests. The police are responsible for maintaining peace and preventing any disruption of public order.

Legal Provisions Under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023

The police derive its powers and responsibilities from various legal provisions, including:

- Complying with and executing warrants issued by competent authorities.
- Collecting and disseminating intelligence affecting public harmony.
- Searching for and dealing with offenders.

<sup>7</sup> The Indian Police Service (Recruitment) Rules, 1954, Rule 4.

<sup>8</sup> Singh, J. (2016). Police reforms in India: Perspectives and prospects. *Indian Journal of Public Administration*, 62(3)

- Arresting individuals based on lawful reasons and adequate grounds.

**The National Police Commission (NPC) has outlined some additional duties for Police, which include:**

- Promoting and protecting public order.
- Investigating crimes and arresting offenders.
- Identifying potential criminal threats and taking preventive measures.
- Collaborating with relevant agencies to prevent crimes.
- Assisting individuals at risk of physical harm due to crimes.
- Providing security and essential services to individuals in distress.
- Gathering intelligence related to crimes and public order issues.

The primary duty of the police is to protect public rights by preventing crimes and punishing offenders. Its Roles also include safeguarding national unity, maintaining public order, and enforcing laws. Due to the changing socio-political scenario, the role of the police has extended to address new challenges such as cybercrime, communal tensions, and social unrest.

**Procedure Followed by Police**

The Indian criminal justice system follows a process, the registration of a First Information Report (FIR) for the trial of accused. The definition of 'Investigation' under Section 2(h) of the BNSS, 2023 includes all proceedings done for the collection of evidence conducted by the police or any authorized individual, not including by a magistrate.

**A. Lodging a First Information Report (FIR)**

The process of criminal justice begins with the lodging of an FIR by the Police after receiving information of cognizable offence. FIRs can be filed in person at the police station or even via telephone or online. The Supreme Court has made it mandatory to register an FIR in cognizable cases.

The FIR contains particulars of offence like date and time of the occurrence, the place of occurrence, and the names of the persons involved, if known. The Station House Officer (SHO) assigns an Investigating Officer (IO) to verify the contents of the FIR and begin the investigation. The investigation involves collecting evidence, taking witness statements, and identifying and arresting the suspect. The primary objectives are to gather evidence, confirm the crime, and support the prosecution of the accused.

**B. Arrest**

The police have the authority to arrest suspected offenders. Under the BNSS, 2023, police can make an arrest without a warrant in some given situations such as when an individual is found with housebreaking, in possession of the stolen property, obstructs a police officer while doing his duty, or attempts to flee from justice, or when someone is suspect of committing an offence in abroad which punishable in India.

The process of arrest must be with Section 35 of the BNSS, which prescribes the mode of arrest. A police officer physically touches or confine the accused to complete the arrest. After the arrest police can make search seizer of any relevant items. A memorandum of seized articles is required to be prepared and same is to be documented as part of the charge sheet.

**C. Procedure After Arrest and Presenting Accused to the Magistrate**

After the arrest of the accuse he must be produced before magistrate within 24 hours this not including travel time. It made mandatory by Article 22 of the Constitution of India and the BNSS. If detention exceeds 24 hours without judicial approval, it becomes unlawful.

After producing the accused before the magistrate and after completion the investigating officer have to submits charge sheet. It is Police who registered the FIR, police conducted investigation fairly and accused individuals are presented before the magistrate in a timely manner to uphold transparency and the rule of law.

**CHALLENGES FACED BY POLICE IN INDIA AND SUGGESTED REFORMS**

**Challenges**

The police force faces several challenges that affect its efficiency and public trust:

- **Shortage of Personnel:** - The police are suffering from shortage of Personnel, it leads to delays in investigations and poor law enforcement.
- **Outdated Legal Framework:** Many laws are outdated and do not align with evolving societal needs, hindering effective policing.
- **Inadequate Training Programs:** Insufficient training programs leave officers ill and inefficient in handling contemporary policing challenges.
- **Corruption:** Corruption within the police force damages the credibility and public trust of the police force.
- **Political Interference in police operations:** Political influence in police operations is affecting the integrity and working standard of police operations.

- Lack of Modern Resources: Police lack advanced technology, modern vehicles, and forensic equipment, impeding effective investigations and law enforcement.

## 7. REFORMS

To solve these issues, several reformative measures required to be implemented:

**1. By Increase Manpower:** The police force required to be expanded to meet the standard of 222 police personnel per lakh population. Recruitment and training programs should be upgraded to improve professionalism.

**2. By Modernization of Police Infrastructure:** Adequate resources such as advanced weapons, modern vehicles, and forensic tools, required to be provided for operational efficiency.

**3. Improvement in Investigation Techniques:** Crime investigation techniques should be upgraded to tackle cybercrime and economic fraud effectively.

**4. By Limiting Political Interference:** Laws should restrict excessive political control over the police force. Independent oversight authorities should be established to ensure accountability.

**5. By Fighting Corruption:** Strict anti-corruption measures are required to be adopted in line with Supreme Court guidelines in *Arnesh Kumar v. State of Bihar*, which emphasized adherence to Section 35 of the BNSS before making an arrest.

- Arrest must be necessary for the investigation else the accused should not be arrested.
  - Police must have reasonable ground based on credible information, not mere suspicion.
  - Reasons for arrest are required to be recorded.
  - The accused should be presented before a magistrate within 24 hours.
  - Written notice should be given under the given provisions of the BNSS within two weeks of initiating proceedings.
  - These guidelines must be followed in all cases where the offence carries a punishment of up to seven years.
- These challenges and effecting necessary reforms is crucial for the enhancing efficiency of the Indian criminal justice system. A professional, well-equipped, and accountable police force is necessary for upholding the rule of law and maintaining public trust in India's legal framework.