CHAPTER I

INTRODUCTION

"There is more Law in the end of police-man's nightstick than any decision of the Supreme Court".

Alexander "Clubber" Williams, 1881.¹

That the early society recognized no distinction between the law of crimes and torts but only knew of law of wrongs. Commenting on this point Fedrick Pollock and Maitland observed that the English Society prior to the tenth century confused crime and torts because the bond of the family was far stronger than of the community.²

Dr. Allen has defined law as something more than a mere command, he says "it is the force of public opinion which attempt to enforce, as far as possible, good morals for the benefits of the society and its members." An act in order to become a crime must be committed with criminal intent which is legally termed as "Mens rea", this principle is contained in the familiar Latin Maxim "ACTUS NON FACIT REUM NISI MENS SIT REA" it is to be noted that mens rea or criminal intent consists in doing some acts voluntarily with knowledge that it is fraudulent, dishonest or injurious to another. However act done under a bonafide belief, although criminal shall be a good defence.³

³. R.V. Tolson (1889) 23 Q.B.D. p.168
Crime is the process in the society but it is steadily increasing in India since independence. In 1992 more than 52 Lakh cognizable crimes were reported in the country. These comprised of nearly 17 Lakh crimes under the Local and Special laws (L & SL). The incidence of crime is directly related to the population size. The "rate of crime" defined as 'incidence of crime per lakh of population' is used as an indicator universally. India's population raising from 350 Millions in 1947 to 911.6 Millions in 1992 at the growth rate about 2% per annum. But the total cognizable crimes recorded a compound growth-rate of 2.4% per annum. Hence increase in rate of crime is more than that of increase in rate of population.

In India more violent crimes like Bomb blasts, Sex crime, Juvenile delinquency, Roits are speedily increasing and the nature of crime become very serious when it is done in combination with political, Official and economic or white collar criminals backing. If we consider "War against Crime", it is not exactly analogous, but there are enough parallels in the police to justify making the comparision.

In the year 1992, the highest of cognizable crimes were registered in U.P., followed by M.P. and Maharashtra. Maharashtra is leading over the National average of Robbery, H.B.T., Theft and Rape. Maharashtra is second in Juvenile delinquency and third in crime against women in India.

It was Sir Robert Peel the then Prime Minister of U.K. in 1829, whose ideas when put into practice produced what we called as POLICE. The basic principles to govern all police actions are to prevent crime and disorder and to bring the offenders to Justice.

In 1861, Police Act came into force in India, which visualises the role of police as mere law enforcing agency. In second report of National Police commission the Code of Conduct for police has been recommended as, 'the prime duty of the police is to prevent crime and disorder.'

8. First Report of the National Police Commission, Govt. of India, Edn. 1979 p.97
The police system in democratic countries, the role of police is to function as a law enforcement agency and render impartial service as being Servant of Law. It is the forecast of Bureau of Police Research and Development that the crimes under I.P.C. in the year 2000 A.D. would be in the region of 270 millions which is beyond prediction and would be beyond control of police administration.

Therefore this speedy growth of Crime is alarming for future to follow the ways of controlling it. I am trying to explore some Legal and Social studies relating to police, public and executives, their co-ordination, active participation in the preventive activities and enforcement of law. Crime is the process in the Society, it cannot be eradicated but it can only be prevented. Prevention of Crime is the only way and remedy to have a control over the increasing rate of crime.

A - POLICE HISTORY

This development in Policing can be divided into three types.

I) Policing in Ancient India.

II) Policing in the World.

III) Policing in India and Maharashtra State.

10. Criminal Justice-Problems & Perspectives in India -
By S. Venugopal Rao End 1991, p. 235
(I) Policing in Ancient India:

The history of the police is ancient one, but they are called by different names at different kingdoms in different times. In the era of Ramayana, there are glimpses of policemen on patrol, security guards and spies. In the laws of Manu, the chief duty of the king was to restrain violence and punish the guilty person. The police measures to be adopted by the king have been detailed at length in Kautilya’s "Arthasastra". Kautilya has described nine different groups of spies for exercising a watch on different kinds of people including government officials, thieves, adulterers, criminals, coiners, forgers, poisoners and assassins.

The Moghal Government was essentially a military despotism. The sole aim of the government were to ensure its own existence to expand its territory wherever possible and to collect revenue and taxes. The administration of justice and maintenance of order were its weakest points. During the period of Shivaji, he had appointed Paripatagars or Havaldars and Mukhya Deshadhikari or Subedars who were made tranferable from one place to another and had to look after all the branches of the administration.

(II) Policing in the World:

In the beginning of Nineteenth Century, the first statutory police force was formed. The bill was introduced in the House of Commons by Sir Robert Peel on 15th April, 1829. It was entitled as an act for improving the police in and near the metropoles. Sir Robert Peel has then concentrated it initially at London, and circulate it amongst the country.

Prior to the year 1829, there existed no properly organised police forces in the metropoles, the prevention and detection of crime and the maintenance of public order being left almost wholly to the country and parochial authorities, who were invested with powers confirmed upon them by Common Law.

The first modern force was the Metropolitan Police founded in 1829. At that time the first two justice to be appointed were respectively Colonel Rowan, a soldier of distinction having experience of police work in the Royal Irish Constabulary and Richard Mayne an eminent lawyer.

15. The Police Encyclopaedia,
   -By Hargrave L. Adam, Vol.I, p.5 & 6
   -By Hargrave L. Adam, Vol.I p.2
17. The Police: A study in Manpower, by J.P. Martin and Gail Wilson, p.7
18. The Police encyclopaedia,
   -By H.L. Adam, Vol I p.6
The new police in London gets immediate success for convictions of crimes of violence at London. The Duke of Wellington, wrote to Sir Peel "I Congratulate you on the entire success of the police in London, it is impossible to see anything more respectable than they are".

The first public police in United States of America have existed almost from the first settlements Boston created a watch in 1631 and New Amsterdam (Later New York) in 1643. A great change occurred in American policing in the mid nineteenth century, following the example of London. The movement began in Boston in 1837 and spread to New York in 1844 and to Philadelphia in 1854. By the 1870s almost all American major cities had municipal police forces. It was recognised in American Constitutional Law in the Nineteenth Century by putting the general safety along with general morals in the "Police Power" as a ground of reasonable restraint to which natural rights must give way.

19. The Police Encyclopaedia,
   -By H.L. Adam, Vol I p.13
20. Encyclopaedia of Crime and Justice
    -By Sanford H. Kadish, Edn. 1983, p.1124
21. Encyclopaedia of Crime and Justice
    -By Sanford H. Kadish, Edn. 1983, p.1124
22. Jurisprudence, -By Roscoe Pound,
The term "Police", refers primarily to agent of the state whose function is the maintenance of law and order and especially for the enforcement of the regular criminal code. But now a days there is a vast development in this concept by entering private policing like detective agencies, organisation of civilians, neighbourhood watch groups and industrial securities etc; are growing with the time and requirement. Most of the developed countries like. U.K. and U.S.A., have achieved too much in policing and other countires are also adopting it so successfully.

(III) Policing in India and Maharashtra State.

In India, the first enacted police force was formulated by The Indian Police Act 1861. The bill was introduced by the Hon'ble Sir, H.B.E. Frere on the 29th September 1860. The report of the select committee was presented on 23rd February, 1861. They omitted from the bill all its provisions which were to be found in the Indian Penal Code already passed and the Criminal Procedure Code Act XXV of 1861 which was in the process of enactment. The bill was passed on 16th March, 1861 and became law as the Indian Police Act V of 1861 on the 22nd March 1861.

23. Principles of Criminology.
   -By Anandswarup Gupta. Edn. 1974, p.380
25. Crime and Police in India.
The procedure to be followed by the police for the investigation and prosecution of the offences. Large powers of prosecution of offences and for maintenance of peace were vested solely in the Magistrates by the new laws.

In 1902, Lord Curzon the then Viceroy of India appointed the Indian Police Commission to enquire into the whole system of policing in India. After the independence of India, Mr. J.S. Bharucha became the first commissioner of Police. (August 1947 May 1949). After independence all the states of India have enacted their Police Acts and thereby Indian Police Act was decentralized. India is the Union of the States and every state have enacted their police Act within the preamble of the Indian Police Act as per their legislative amendments by repealing previous existing Acts.

In 1951 The Bombay District Police Act 1890 and Bombay City Police Act 1902 were repealed and in their place "The Bombay police Act (Act XXII of 1951) was promulgated."

26. Crime and Police in India, 
27. Encyclopaedia of Police in India,
-By S.K. Ghosh, K.S. Rustamji,
28. Encyclopaedia of Police in India,
Vol.I, p.336
29. Encyclopaedia of Police in India, by S.K.Ghosh
The Bombay Police Act 1951 received assent of the president on the 1st June, 1951. This Act extends to the whole of the State of Maharashtra by the Maharashtra Adoption of Laws (State and Current Subjects) Order, 1960.

On 1st May 1960, Bombay State broke up into Maharashtra and Gujrat. Maharashtra State is having 29 division of districts in four Ranges - Aurangabad Range, Nagpur Range, Poona Range and Bombay Range. In addition to these, the State reserve police force groups, Police Training College, Nasik, Regional Police Training Schools at Jalna, Nagpur and Khandala. Motor Transport and wire-less organisations were placed under the Deputy Inspector-General, Head-quarters, Bombay.

In the recent years, there has been rapid industrialisation, not only at Bombay but also in cities like Pune, Nagpur, Aurangabad, Nasik, Nanded and almost to all the district places. Therefore the yardsticks of the police are increased in all the diamentions. In independent India, The National Police Commission, was set up in 1977, and Commission has submitted its report in 1980-81.

   - By Gupte and Dighe, Edn. 1996, p.4
The Maharashtra State Police Commission was set up on 1st May 1962 under the chairmanship of Shri Y.V. Dixit, Shri Y.B. Chavan, the then Chief Minister of Maharashtra, had inaugurated the commission. The Maharashtra State Police Commission had submitted its report to the Government of Maharashtra, on 30th May 1964. Thus in the changing world and society, the role of policing is always in need of change.

B - CRIME AND CAUSES.

a) Crimes:

Crime can simply be defined as an act, commission or offence punishable by law in force. Ronger classified the crimes by the motives of the offenders as economic crimes, sexual crimes, political crimes and miscellaneous crimes. Crimes are classified for statistical purpose as crimes against property, crimes against public decency, public order and public justice.

Who is criminal? A person who commits crime. However in the democratic legal tradition even one who admits to having committed a crime is not designated as a criminal until his criminality has been proven by means of the accepted court procedure. Aiding and abetting criminals is itself a crime. But it is obvious that such crimes are not found in the police report. Crimes committed by persons of social respectability and status during the course of their occupation are white collar crimes—e.g. fraud, cheating, criminal breach of trust and counterfeiting etc. Most of these crimes are occurred in the urban area.

It is well known that a substantial volume of crime in rural area is not reported to the police for a variety of reason. Communal riots arising from Hindu-Muslim differences or caste Hindu-Harijan friction continue to occur in different parts of the country are the major crimes before police to control law and order situation.

b) Causes of Crimes:

The main causes of crimes are rising in prices, growing unemployment, increasing poverty among sizeable section of the people, increasing migration to the cities from rural areas with consequent growth of city slums, and several squeeze and pressure on living accommodation, inadequate and irregular transport services, frequent disruption in the availability of essential commodities etc. are among the various factors. That induce violent behaviour among the affected people. Population growth, group conflicts, communal clashes, failure of cases in courts and extremist activities, are the major causes of crimes.

The first attempt at a scientific study was made by Cesare Lombroso in 1876. Through his anthropological studies Lombroso came to the conclusion that a criminal was born. This theory was refused by Tarde who felt that crime was a social phenomenon.

36) Report of the maharashtra state police commision 1964, p.102
In the present situation, some different factors causing criminality are heredity, natural endowment, environment, general fall in ethical standard, laxity of discipline in homes, schools and colleges and lenient punishment etc. These are the major factors of causation or crime and criminality in the people.

C) POLICE IN MAHARASHTRA STATE.

Indian police Act 1861 was not applicable to Bombay presidency, which continued to function under Bombay Regulation XII of 1827. In 1867, the Bombay District Police Act (Act VII of 1867) was promulgated. In 1890, the Bombay District police Act was passed in which police force was first constituted. Its superior officers were mainly drawn from the commissioner ranks of the Army, but from 1893, the recruitment was made by competition only to men of British parentage. Sir Frank Souter was appointed as the first police commissioner. In 1902, the Bombay city police Act (IV), which consolidate the provisions of the proceeding enactments and vested the control of police in the commissioner was passed. In 1951, the Bombay District police Act 1902 was repealed and in its place the Bombay police Act (Act XXII of 1951) was promulgated. On 1st May 1960, Maharashtra state was formed.

37. Report of the Maharashtra state police commission 1964, p.9 and 10
The Inspector-General of police is in over-all control of the police force. The area of state (excluding Greater Bombay), divided into four ranges, each under the Deputy Inspector-General of police. These Ranges are further sub-divided into districts, each of which is under the charge of a Superintendent of police. The District Superintendent of police is the executive head of police force of the district subject to the control of the District Magistrate. Two special Railway districts comprising (a) Central, Southern and Western Railways at Poona and (b) Central, South-Eastern and Western Railways at Nagpur has been introduced.

On 1st March, 1964, there are four Ranges and thirty districts in Maharashtra state and the strength of police force is as under:-

<table>
<thead>
<tr>
<th>Rank</th>
<th>Officer</th>
<th>Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Inspector General</td>
<td>.... 1</td>
</tr>
<tr>
<td>2)</td>
<td>Commissioner of police</td>
<td>.... 1</td>
</tr>
<tr>
<td>3)</td>
<td>Deputy Inspectors-General</td>
<td>.... 7</td>
</tr>
<tr>
<td>4)</td>
<td>Superintendent of police</td>
<td>.... 47</td>
</tr>
<tr>
<td>5)</td>
<td>Deputy commissioners of police</td>
<td>.... 10</td>
</tr>
<tr>
<td>6)</td>
<td>Assistant superintendent of police</td>
<td>.... 11</td>
</tr>
<tr>
<td>7)</td>
<td>Deputy superintendent of police</td>
<td>.... 99</td>
</tr>
<tr>
<td>8)</td>
<td>Superintendent of police (Greater Bombay)</td>
<td>.... 25</td>
</tr>
<tr>
<td>9)</td>
<td>Police Inspectors</td>
<td>.... 355</td>
</tr>
</tbody>
</table>

10) Police Sub-Inspectors .... 2,521
11) Unarmed Head constables .... 8,490
12) Armed Head Constables .... 4,581
13) Unarmed police constables .... 26,745
14) Armed Constables .... 22,598

Total of officers and men .... 65,491

Present Position:--

Maharashtra state is bounded by the Arabian sea on the West, Gujrat and Madhya Pradesh on North, Andhra Pradesh on South-East and Karnataka and Goa on South. Its state capital is Bombay, now named as MUMBAI. The principal language is MARATHI.

Area and Population (1991):--

Area .... 3,07,713 Sq.Kms.
Population .... 7.89 Crore

Coastline .... 720 Kms.

No. of cities (Population above 1,00,000) .... 33

No. of Talukas .... 325

No. of villages .... 40,412

Urban Population .... 39% (3.05 crore)

Rural Population .... 61% (4.84 crore)

Organisational set-up of police as on 1/1/1994, in Maharashtra:

<table>
<thead>
<tr>
<th>Range</th>
<th>District</th>
<th>Sub-Divi.</th>
<th>Circle</th>
<th>Police Station</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>33</td>
<td>154</td>
<td>147</td>
<td>869</td>
</tr>
</tbody>
</table>

Table 1.1

Actual police strength in relation to area, population and I.P.C. crimes during 1993, Maharashtra state:

<table>
<thead>
<tr>
<th>Area in Sq. Km. mid-year population</th>
<th>Estimated</th>
<th>Total cognisable crimes</th>
<th>Actual police strength</th>
<th>No. of police men</th>
<th>No. of police per I.O.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>41.7</td>
<td>1.6</td>
</tr>
<tr>
<td></td>
<td>307713</td>
<td>82634</td>
<td>227513</td>
<td>115508</td>
<td>17</td>
</tr>
</tbody>
</table>

12679

128187

Table 1.2

The strength of civil police includes the district armed police. In India, Uttar Pradesh had the highest contingent of civil police, (1,20,586), followed by Maharashtra. (1,15,508).

The sanctioned strength of Women civil police was 14,933, whereas the actual strength was 14,443. The maximum strength of women civil police existed in Maharashtra (2,225), and Delhi (933). Sanctioned and actual strength of Civil police including District Armed police as on 31/12/1993 in Maharashtra State:

<table>
<thead>
<tr>
<th>Sr.</th>
<th>Designation</th>
<th>Sanctioned</th>
<th>Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>DG/IG/DIG/SP</td>
<td>191</td>
<td>184</td>
</tr>
<tr>
<td>2.</td>
<td>ASP/DSP</td>
<td>453</td>
<td>449</td>
</tr>
<tr>
<td>3.</td>
<td>Inspector SI &amp; AST</td>
<td>14,101</td>
<td>13,365</td>
</tr>
<tr>
<td>4.</td>
<td>Officers below ASI</td>
<td>1,09,863</td>
<td>1,01,510</td>
</tr>
<tr>
<td></td>
<td><strong>GRAND TOTAL</strong></td>
<td><strong>1,24,608</strong></td>
<td><strong>1,15,508</strong></td>
</tr>
</tbody>
</table>

Table: - 1.3

Director-General of police is the head of the police force in the state. As per the different functions and administration, there are other branches are formed. Women police, Home Guards, Local Crime Branch and Local Intelligence Branch, Criminal Investigation Department, Training of officers, Police Wireless System, state Crime Records Bureau are working in Maharashtra. All these figures of data shows the present police strength and their position in the state.

**D - IMAGE OF POLICE.**

Image of the police is totally depends on police-public relation, control of crime rate and maintenance of peace and security of the public and property in the region. But it appears that there is a wide gap in the police and public which is gradually increasing continuously. There is a general talk in the public that neither friendship nor enemy is good with the police. Police have lost their faith and confidence in the public due to their day-to-day experience. The main aspects of police unpopularity is A-Apathy, B-Brutality, C-Corruption and D-Discourtesy. Often instances come to the notice about death in police custody, torture by policeman, harassment of a citizen, discourteous behaviour, unhelpful attitude. There are escapes from the police custody, theft from the place where a police guard was posted, not taking cognizance of a case, a pure case of inaction in not visiting a scene of crime, improper investigation etc. Corruption by police is the main grievance of the public. It has three aspects— "Corruption by collusion, coercion and control". Some typical public grievances run like this—

(I) We have made a number of complaints against a drug peddler, but no one pays any heed.

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(II) I wanted a copy of document for filing a claim for compensation. I had to go three times.

(III) Well they never challan my fleet of vehicle. We pay the monthly, says a transporter.

(IV) I had to pay money to get my vehicle released from the police, after I tried to get orders from the court, the same way.

(V) The fellow come to my hotel and don't bother to pay.

(VI) The investigating officer won't come to village on the plea that he has no transport available.

(VII) I paid him the fine on the spot. He gave me a receipt of less money.

(VIII) On the national highway, I always carry money for the various checkposts.

(IX) Some one come and collect the Haftas.

(X) They checked the boot of the car. They said- "you can't take a dozen bottle of bear without permit" seize the same, no receipt but permitted us to go shouting "Don't do it again".

(XI) I went to police station to report theft of scooter,- police came- surprisingly scooter found near the spot - police Officer says, I will charge you in lodging false report.

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(XII) Show vehicle papers—Not available—settle matter and leave.

Public witnesses views observed by the commission are—

(I) That the members of the police force are corrupt and dishonest.

(II) That the police use third degree methods and fabricate evidence.

(III) That the police are inefficient.

(IV) That the police are mixed up with law-breakers and anti-social elements.

(V) That the police force is an instrument of oppression.

(VI) That members of the police force rude and discourteous to the public.

(VII) Police do not behave as if they are true servant of the people and,

(VIII) That the police are unhelpful to the public.

Police always felt that public is not co-operating with them, because—

(a) Disinclination to get involve with the police and court proceeding.

(b) Fear of reprisals from the criminals or goondas.

(c) Factional and partisan sympathies and

(d) General distrust of police.

But lack of public support is the question of realization to the police. If you don't help people why they should help you? If you insult them, why should they respect you? If you squeeze them, why should they spare you?

It is therefore necessary to change the attitude of police towards the public and vice-versa. Police should understand how to deal with human beings, their lives, liberties, emotions, sentiments etc. The intention or objective of police administration is not to handle the problems and cases effectively and efficiently but the police personnel should see that they should not be any occurrence of crime. If any crime takes place they should diagnose the malafides of each case and prescribe a remedy not to take place in future.

"Functioning under the constraints and handicaps on an outmoded system, police performance has undoubtedly fallen short of public expectations".

50. Policing for people, by P.S. Bawa, Edn.-1989, p.25
There are various problems of the police which they are facing:

(I) The nature of the law of criminal procedure which treats the policemen as a contender and party to an agency representing the community.

(II) Nature of public duties, the criminal proceedings rather than an impartial court.

(III) The low emolument of constable.

(V) Frequent transfers of police officers.

(VI) The non-cognizable nature of many complaints made to police in which the public are dissatisfied because the police are unable to take any action.

The attitude of distrust and hostility cannot be removed immediately, and it will take some time for the public to get change. The allegations made against the police may be true of the lower ranks but so far as higher ranks are concerned, the appreciation and honest efforts for reorientation are found.

Therefore, the image of police is not so important but the reality of the image is of importance.


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