GORE COMMITTEE, 1971

In 1971, the Government of India constituted a Gore Committee on Police Training with Professor M.S. Gore, a famous Indian social scientist, as its chairman. The recommendations made by the Committee covered a broad range of issues involving the need to:

i. Impart necessary knowledge and skills,

ii. Create the right attitudes,

iii. Generate effective decision making ability,

iv. Stimulate critical and innovative thinking.\(^{533}\)

NATIONAL POLICE COMMISSION 1977-81

The Government of India appointed the National Police Commission (NPC) on November 15, 1977. This was the first Commission appointed at the national level after Independence. The Commission consisted of Mr. Dharam Vira (retired Governor) as its Chairman. Though the Commission was set up on November 15, 1977, it started functioning effectively only in April 1978. In fact, its first meeting was held on December 22, 1978.

Terms of Reference

The Commission was asked to make a comprehensive review at the national level of the police system, in the context of the far-reaching changes that had taken place in the country after the enactment of the Indian Police Act 1861, the report of the last Police Commission of 1902, and particularly those which had taken place since Independence. The NPC had fairly wide and comprehensive terms of reference, involving a fresh examination of the role and performance of the police, both as a law enforcement agency and as an institution to protect the rights of the citizens enshrined

in the Constitution. One of its most important terms of reference required it to recommend measures and institutional arrangements to "prevent misuse of powers by the police" and "misuse of police by administrative or executive instructions, political or other pressure, or oral orders of any type, which are contrary to law".

The NPC produced eight reports between February 1979 and May 1981. The most important recommendations of the NPC centred around the problem of insulating the police from illegitimate political and bureaucratic interference. These recommendations perturbed the entrenched elite at the prospect of losing control over an organisation that they had been misusing for so long.534

RECOMMENDATIONS OF THE COMMISSION

The following recommendations have been selected from different reports of the National Police Commission:

RECOMMENDATION IN FIRST REPORT

Complaints against the police

According to the National Police Commission any arrangement for inquiry into complaints against police should be acceptable both to police and public as fair and just. The Commission, therefore, suggested arrangements, which would include inquiries conducted by departmental authorities and those conducted by an independent authority outside the police. The Commission felt that a large number of complaints against police should be looked into and disposed off by the supervisory ranks in the police hierarchy. The Commission, however, recommended that a judicial inquiry should be made mandatory in the following categories of complaints against the police:

a) Alleged rape of a woman in police custody;

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b) Death or grievous hurt caused while in police custody; and

c) Death of two or more persons resulting from police firing in the dispersal of unlawful assemblies.

The judicial inquiry should be held by an Additional Session's Judge nominated for this purpose in every district by State Government in consultation with the High Court. He will be designated as the District Inquiry Authority (DIA) and be assisted by an assessor. The DIA shall send the report of the inquiry to the State Government. It will be mandatory on the part of the government to publish the report and decisions taken hereon within two months of receipt of the report.\(^{535}\)

**RECOMMENDATIONS IN SECOND REPORT**

**Appointment of the Criminal Justice Commission**

According to the NPC, the police cannot achieve complete success in their work unless all wings of the criminal justice system operate with simultaneous efficiency. It is, therefore, necessary to set up a body, which would comprehensively monitor the performance of all agencies and apply corrective measures from time to time. The existing Law Commission may be enlarged to function as a Criminal Justice Commission on a statutory basis. Such arrangements at the centre should be supported by similar arrangements at the state level.

**Selection of Chief of Police**

The head of the police force should be selected from a panel of three IPS officers of that state cadre. The panel should be prepared by a committee headed by the Chairman of the Union Public Service Commission.

**Statutory Tenure of Service**

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The chief of police should be assured of a fixed tenure of office. The tenure may be for four years or for a period extending up to retirement, whichever is earlier. The removal of the chief of police from his post before the expiry of the tenure should require approval of the State Security Commission.

Transfer/Suspension Orders

Police officers should be effectively protected against whimsical and mala fide transfer/suspension orders. There should be a provision in the Police Act, specifying the authorities competent to issue such orders regarding different ranks. Any such orders passed by any authority other than those specified in the Act will be rendered null and void.\(^{536}\)

RECOMMENDATIONS IN THIRD REPORT

Police and the Weaker Sections

The NPC has recommended the establishment of special investigation cell in the police department at State level to monitor the progress of investigation of cases under the Protection of Civil Rights Act or other atrocities against Scheduled Castes and Tribes. A composite cell may be constituted at the district level under the Sub-Divisional Officer to inquire into complaints emanating from scheduled Castes/Tribes, particularly those relating to lapses in administrative measures meant for their relief.

An important cause for dissatisfaction of weaker sections of society is that the police sometimes do not take cognizance of their complaints of ill treatment at the hands of upper castes on the ground that complaints are non cognizable and therefore can not be investigated by them without orders from a magistrate.

The NPC has recommended that Section 155 of the Code of Criminal Procedure should be suitably amended to facilitate appropriate and effective police response to non-cognisable complaints in two categories of cases:

a. To protect a member of the weaker sections from exploitation and injustice, or
b. To prevent a possible breach of public peace that might result from absence of effective action on complaint of a non-cognisable offence

**Postings of Officers**

The postings of officers in charge of police stations should be the exclusive responsibility of the district Superintendent of Police. The Chief of Police should be exclusively responsible for selecting and posting Superintendents of Police in charge of districts.

**Guidelines for Avoidance of Vexatious Arrests**

Presently the powers of the arrest available to the police give ample scope for harassment and humiliation of persons, prompted by mala fide considerations. In actual practice, several persons who ought to be arrested are let free on account of political influence or other considerations, while harmless persons who need not be arrested at all are often arrested and even remanded to police custody on inadequate grounds. Some mala fide arrests get exposed on habeas corpus petitions filed in High Courts but such exposures are rare compared to the large number of unjustified arrests that take place all the time.

**Guidelines regarding use of Handcuffs**

The threat of putting handcuffs on persons under arrest is another source of corruption and harassment. The following guidelines must be observed:

a. No person shall be handcuffed who, by reason of age, sex or infirmity can be kept in custody without handcuffs.
b. No person arrested on a bailable offence shall be handcuffed, unless for some special reasons, it is believed that he is likely to escape.

c. In cases under judicial custody, court's instructions should be obtained before handcuffing the accused.

d. Under trial prisoners and other accused persons should not be handcuffed and chained unless there is reasonable expectation that such persons will use violence or attempt to escape. The police escort must be sufficiently strong to prevent escape.

e. Whenever any accused is handcuffed, the fact and reasons should be stated in the Sentry Relief Book.

f. In no case should prisoners or accused persons, who are aged and bed-ridden in hospitals, or women or juvenile or civil prisoners, be handcuffed or fettered.

**Provision of Imprest Money to Police Station**

The Commission noted the non-availability of any imprest money in a police station to meet expenditure on several legitimate needs of the station. It recommended that police stations should be provided with an adequate imprest budget to meet the contingent expenditure in day-to-day work. Adequate funds should be provided at station level to eliminate causes of corruption, which often engulf even the honest officers.\(^{537}\)

**RECOMMENDATIONS IN FOURTH REPORT**

**Registration of FIR**

Victims of crimes are sometimes turned away from a police station on the mere ground that the reported crime has occurred in the jurisdiction of some other police station and it is for the victim to go there and make his complaint. This works

to the disadvantage of ignorant people and weaker sections in society. The NPC has recommended an important amendment to Section 154 Cr. P.C. which would make it incumbent on a police station to register an FIR whether or not the crime has taken place in its jurisdiction and then transfer the FIR to the concerned police station, if necessary.

**Examination of Witnesses**

The examination of witnesses should be conducted as far as practicable near the scene of offence or at the residence of witnesses concerned at some convenient place nearby.

**Statement of Witnesses**

According to existing law, a police officer is precluded from obtaining the signature of the person whose statement has been recorded by him. The Commission has recommended that the existing practice of recording in detail the statement by a witness during investigation should be done away with. In its place, the Commission has suggested an arrangement in which the investigating officer can record the facts as ascertained by him on examination of a witness. This statement of facts can be in third person in the language of the investigating officer himself and a copy of the statement should be handed over to the witness under acknowledgement. This arrangement would also act as a safeguard against the malpractice of padding of statements which the investigating officers are often accused of doing.

**Restoration of Stolen Property to Victims of Crimes**

Presently, properties recovered by the police during investigation or otherwise are first transferred to court custody. Their return to the rightful owner is ordered at a much later stage of the criminal proceedings. During the intervening period, there is considerable risk of damage to the property because of indifferent
handling at different stages of police and court custody. Sophisticated electronic goods run a serious risk of irreparable damage.

Successful detection of case does not provide any psychological satisfaction to the victims of crime when the lost property is kept away from them for a long period without proper attention and care. NPC has recommended a change in the existing provisions in law to facilitate early return of the recovered property to the victims concerned even at the stage of investigation, protected by appropriate bonds for their safe retention and later production in court.

**Compounding Offences**

The NPC has recommended that the police may be empowered in law to compound offences in simple cases even at the stage of police investigation, when both parties to a dispute may themselves like to settle the matter amicably. Due safeguards must of course be provided against a forced or contrived compromise. Presently this facility is available only at the stage of trial. This amendment in law would also reduce the workload in courts.

**Use of Third Degree Methods**

To reduce the use of third degree methods, the NPC has recommended:

i. Surprised visits by senior officers to police stations to detect persons held in illegal custody and subjected to ill treatment.

ii. The magistrate should be required by rules to question the arrested person if he has any complaint of ill treatment by the police and in case of complaint should get him medically examined.

iii. There should be a mandatory judicial inquiry in cases of death or grievous hurt caused while in police custody.
iv. Police performance should not be evaluated on the basis of crime statistics or number of cases solved.

v. Training institutions should develop scientific interrogation techniques and impart effective instructions to trainees in this regard.\(^{538}\)

**Inspections of Courts**

There is need to evolve a scheme of inspections at the level of High Court as well as Sessions Courts to ensure proper functioning of the subordinate courts. A whole time functionary of the rank of a senior District Sessions Judge who is qualified for appointment as High Court Judge may be attached to each High Court to inspect the district courts periodically. A similar functionary of the rank of Additional Sessions Judge may be entrusted with inspections at the district level. The inspecting arrangement proposed above should also ensure the availability of adequate facilities for the witnesses and others who participate in court proceedings.

**Attendance of Witnesses**

The allowances payable to witnesses for their attendance in court should be fixed on a realistic basis and their payment should be effected through a simple procedure, which should avoid delay and inconvenience.\(^{539}\)

**RECOMMENDATIONS OF FIFTH REPORT**

**Recruitment to the Police**

Recruitment to the Police must be at two levels only—Constables and Indian Police Service. The recruitment at other levels should be eliminated in a phased manner. Properly developed psychological tests should form an important part of


\(^{539}\) *Ibid.*
the selection procedure. The Central Government should develop the psychological tests with the help of the Ministry of Defence.

**Evaluation during Training**

The Commission recommended that there should be constant evaluation of the performance, attitudes and behaviour of all recruits during training and those who are not shaping as good policemen should be weeded out.

**Control of the District Magistrate**

Presently, under Section 4 of the Police Act, 1861, the District Police is subject to the “general control and direction” of the District Magistrate. The NPC felt that this can not be construed as warranting any interference in the internal management of the police force. The police should perform with full accountability to the law of the land. Any rule or regulation which unnecessarily or without purpose subordinates the police to the District Magistrate should be removed. However, there are a number of areas, which would require active cooperation of different departments and in such matters coordination by the District Magistrate will be necessary. The role of the District Magistrate as a chief coordinating authority should be recognised and respected by the police. The NPC has prescribed the areas where the District Magistrate can play his role as the coordinating authority.

**Victims of Crime**

The criminal justice system shows no concern for the victim of crime at any stage. The legislation of a Criminal Injuries Compensation Act is recommended.

**Need for Transparency**

All police activities, to the extent possible, should be open, except in four specific areas, which are:

a. Operations;
b. Intelligence on the basis of which operations are planned and conducted;

c. Privacy of the individual citizen; and

d. Judicial requirements.

**Women Police**

The NPC has recommended that women police should be strengthened and assigned investigation work in much greater measure that at present. Women police should become an integral part of the police organisation and used to deal with crimes against women and children and in tackling the problem of juvenile delinquency.

**RECOMMENDATIONS IN SIXTH REPORT**

**Examinations for Promotion of Officer**

Before promotion to the ranks of Superintendent of Police, DIG and IG, all IPS officers should be required to undergo specifically designed pre-promotion courses followed by an examination and an objective selection process. Those who are not able to qualify for the post of DIG and IG even after being given two more chances should be retired from service.

**Creation of Central IPS Cadres**

Two Central IPS Cadres should be constituted - one for the paramilitary organisations and the other for such organisations as IB, CBI, RAW, etc.
Police Commissionerate System for Major Cities

In large urban areas, crime and law and order situations develop rapidly, requiring a speedy and effective operational response from the police. This can be possible only when the police are organised to perform twin basic functions of decision making and implementation. The Commission has, therefore, recommended that in cities with a population of 5 lakhs and above and even in places where there may be special reasons like speedy urbanisation, industrialisation etc., the system of police commissionerate would provide more effective policing and should be introduced.\(^\text{540}\)

Communal Riots

The National Police Commission felt that during communal riots, adequate interest is not taken in investigation of heinous and serious crimes. For investigation of such cases, special investigating squads under the State CID should be set up comprising officers of proven integrity and impartiality. Vigorous investigation should be followed by prosecution to ensure deterrent punishment to the offenders. Hence withdrawal from trial of cases occurring during communal riots by the State Governments with a view to promoting communal harmony often proves illusory and has to be discouraged.

Reservation in the Force

The Commission has expressed its view against reservation of vacancies in the police for minorities and other weaker sections on the basis of their share in population. The Commission felt that it would fragment the force along caste and communal lines. The commission felt that such a reservation shall go against the

fundamental police philosophy that it must rise above caste and creed and act impartially as the agent of law and order. The composition of the force should reflect the general mix of communities as it exists in the society and thereby command the confidence of different sections of the society.\textsuperscript{541}

**RECOMMENDATIONS IN SEVENTH REPORT**

**Norms for Police Stations**

A police station in a rural area should not have jurisdiction of more than 150 kms. In urban areas, population density should be one of the main considerations. A police station should not be required to police more than 60,000 population. If it registers more than 700 crimes annually, another police station may be created. Police stations in cities with more than 900 cognizable IPC offices should have a Dy. SP/ASP as SHO. Police Stations investigating over 300 IPCs per year should be headed by an Inspector of Police. The third category will consist of smaller police stations headed by Sub Inspectors.

An investigating officer should not be required to investigate more than 50-60 IPC cases in India.

\textsuperscript{541} Ibid.
Restructuring of Civil Police Hierarchy

There should be an increase in the strength at middle levels of ASI/SI/Inspector. Increase in the strength of these ranks should be offset by reducing numbers at the lower levels of constabulary. This will provide large number of investigating officers and improve promotional opportunities for the lower ranks.

Management of the Police Force

The internal management of the police force in the state should be entirely under the purview of the chief of police. The powers of the heads of the state police forces in respect of personnel and financial management and to provide infra-structural facilities for the growth of the police should be enhanced.

RECOMMENDATIONS IN EIGHTH REPORT

Police Accountability

There should be continuous monitoring of the performance of the police forces in the country. The State Security Commission should have an independent cell to evaluate police performance. The annual administration report of the head of the police force and assessment report of the Central Police Committee will provide additional material to the State Security Commission to prepare a final report on the performance of the state police to be placed before the State Legislature.

The police functionaries individually as well as in groups should be sensitised to the idea of accountability to the people.

Withdrawal of Protection

Sections 132 and 197 of the Cr. P.C. 1973 provide protection to various categories of public servants against any prosecution brought against them relating to performance of official duties. The protection available to the police officers under these sections should be withdrawn so that the private complainant is not encouraged to file false complaints against them.

The police functionaries individually as well as in groups should be sensitised to the idea of accountability to the people.
free to press his complaint against police official for a judicial pronouncement without any provision to obtain prior permission of the competent authority for such prosecution.

**Enactment of a Model Police Act**

The Police Act, 1861 should be replaced by a new Police Act, which not only changes the system of superintendence and control over the police but also enlarges the role of the police to make it function as an agency which promotes the rule of law in the country and renders impartial service to the community.\(^{542}\)

Thus, we see that National Police Commission has removed the inadequacies and redefined the role of the police. The preventive and service oriented role of the police has been heavily stressed, requiring the police, *inter alia*, to identify

a. Problems and situations that are likely to result in commission of crimes;

b. Reduce opportunities for commission of crimes;

c. Aid individuals who are in danger of physical harm;

d. Counsel and resolve conflicts and promote amity;

e. Provide necessary services and afford relief to people in distress situations;

f. Assist in preventing the poor from being exploited;

g. Prevent harassment of women and children in public places;

h. Refrain from causing needless inconvenience to the members of the public;

i. Arrange for the provision of prompt medical aid to the injured persons etc.

**RIBEIRO COMMITTEE, 1996**

The Ministry of Home Affairs, set up a Committee in pursuance of the Supreme Court's directions issued in the context of Writ Petition (Civil) No. 310 of 1996.\textsuperscript{543}

The Committee was headed by Mr. J.F. Ribeiro, IPS (Retd.), also former Ambassador of India to Bulgaria. The Committee was asked to submit its report within a period of six months. On a reference made by the petitioners in Writ Petition (Civil) No. 310 of 1996, the Supreme Court asked the Committee to review action taken to implement the recommendations of the NPC, particularly focusing on the need, relevance and practicability of:

i. Setting up a Security Commission or Police Authority in each State and at the Centre on the lines suggested by the NPC, NHRC and the petitioners, and if so, to denote its functions and composition

ii. Prescribing a procedure for the appointment of Police Chiefs which would be transparent and ensure that the best officers are selected and giving the senior incumbents a minimum tenure

iii. Insulating the investigative wing of the police from its law and order functions

The Committee was asked to deal with these issues first. The Committee dealt with them in its first report, which was submitted in October 1998. The Committee submitted its second report in March 1999.\textsuperscript{544}

**RECOMMENDATIONS OF RIBEIRO COMMITTEE**

The recommendations of the Committee are extracted below:

**First Report (October 1998)**

\textsuperscript{543} The Ministry of Home Affairs, Government of India, Vide Office Memorandum No. 11018/1/98 PMA, dated May 25, 1998 set up Ribeiro Committee.

i. A Security Commission should be set-up in each State consisting of the Minister in charge of Police as the Chairman, the Leader of the Opposition, the Chief Secretary of the State, a sitting or retired judge nominated by the Chief Justice of the State’s High Court and three other non-political citizens of proven merit and integrity as members. These three citizens should be chosen by a committee to be set-up by the Chairman of the NHRC, which has taken much interest in the establishment of this proposed institution.

ii. The name of the Commission should be ‘The Police Performance and Accountability Commission’ (PPAC).

iii. The four non-political members of this Commission excluding the Chief Secretary should hold office for three years after which they will be replaced by persons of equal merit chosen in the same manner.

iv. The Commission will have advisory and recommendatory powers. The State’s Director General of Police will be its Secretary and Convener.

v. The Commission will oversee the performance of the Police and ensure that it is accountable to the law of the land. Its functions will be as spelt out by the National Police Commission in Para 15.48 of their report. In addition, it will ensure that no premature transfers of officers of the rank of Superintendent of Police and above are made without prior clearance from the Commission and that transfers are made only by the authority competent under the rules to do so.

vi. Besides the Commission, a District Police Complaints Authority (DPCA) will be set up in each Police District as a non-statutory body to examine complaints from the public of police excesses, arbitrary arrests and detention, false implications in criminal cases, custodial violence, etc and to make
appropriate recommendations to the Police Performance and Accountability Commission, as well as to the Government and to the State or National Human Rights Commission. The Principal District and Sessions Judge, the Collector of the District and the Senior Superintendent of Police should constitute this authority.

vii. In every State, a Police Establishment Board should be constituted with the Director General of Police and his four senior-most officers, borne on the IPS cadre of the State but who are immediately junior to the Director General of Police, as members to monitor all transfers, promotions, rewards and punishments as well as other service related issues. The Board should be given the legal authority to discharge its duties by amending the relevant Rules.

viii. Rules should be framed by the Government on transfers, tenures, promotions, rewards and punishments and the police authorities designated to administer these rules. Any departure from these norms and rules will be brought to the notice of the PPAC.

ix. The Director General of Police will be selected by the Chief Minister of the State from a panel of three names prepared by a Committee headed by the Chairman of the Union Public Service Commission and consisting of the Union Home Secretary, the Director of Intelligence Bureau, the State's Chief Secretary and the State's incumbent Director General of Police. This Selection Committee may consult the Central Vigilance Commission before drawing up a panel. The Director General of Police will have fixed tenure of three years. He can be removed within the period of tenure only on the
recommendations of the PPAC and for specified reasons, made in writing to the Government.  

Second Report (March 1999)

i. The NPC had recommended that there should be a State Security Commission at the Centre. There is no need for such an institution at the central level. In case of CBI, the Supreme Court has already given directions. The CBI is an intelligence organization and the Border Security Force and the Central Reserve Police Force are para-military outfits which do not involve themselves with local politics and politicians.

ii. The old Police Act, 1861 needs to be replaced by a new Police Act.

iii. The Committee had recommended the establishment of a Nodal Cell in the Ministry of Home Affairs to deal with the problem of nexus between crime syndicates, political leaders, government functionaries and others.

iv. The recommendations of the Law Commission about insulating the investigative functions of the police from its law and order work should be implemented urgently.

v. The recommendations of the NPC about recruitment, training and welfare of the constabulary should be implemented.

vi. The minimum educational qualifications for recruitment to the level of Constable should be Higher Secondary.

vii. The NPC had recommended the reorganization of the hierarchy of the police, with an increase in the strength at middle levels of ASI/ SI/ inspector to be offset by reducing numbers at the lower levels of constabulary. This would

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545 Ibid.
improve promotion opportunities of lower ranks. We endorse the recommendations of the NPC.

viii. Every State should establish an independent Police Recruitment Board and entrust to it the task of recruitment of all non-gazetted ranks.

ix. A qualitative change in the training being imparted in police training institutions is imperative to improve performance and behaviour of the police.\textsuperscript{546}

Thus, it can be seen that the Report of the National Police Commission in eight (8) volumes produced after laborious efforts of four years from 1977-1981 by a high qualitative, was reduced to just twenty recommendations by Ribeiro Committee, a gross travesty of justice to the massive efforts of the NPC. Reducing the Report into twenty capsules was, perhaps, with the hope that the Government at the Centre would take the initiative at least to implement them. It may be noted that nothing was done and the buck was passed on to another Committee with a former member of the LAS, a bureaucrat, K. Padmanabhaiah again entrusted with the task of further studying the Reports for identifying areas for implementation.\textsuperscript{547}

\textbf{THE PADMANABHAIAH COMMITTEE ON POLICE REFORMS 2000}

In January 2000, the Government of India announced the setting up of another Committee on Police Reforms Shri. K. Padmanabhaiah – Chairman, Ex-Union Home Secretary. The recommendations of the Padmanabhayya Committee on Police Reform are reproduced below:

i. There should be a greater recruitment of Sub-Inspectors instead of constables.

Recruitment to constabulary should be restricted till a teeth-to-tail ratio of 1:4 is

\textsuperscript{546} \textit{Ibid.}
\textsuperscript{547} \textit{Ibid.}
achieved as against present ratio, which ranges from 1:7 to 1:15 in different States.

ii. Constables should be recruited from among the young boys/ girls, who have passed 10th Standard examination and are below 19 years in age on the basis of common competitive qualifying examination. The successful candidates should be put through a rigorous 2-year training programme and qualify for appointment as constables only after passing a final examination.

iii. The existing constabulary should be retrained to enable them to imbibe right attitudes to work. Those who do not successfully complete training should be compulsorily retired.

iv. A Police Training Advisory Council should be set up at the centre and in each state to advise the Home Ministers on police training matters.

v. The eligibility criteria for recruitment to the level of Sub-Inspectors should be 12th class pass and an upper age limit of 21 years. They should be recruited on the basis of a common written qualifying examination. The successful candidates must pass a final examination after undergoing a 3-year training programme. 50 per cent of vacancies of Sub-Inspectors should be filled by direct recruitment and 50 per cent reserved for promotions.

vi. A constable should be classified as a ‘skilled worker’ in view of the skills required and risks involved in the job.

vii. The Indian police should adopt the philosophy of community policing. The Government of India should support this by bringing out a handbook on the subject, providing training inputs and funding pilot projects.548

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viii. Lack of a proper tenure policy for posting of officers at different levels and arbitrary transfers have been used by politicians to control and abuse the police for their own ends. To deal with this problem, following action is required:

a. A body headed by the Chief Justice of the State High Court as Chairman, State Chief Secretary and an eminent public person as members should be constituted to recommend a panel of two names for appointment to the post of the Director General of Police.

b. A Police Establishment Board consisting of DGP and three other members of the police force selected by him should be constituted to decide transfers of all officers of the rank of Deputy Superintendent of Police and above.

c. The minimum tenure of all officers should be 2 years.

d. Another Committee under the Chief Secretary, with Home Secretary and the DGP as members, should be constituted to hear representations from police officers of the rank of Superintendent of Police and above alleging violation of rules in the matter of postings and transfers.549

ix. To deal with the problem of corruption in the police, who lead to the criminalisation of the force, the Committee has recommended a more serious enforcement of the code of conduct and simpler but more effective procedures for removing corrupt officers.

x. Since police work cannot be organized on an 8-hour shift basis, police personnel should be given a weekly off and compulsorily required to go on earned leave every year. Holiday homes may be constructed for police personnel’s.

549 Ibid.
xi. Investigation should be separated from law and order work. In the first phase, this separation should take place at police station level in all urban areas. An Additional Superintendent of Police should be exclusively responsible for crime and investigation work.

xii. Sections 25 and 26 of the Indian Evidence Act should be deleted and confessions made to police officers of the rank of Superintendent of Police and above should be made admissible in evidence.

xiii. Every police station should be equipped with ‘investigation kits’ and every sub-division should have a mobile forensic science laboratory.

xiv. The police leadership, through proper manpower and career planning, improved training, effective supervision and by inculcating a sense of values amongst the members of the force, can play an important role in encouraging specialization, promoting professionalism and increasing morale in the force.

xv. In each district, there should be a crime prevention cell manned by officers who have specialized in crime prevention work.

xvi. To deal with cyber crime effectively, police capabilities in various areas need to be developed. Capabilities of some police institutions, like the National Police Academy in the field of training, CBI in investigation, Intelligence Bureau in cyber surveillance and the National Crime Records Bureau in cyber technology/ forensics should be enhanced.

xvii. The present classification of offences into cognizable and non-cognizable made 150 years ago is not very relevant today. The Law Commission of India should review the entire classification and the powers of the police to investigate.
xviii. The concept of VIP security has been grossly, blatantly and brazenly misused. The entire concept of personal security needs a careful review and dismantling.

xix. Certain offences having inter-State, national and international repercussions should be declared “federal offences” to be investigated by the Special Crimes Division of the CBI, which should function under the administrative control of the Ministry of Home Affairs.

xx. Taking into account the wide ramifications of the terrorist’s, crime, there have to be different norms regarding the burden of proof, degree of proof and legal procedures in regard to trial of terrorist cases. There is a need for a special and a comprehensive law to fight terrorism.

xxi. There should be a national counter terrorism coordinator to prepare a comprehensive counter-terrorism plan and budget.

xxii. A statutory independent Inspectorate of Police should be set up to carry out annual as well as thematic inspections of the police force and to report to the State government whether the police force is functioning efficiently and effectively.

xxiii. A non-statutory District Police Complaints Authority (DPCA) should be set up with the District Magistrate (DM) as the Chairman and a senior Additional Sessions Judge, the District Superintendent of Police and an eminent citizen nominated by the DM as members. Investigations into public complaints against the police should in the first instance be done by the police department itself. Those who are not satisfied can approach the DPCA.

xxiv. There should be a mandatory judicial inquiry into all cases of alleged rape of a woman or death of any person in police custody.
xxv. The Government of India should establish a permanent National Commission for Policing Standards to lay down norms and standards for all police forces on matters of common concern and to see that the State Governments set up mechanisms to enforce such standards.

xxvi. The release of central grants for modernization or up-gradation, funds should be dependent upon compliance by State governments with certain basic issues, like each State having manpower and career planning system, a transparent recruitment, promotion and transfer policy and meeting certain minimum standards for training.

xxvii. The Police Act, 1861 should be replaced by a new Act.

xxviii. The State Government must give high priority to the allocation of resources to the police.

xxix. There should be a permanent National Commission for Police Standards (NCPS) to set standards and to see that the State Governments set up mechanisms to enforce such standards.550

550 Ibid.

THE PUNJAB POLICE ACT 2007

The Government of India in terms of Office Memorandum dated 20th September 2005 constituted a Committee comprising Shri Soli Sorabjee, former Attorney General and five others to draft a new Police Act in view of the changing role of police due to various socio-economic and political changes which have taken place in the country and the challenges posed by modern day global terrorism, extremism, rapid urbanization as well as fast evolving aspirations of a modern democratic society. The Sorabjee Committee has prepared a draft
outline for a new Police Act.

Besides the Home Minister, all the Commissions and Committees discussed earlier noted, have broadly come to the same conclusion on the issue of urgent need for police reforms. There is convergence of views on the need to have (a) State Security Commission at State level; (b) transparent procedure for the appointment of Police Chief and the desirability of giving him a minimum fixed tenure; (c) separation of investigation work from law and order; and (d) a new Police Act which should reflect the democratic aspirations of the people.\textsuperscript{551}

a. There should be one Police Service in the State.

b. Notwithstanding anything contained in any other law or any of the provisions of this Act, members of the Police Service should be liable for posting anywhere in the State and outside the State, as may be ordered by the competent authority.

PROVISION OF THE ACT

Organization and Composition of Police Service

Subject to the provisions of this Act:

i. The Police Service should consist of such numbers in various ranks and have such organizations or cadres, as the State Government may, by general or special order, determine, and should include the members of the Indian Police Service, allocated or deputed to the State;

ii. The officers of subordinate ranks of district police, armed police, intelligence and technical and support services should form separate cadres. Seniority of each

\textsuperscript{551} The Punjab Police Act, 2007, p.13.
cadre should be maintained at the State level. Transfer of a member of one cadre to another cadre should not be allowed.

iii. The direct recruitment to various subordinate ranks in the Police Service shall be made through a State Level Police Recruitment Board or District Level Police Recruitment Board in a transparent manner;

iv. The mode of recruitment, pay, allowances and other service conditions of the members of the Police Service shall be such as may be prescribed.

v. The State Government shall provide for employment opportunities to women in the Police Service and may provide for separate physical standards for their recruitment and

vi. The State Government may restructure the district police in order to provide the public with an officer oriented civil interface of the police in such manner, as may be prescribed.552

vii. Appointment of Director General, Additional Director General Inspector General Deputy or Assistant Inspector General

viii. For overall direction, control and supervision of the Police Service, the State Government shall appoint a Director General of Police. He shall also exercise such powers, perform such functions and duties, and have such responsibilities as may be prescribed.

ix. The State Government may appoint one or more Directors General of Police, Additional Directors General of Police and as many Inspector General, Deputy Inspectors General or Assistant Inspector General of Police, as it may deem necessary.

x. The State Government may, by a general or special order direct in what manner

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552 Ibid.
and to what extent, an Additional Director General or an Inspector General or a Deputy Inspector General or an Assistant Inspector General of Police shall assist the Director General of Police in the performance, exercise and discharge of his power, functions, duties and responsibilities.

**Selection and Term of office of Director General of Police**

i. The State Government shall select the Director General of Police from amongst the Indian Police Service officers borne on the cadre of the State of Punjab or any other State Cadre, who are in the rank of Director General or are eligible to hold this rank for appointment as Director General of Police.

ii. The Director General of Police so appointed, shall have tenure of not less than two years, unless he attains the age superannuation.

Provided that the State Government may, transfer the Director General of Police before the completion of two years of his tenure he is: Conviction by a Court of law in a criminal case or whether charges have been framed against him by a Court in case involving corruption or moral turpitude or Incapacitated by physical or mental illness or otherwise becoming unable to discharge his functions as Director General of Police or promoted to a higher post under the State or the General Government.

Provided further that the State Government may also transfer the Director General of Police before the completion of two years tenure, for special reasons to be recorded in writing.

**Creation of Police Zones and Ranges**

i. Each Police zone should be headed by an officer of the rank of Inspector General of Police who should supervise the police administration of such zone and report to the Director General of Police.

ii. Each Police range shall be headed by an officer of the rank Deputy Inspector
General of Police, who should supervise the police administration of such range, and report to the Director General of Police through the Inspector General of Police of the Police Zone.\textsuperscript{553}

**Police Districts:**

The State Government may, by notification the Official Gazette, declare any revenue district of the state or part thereof, to be a police district. The administration of the police throughout such district. The administration of the police throughout such district should vest in the Senior Superintendent of Police of the district, who may be assisted by as many Superintendents of Police, Assistant Superintendents of Police Deputy Superintendents of Police, as the State Government may deem necessary.

**District Level Special Cells:**

For the purpose of dealing with particular category of crime or providing better services to the community at large including victims of crime, the State Government may, by notification in the Official Gazette, create one or more Special Cells in each police district, to be headed by an officer, not below the rank of an Inspector.

\textsuperscript{553} Ibid.
Police Sub-Divisions:

The State Government may, by notification in the Official Gazette, divide each police district into as many Sub-Divisions, as may be deemed necessary, which would be headed by an officer of the rank of an Assistant Superintendent of Police or a Deputy Superintendent of Police.

Police Stations:

i. The State Government may, on recommendation of the Director General of Police, create, by notification in the Official Gazette, as many Police Stations and outposts, as may be deemed necessary by it, in a police district, keeping in view the population, area, crime situation and the workload in terms of law and order and the distance, to be covered by the inhabitants to reach the Police Station.

ii. Each Police Station shall be headed by a Station House Officer, not below the rank of Sub-Inspector of Police or Inspector of Police, as per the post, duly sanctioned for such Police Station, subject to the fulfillment of the conditions that the official:

a. Should not be facing prosecution in a criminal case.

b. Should not have been served with a charge sheet in a vigilance enquiry or in a department enquiry, concerning serious misconduct involving moral turpitude.

c. Must have worked in the rank of Non-Gazetted Officer in a police station for a minimum period of three years.

d. Should not have been awarded a major punishment during a period of three years, preceding his posting as Station House Officer, and

e. Must not have been doubted in respect of his integrity for a period of five years, preceding his posting as Station House Officer.
iii. There shall be a crime investigation unit in each Police Station.

**Establishment of Community Police Resource Centre**

The senior Superintendent of Police of a district, shall get registered and established Community Police Resource Centre in the district, which may include among other things, streamlining of police Service delivery mechanism and initiatives, aimed at dissemination of information, redressal of public grievances, checking of domestic violence, assistance to elders, traffic education and management child protection, victim relief and checking of drug menace.\(^{554}\)

**Term of Office of Key Police Functionaries**

The officers posted to the following posts, should have a minimum assured tenure of one year against those posts, which shall be extendable to maximum period of three years.

a. Inspector General of Police of a zone
b. Deputy Inspector General of Police of a range
c. Senior Superintendent of Police,
d. Superintendent of Police
e. Assistant Superintendent of Police
f. Deputy Superintendent of Police
g. Station House Officer of a Police Station

**Intelligence and Criminal Investigation Wings**

The police should have an intelligence wing for collection, collation, analysis and dissemination of intelligence and a separate Crime investigation Wing for collection, collation and analysis of criminal intelligence and for investigating heinous crimes with inter-district or inter-state ramifications, major economic offences, cyber

\(^{554}\) Ibid.
crime or other cases of serious nature.\footnote{Ibid.}

**Technical and Support Service**

i. The State Government shall create and maintain such specialized and technical agencies and services under the Director General of Police, as may be considered necessary or expedient for promoting efficiency in Police Service.

ii. The services created under sub-section (1), shall include a full fledged Forensic Science Laboratory at the State Level, a Finger print Bureau, a State Crime Record Bureau and a Computer and Telecommunication Wing.

iii. Notwithstanding anything contained in sub-section (2) the Director General of Police may, if he so deems appropriate, hire or engage the services of an expert – whether a person or body on such terms and conditions, as may be prescribed to carry out the purposes of this Act.

iv. The Police shall have a Research Wing to undertake specific studies relating to issues having impact on police functioning and crime and crime-pattern in order to improve police functioning and performance. The Director General of Police may hire or engage the services of any person or body on such terms and conditions, as may be prescribed for carrying out these purposes. The Research Wing shall also undertake the following tasks, namely:

a. Preparation of five year perspective plans to modernize and upgrade police infrastructure with the objective of enhancing the professional competence and efficient management of the State Police; and

b. Keeping abreast of the latest technologies, successfully introduced by other police organizations within the country or abroad, and assessing the adoption or otherwise of such technologies by the State Police.
Police Training

i. The State Government should establish a Police Training Academy at the State level and as many Police Training Colleges and Police Training Schools, as may be deemed necessary by it for ensuring efficient post-induction training of all directly recruited police personnel in various ranks, pre-promotion training for all those, promoted to higher levels and such other general and specialized in-service training courses for Police personnel of different ranks and categories, as may be required from time to time.

ii. For the aforesaid purposes, the State Government shall procure the services of officers from the Police Service, or Paramilitary Forces or Armed Forces or other Professional Organizations, for the Police Training Academy, Colleges and Schools, referred to in sub-section (1) The aforesaid officers shall be selected after carefully examining their teaching aptitude. The State Government shall evolve a scheme of monetary and other incentives on the pattern of those, followed by Sardar Vallabhai Patel National Police Academy, Hyderabad to attract and retain the best of the available talent in the service of such training institutions.

iii. No police officer shall be deployed on duty without undergoing and passing the prescribed basic training. No police officer shall be promoted to any higher rank without undergoing and passing the prescribed pre-promotion training.

iv. The Director of the Police training Academy and the heads of Police Training Colleges and Schools may hire or engage the services of any person or body, qualified for the purpose of imparting the prescribed training on such items and conditions, as may be prescribed.

v. The State Government may establish training centers with the appropriate
infrastructures in each police district or city police commissionerate or Armed Police Battalion, as the case may be.

vi. The State Government shall frame rules to provide for the utilization of the capitation, fees, to be charged for training candidates from other States or Union Territories or countries for improving the infrastructure of such training institutions.556

Superintendence of State Police to Vest in State Government

The Superintendence of State Police shall vest in and be exercised by the State Government in accordance with the provisions of this Act.

Establishment of State Police Board

The State Government shall, within a period of three months of the coming into force of this Act, establish a State Police Board to exercise the functions assigned to it under this Act.

Functions of State Police Board

The State Police Board shall perform the following functions, namely:

i. To aid and advise the State Government in discharge of its functions and responsibilities under this Act.

ii. To frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing in accordance with the view.

iii. To review and evaluate organizational performance of Police Service in the State; and

iv. To identity shortcomings regarding infrastructure and equipment in police.

Strategic and Annual Plans

i. The State Government shall:

a. In consultation with the State Police Board, established under section 27, draw up a Strategic Policing Plan for a period of five years (hereinafter referred to as the “Strategic Plan”), duly identifying the objectives of policing, sought to be achieved during the said period and setting up an action plan for their implementation.

b. In consultation with State Police Board, draw Annual Policing Plan prioritizing the goals or Strategic Plan.

c. Place before the State Legislative, within a period of six months of the coming into force of this Act, the Strategic Plan. Subsequent Strategic Plan shall, be placed before the State Legislature every three years and

d. Place before the State Legislature, at the beginning of each financial year, a Progress Report on the implementation of the Strategic Plan as well as an Annual Policing Plan.

ii. The Strategic Policing Plan and the Annual Policing Plans shall be prepared after receiving inputs on the policing needs of the districts from the Senior Superintendents of Police and the Commissioners of Police, who, in turn, shall furnish the same in consultation with the public.\textsuperscript{557}

\textsuperscript{557} www.humanrightsinitiative.com
Administration of State Police

i. The Administration of Police shall vest with the Director General of Police and with such Additional Directors General of Police, Inspectors General of Police, Deputy Inspector General of Police and such other Police Officers, as may be appointed under this Act, under the overall superintendence and control of the State Government.

ii. The administration of police in a district shall vest with the Senior Superintendent of Police.

Powers and Responsibilities of the Director General of Police

i. The following shall be the responsibilities of the Director General of Police, namely:

a. To enforce the policies and other action plans, approved by the State Government; and

b. To administer, control, and supervise the police service to ensure its efficiency, effectiveness, responsiveness and accountability.

ii. The Director General of Police, with the approval of the State Government, may outsource any of the functions of the police in order to improve efficiency in the functioning of the police subject to rules framed under this Act.

Police Establishment Committees

i. The State Government shall constitute a Police Establishment Committee (hereinafter referred to as the Establishment Committee), which shall consist of the following police officers, at the Headquarters, namely: The Director General of Police Chairperson, The Head of State Intelligence Vice-Chairperson Wing, The Head of the Member, Administration Wing, The Head of Law and Order Member Wing, The Inspector General of Police
ii. The Establishment Committee shall decide with regard to transfers and postings of police officers of the rank of Deputy Superintendents of Police.

iii. The Establishment Committee shall also consider and recommend to the Director General of Police, the names of the non-Gazetted Officers for posting to a police range on initial appointment, or for transfer of subordinate ranks from one police zone or police range to another police zone or police range as the case may be, where such transfer is considered expedient for the Police Service.

iv. The transfers and postings of subordinate ranks, within a police zone, shall be decided by the Inspector General of Police of the zone on the recommendation of a Committee comprising of the Inspector General of Police of the zone and the Deputy Inspectors General of Police of all the ranges in that zone.

v. The transfers and postings of officers subordinate ranks, within a police range, shall be decided by the Deputy Inspector General of Police of the range on the recommendation of a Committee, comprising of the Deputy Inspector General of Police of the range and the Senior Superintendents of Police of all the districts in that range.

vi. The postings and transfers of officers of subordinate ranks within a police district shall be decided by the Senior Superintendent of Police of the district on the recommendation of all Superintendents of Police posted in the district.

Provided that the Director General of Police or any other officers authorized by him, may decide transfers falling under sub-sections (4), (5) and (6) at his own
Internal Security Scheme

i. The Director General of Police shall, with the approval of the State Government draw up an internal security scheme for the entire State as well as for each of the districts and urban areas to deal with problems of public order and security of the State as a whole or for any specific area or areas.

ii. The internal security scheme shall be updated regularly by incorporating therein, the latest comprehensive standard operating procedures for the actions, to be taken by the police either independently or in co-ordination with other agencies in the period before, during and after the occurrence of problems of each kind.

Investigation by District Police

The State Government may, by notification in the Official Gazette, cause separation of law and order machinery from the investigation wing in such municipal area, as may be deemed appropriate by it in order to bring about more professionalism. The investigation staff shall ordinarily not be diverted for any other duties, except with the permission of the Deputy Inspector General of Police of the Range concerned.

2. The State Government shall create in every district, specialized crime investigation unit, headed by an officer, not below the rank of an inspector with an appropriate strength of officers and staff, for investigating such categories of specialized crime, as may be deemed appropriate.

Investigation of Crime

The officers posted in the special crime investigation units, may investigate, crimes, such as murder, kidnapping, rape, dacoity, robbery, dowry-related offences,
serious cases of cheating, misappropriation and other economic offences, specified by the Director General of Police, besides any other cases, specially entrusted to the unit by the Senior Superintendent of Police of a district.\textsuperscript{559}

**Senior Police Officer Performing Duties of Subordinate Officer**

A senior police officer may, perform any duty, assigned by law of by a lawful order to any subordinate to him, and may aid, supplement, supersede or prevent any action of the subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more convenient effect to the law or for avoiding any infringement there of.

**Issue of Directions or Orders**

The Director General of Police shall be competent to issue directions or orders, not inconsistent with the provision of this Act or the rules framed there under regarding.-

i. Prevention and investigation of crime;

ii. Maintenance of law and order;

iii. Regulation and inspection of the police organization and of the work performed by the police officers.

iv. Regulating the issue and use of arms and ammunition;

v. Wearing of uniform;

vi. Organization, classification and distribution of the police force;

vii. Recruitment of subordinates, special police officers and ministerial staff;

viii. Specifying the places of residence of the members of the police service;

ix. Internal vigilance within the police;

x. Institution, management and regulation of any Non-Government fund for the purpose connected with the police administration or welfare of police

\textsuperscript{559} www.humanrightsinitiative.com
personnel;

a. Explanation— for the purpose of this clause. “Non Government Fund” shall mean a Fund, in which no contribution is made either by the State Government or by the public;

xi. Regulation, deployment, movement and location of the police;

xii. Assignment of duties to the officers of all ranks and grades, and specifying the manner and the conditions subject to which they shall exercise and perform their respective powers and duties;

xiii. Regulating the collection and communication or intelligence and information by the police;

xiv. Specifying the record, registers and forms to be maintained and the return, to be submitted by different police units and officers;

xv. Community policing;

xvi. Functioning of police force and management of training institutions;

xvii. Generally for the purpose of administering this Act and for rendering the police more efficient, and preventing abuse of power or neglect of duties by them; and

xviii. Covering any aspect of police administration, which is incidental co-related to the provisions of this Act or the rules framed there under.

**State and District Police Complaints Authority**

The State Government may by notification, constitute Police Complaints Authorities at the State level as well as a the District level.

**Welfare**

The State Government shall designate an officer, not below the rank of an Assistant Inspector General of Police to head a police welfare wing in the office of the
Director General of Police to aid and advise him in the implementation of welfare measures for police personnel.

**Grievance Redressal**

The Director General of Police with the approval of the State Government, shall constitute, a fair and transparent police grievance redressal mechanism for looking into the grievances of police personnel.

**Regulation of Public Assemblies and Processions**

i. The Senior Superintendent of Police of a district or an officer not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police may, where necessary, regulate the conduct of all the assemblies and processions on any public road, street or thoroughfare, and specify the routes by which and the time, at which such possessions may pass.

ii. It shall be the duty of the person who organizes a procession on any road, street or thoroughfare, or who convenes an assembly at any public place, to give intimation in writing to the officer incharge of the concerned police station.

iii. The Senior Superintendent of Police of a district or any officer, not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police, on receipt such an assembly or procession, if allowed without due control and regulation, is likely to cause a breach of the peace, may take necessary steps including making provision for satisfactory regulatory arrangements, upon which alone, such assembly or procession may take place. For special reasons to be recorded in writing, the concerned officer may also prohibit the assembly or procession in public interest. All orders and directions shall be given within
forty-eight hours of receipt on intimation, as far as possible.\textsuperscript{560}

\textbf{Offences by Public}

A person shall on conviction by a court be liable to imprisonment for a term, not exceeding one month or with fine of not less than one thousand rupees or with both, when he commits any of the following offences on any public road, or street or thoroughfare on footpath, or in any municipal council or corporation or notified area to the inconvenience, annoyance or danger of the residents or passers-by, namely:

i. Allows intentionally any cattle to stray or keeps standing any cattle or conveyance of any kind thereon longer than in necessary for loading or unloading or for taking up or getting down passengers, or leaves thereon any conveyance in such a manner, as to cause inconvenience or danger to the public or uses the public road or thoroughfare or footpath for sale or storage of goods.

ii. Is found intoxicated and riotous;

iii. Indulges in a drunken brawl or affray or assaults any person or indulges in any indecent exposure of the body;

iv. Neglects to fence in or duly protect any well, tank, hole or other dangerous place or structure under his charge or possession or otherwise creates a hazardous situation in a public place;

v. Defaces or affixing notices, or writing or drawing on walls, buildings, road signs or other structures without the prior permission of the custodian of the properly;

vi. Wilfully enters or remains without sufficient cause, in or upon any building, belonging to the Government or land or ground attached thereto, or any

\textsuperscript{560} \textit{Ibid.}
vehicle belonging to the State Government.

vii. Wilfully enters or remains without sufficient cause, in or upon any building, belonging to the Government or land or ground attached thereto, or any vehicle belonging to the State Government.

viii. Knowingly and wilfully causing damage to an essential service in order to cause general panic among the public.

ix. Acts in contravention of a notice publicly displayed by the competent authority in any State Government building:

Provided that the police shall take cognizable of this offence only upon a complaint made by an authorized functionary of the concerned office;

a. Knowingly spreads rumours or causes false alarm to mislead the police, fire brigade or any other essential service;

b. Causes annoyance to a women by making indecent overtures of calls or by stalking:

Provided that the police shall take cognizance of this offence only upon a complaint made by the victim, or any other person authorized by her; and releases any obnoxious gas or fluid which causes annoyance or inconvenience or likely injury to anyone.

**Powers of Senior Superintendent of Police to be Exercised by the Commissioner**

All powers, functions and duties of the Senior Superintendent of Police of a district under this Act, should be exercised, in respect of areas notified under section 8, by this commissioner or any other officer, who may be authorized in this behalf by the State Government.

**Disposal of Fees and Rewards**

All fees paid for licenses of written permissions, issued under this Act, and all
sums paid for the service of processes by police personnel, and all rewards, forfeitures and penalties or shares there of, which are by law payable to police officers as informers, shall, save in so far as any such fees or sums are payable under the provisions of any other law in force to any local authority be credit to the State Government in such manner, as may be prescribed.

**Consent of Competent Authority**

Whenever under this Act, the doing of or the omission to do anything or the validity of anything depends upon the consent, approval, declaration, options or satisfaction of a competent authority, a written document, signed by a competent authority purporting to convey or set forth, such consent, approval, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

**Power to Make Rules**

The State service training and more importantly, public appreciation for their arduous role in maintaining law and order.

The fifth obstacle has been the resource crunch for police. It can be seen from the fact that there are huge number of vacancies in the police and the police: population ration is extremely low (75 to 200 per 100,000 populations in India vis-à-vis 450 to 500 in developed countries). Police in India remained non-plan subject for long and was treated as a matter of expenditure. Of late, there is a realization that development and security are closely linked, and plan provisions are being made.

The last but not the least obstacle is the present system of making statistics as sole basis for evaluation of police performance, which should be replaced by qualitative parameters, such as operational efficiency, public satisfaction, victim
gratification vis-à-vis police investigation and response, accountability, optimum utilization of resources, and human rights record. The Model Police Act talked of these aspects.\footnote{www.humanrightsinitiative.com.} Government shall by notification in the Official Gazette, make rules for carrying out the purposes of this Act, within one year from the date on which this Act comes into force.

**Power to Remove Difficulties**

i. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification published in the official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulties.

ii. Every notification issued under this section shall, as soon as may be, after it is issued be laid before the State Legislature.

The foremost obstacle is the reluctance of political executive due to their apprehension that reforms shall weaken their control over police. The second obstacle is the rank-rivalry between the IAS and the IPS. Reforms seek to reduce the control of IAS over IPS, by assigning a coordination role to District Magistrate in certain crucial issues. A corollary to this rank-rivalry is an accepted norm to set up Police Commissionerates in cities having one million or more population, in which formal role of IAS diminishes. Control of IAS over IPS is an inheritance of colonial rule when Police officers were mostly from armed forces and lacked vision expected of a civil administrator. Since the present day District Collector shoulders primary responsibility of promoting developmental activities it would be unfair
to bother him/her with additional responsibility of supervising law and order.

The third obstacle appears to be the aversion of some top police managers to police accountability mechanisms, on the plea that already they are answerable to too many authorities, including loss Minority Commission, Human Rights Commission, etc. apart from the Government, the Magistracy and the Judiciary. The top police brass also fears of their authority.

The fourth obstacle, to some extent, seems the insistence of hardliners and their confrontational mode for implementation of the controversial issues such as State Security Commission and appointment and tenure of police chiefs. One needs to realise that the police reforms do not pertain only to top management. These also concern a lot more for lower functionaries that constitutes over 85% of the police force, who urgently need better working conditions, in-

If the reforms suggested by the Supreme Court are implemented into, by the state government, it will tone up the police machinery and improve its image. Simultaneously, there is a need for a general attitudinal change in the police. Efforts to insulate the police machinery from political interference will be of little value if police does not change its colonial mindset towards the people.

COMMISSIONS AND COMMITTEES ON JUDICIAL ADMINISTRATION

Since independence, the issue of appointment of judges of the Supreme Court has become a contentious issue\textsuperscript{562} and the power of appointment of judges has been

\textsuperscript{562} Constitution of India, Article 124(2).
shifting between the Executive and the Judiciary. Today, it is in the hands of the
Judiciary and the Executive is trying hard to get back its lost powers. The recent
suggestions for the constitution of a National Judicial Commission (NJC) should be
seen in this light. It reflects an attempt by the Executive to regain some of its lost
power or at least reduce the powers of the Supreme Court over judges’ appointments.
The adding of other issues like corruption, integrity and so on appear only as a cover
to the main issue. Consequently, the Judiciary has come out with ‘judges code of
conduct’ in order to deflect attention and make the proposed provisions of the NJC
appear redundant. Its defensive approach has hitherto served it well.

**LAW COMMISSION**

**80th Report, 1980**

On the basis of the recommendations of law commission, strength of NJC was
four all from the Supreme Court. But it was silent on the inclusion of the members
from High Courts, Law and Justice Department and any other Government member.
The reason behind such a composition of the NJC was to prevent Executive
arbitrariness or favouritism. At that point in time the Executive was playing a
dominant role in the appointment and promotion of judges and instances of
supersession (of judges) during Mrs. Gandhi’s regime were still fresh in public
mind.\(^563\)

**121st Report, 1987**

In the report the proposed strength of NJC was raised from four to eleven. In
addition to the CJI and 3 senior judges of the SC, one former CJI, three senior most
judges of the High Courts, Minister for Law and Justice, an outstanding legal
luminary and Attorney General of India were added. The purpose behind the

establishment of NJC was same as in the 80\textsuperscript{th} Law Commission Report i.e. to prevent arbitrariness of the Executive.\textsuperscript{564} The reason for inclusion of these members was to ensure equal participation of both the Executive and Judiciary in the appointment procedure.

**CONSTITUTIONAL AMENDMENT ACT, 1990**

In 1990, Dinesh Goswami, (the then Minister of Law and Justice) introduced a bill\textsuperscript{565} in Lok Sabha providing for the constitution of NJC. The proposed strength of the NJC was three including the CJI and the two senior most judges of the Supreme Court. Again the objective of the bill was to prevent any kind of arbitrariness in appointment of judges. National Judicial Commission was proposed to be based on the recommendations of the 121\textsuperscript{st} Law Commission, however the bill lapsed.\textsuperscript{566}

**COMMITTEE ON JUDICIAL ACCOUNTABILITY, 1996**

The Committee on Judicial Accountability proposed the strength of National Judicial Commission at five members. The CJI was to be its Chairman, one member from High Court and three members from the Government. The Committee however, did not include any member from Law and Justice Ministry/ Department. The reason given for such a composition was to maintain equilibrium between the Executive and the Judiciary in the selection of judges. But the composition was seriously flawed as it gave more representation to the government nominees and totally ignored the role of Minister of Law and Justice.

**NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION (NCRWC), 2000**

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\textsuperscript{565} *Lok Sabha Debates*, Ninth Series, Vol. VI, No. 4, Lok Sabha Secretariat.

The NCRWC also recommended the strength of NJC to be of five members. The Commission did try to involve the Law Minister but NCRWC totally ignored the role of the High Court judges.

**NATIONAL ADVISORY COMMISSION, 2001**

The National Advisory Commission recommended for seven members to be headed by the Vice President of India. The other members being the Prime Minister, the Speaker of Lok Sabha, the Leader of the Opposition in the Lok Sabha and Rajya Sabha, the Law Minister and CJI. It ignored the role of the Judiciary in the appointments. The reason given for the inclusion of Prime Minister and other Parliamentarians was to ensure that the Judiciary while remaining independent from other branches of Government, remains at the same time under the vigilance of people's representatives. We cannot expect the Judiciary to appoint and oversee itself.\(^{567}\)

**THE 98TH CONSTITUTIONAL AMENDMENT BILL, 2003**

In the 98\(^{th}\) Constitutional Amendment Bill also, the National Judicial Commission, was proposed to consist of five members with the Chief Justice of India as its Chairman. The members included two judges of the Supreme Court next to Chief Justice of India in seniority and two members from the Executive. Though the recommendations were in line with the report of the NCRWC, but it provided for one eminent citizen to be nominated by the President after consultation with the Prime Minister rather than the Chief Justice of India as was proposed by the NCRWC.

The bill has many flaws as on one hand it provides that the Commission’s recommendations for the appointment and transfer of judges will be binding on the President but on the other, it is silent on whether its advice to Chief Justice of India or

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\(^{567}\) Ibid.
Chief Justice of High Courts after an inquiry into the charges of misconduct or deviant behaviour of a judge will be equally binding on those authorities.\textsuperscript{568}

The composition of National Judicial Commission (NJC) needs closer examination. The Bar has not been given representation in the National Judicial Commission, leading to weakening of the selective procedure. The Commission was to give representation to one eminent citizen who shall be nominee of the President of India and he is likely to belong to the party in power. So there is a need for a person from the opposition or a senior non-party statesman who could provide an independent view in the matter.\textsuperscript{569} The Bill also did not provide for consultation with the Chief Justices and other judges of High Courts for appointments to be made to the respective High Court.\textsuperscript{570}

The analysis has revealed that there have been immense variations in the composition of NJC under the various recommendations. Some of them were more concerned about Executive members, whereas some others tried to give more representation to the Judiciary. Who shall judge the judges? This is a question which needs to be answered and require closer examination. As the recommendation varies in each case one cannot make out as to which organ is going to have or enjoy an upper hand in appointment of judges – the Executive or the Judiciary.

**DELAY IN FILLING UP HIGH COURT VACANCIES**

The vacancies in the High Court are not filled. The Judiciary blamed the Executive for not filling, up vacancies. The NDA Government in its election manifesto had promised to set up a NJC and to draw up code of ethics for judges

**Code of Conduct for Judges**


\textsuperscript{569} *Ibid.*

\textsuperscript{570} *Ibid.*
A resolution was passed in the Chief Justices Conference in 1997 which reads as under:

i. “Resolved that an in-house procedure should be devised by the Hon’ble Chief Justice of India to take suitable remedial action against judges who by their acts of omission or commission do not follow the universally accepted values of judicial life including those indicated in the ‘Restatement of Values of Judicial Life’.

ii. Resolved Further that every Judge should make a declaration of all his/her assets in the form of real estate or investments (held by him/her in his/her own name or in the name of his/her spouse and any person dependent on him/her) within a reasonable time of assuming office and in case of sitting judges within a reasonable time of adoption of this resolution and thereafter whenever any acquisition of a substantial nature is made, it shall be disclosed within a reasonable time. The declaration so made should be sent to the Chief Justice of the court. The Chief Justice should make a similar declaration for the purpose of the record. The declaration made by the Judges or the Chief Justice, as the ease may be, shall be confidential.”

Thereafter a ‘Restatement of values of Judicial Life’ (Code of Conduct) to serve as guide to be observed by judges was adopted in a full court meeting of the Supreme Court of India on May 7, 1997 which was later also adopted by the Chief Justices, in their conference held in December 1999.

With this, the Judiciary tried to put its own house in order. This also pre-empted the Government’s design of imposing its own version of code of ethics on the Judiciary.
This, however, met with serious criticism. The then Law Minister, Ram Jethmalani while inaugurating the fifth Convention on Judicial Accountability criticized the same as being inadequate. He, therefore, pleaded for the need for a NJC.\textsuperscript{571}

When proceeding of impeachment under Article 124(4) against Justice V. Ramaswami failed to muster the requisite majority in Lok Sabha, a new dimension was added to the controversy\textsuperscript{572} and the weaknesses in the impeachment procedure for judges were brought to the forefront. The procedure adopted in the Lok Sabha was flawed as dilatory and cumbersome.

\textbf{JUDGES (INQUIRY) ACT, 2006}

The statement of objects and reasons under the Judges (Inquiry) Act, 2006 states that the act, is based on the premise that judicial independence is one of the basic feature of the Constitution and that judicial independence and judicial accountability are inseparable.

The act, proposes to regulate the procedure for investigation and inquiry under a complaint procedure. The Bill \textit{inter alia} seeks to empower for imposing minor measures against the erring judges.\textsuperscript{573} The bill also seeks to repeal the Judges (Inquiry) Act, 1968. In short, the bill was brought to maintain judicial independence and judicial accountability but it has some drawbacks as well which are as under:

i. The Bill seems to be a replica of the ‘in house procedure’ already adopted by the higher Judiciary. There is hardly any major change introduced in it.

ii. The Constitution contemplated the principle of independence of a judge. If a judge is made answerable for his conduct through ‘complaints procedure’, his mind shall not be free for providing fair judgement. Judge under such an

\textsuperscript{571} The Tribune, Chandigarh, December 1999.
\textsuperscript{572} Monica Arora, no. 30, p.53.
atmosphere shall not be able to decide cases where Government is a party. It shall damage the reputation of the Judiciary as the existing and prospective litigants shall lose faith in it. Therefore, self regulation in the present circumstances shall be a better alternative.

iii. The Constitution has assigned separate power among the three organs of Government i.e. Executive the Legislature, and the Judiciary. Under this scheme, the only check on Judiciary is through the power of impeachment which cannot be initiated by a person filling complaint.

Because of above mentioned weaknesses, the Government agreed to withdraw the Judges (Inquiry) Bill, 2006 and introduce an amended Judges (Inquiry) Bill, 2008. The Union Government gave its approval for introducing the 2008 Bill in Parliament for giving effect to some recommendations made by the Law Commission in the 195th Report.574 As per the Bill, the NJC shall consists of the CJI, two senior-most judges of the Supreme Court and two Chief Justices of the High Courts to be nominated by the CJI irrespective of their seniority. However, in case of a complaint/reference against a judge of the Supreme Court, the council shall consist of CJI and the four senior most judges of the Supreme Court. The introduction of the Bill was aimed at bringing transparency in the functioning of the Judiciary.575

The proposals for constitution of a National Judicial Commission was not seriously taken up by the Executive. The NDA Government introduced the Constitution (98th Amendment) Bill, 2003 providing for a National Judicial Commission (NJC) with power to recommend for appointments to the higher Judiciary and examining complaints of deviant behaviour against judges. The UPA Government did not accept that and introduced a Judges (Inquiry) Bill 2006 which

provided for setting up of NJC to deal with complaints and not appointments. There appears to be a desire for action but there is no clear Unanimity on the issue. The recent case against the Calcutta High Court judge, Justice Soumitra Sen, against whom charges of financial misconduct have been levelled and a case against justice Nirmal Yadav of Punjab and Haryana High Court who has been charged of a hand in ‘cash at a judges door’ scam have strengthened the demand in favour of NCJ.

However, as a matter of fact, there appears be some sort of tacit understanding between the two organs. As Mehta noted, no major politician has been charged in any of the numerous corruption cases that the Court had been monitoring for many years and the Executive on its part has also been coming to the rescue of the alleged corrupt and erring judges and constitution, of a potent NJC is perhaps being stalled knowingly.576

COMMISSIONS AND COMMITTEES ON PRISON ADMINISTRATION

Both Government of India and Government of Punjab constituted various committees and commission on jail administration for its reformation. These committees are given bellows:

ALL INDIA JAIL MANAGEMENT COMMITTEE 1951-52

This committee was formed under the U.N expert, Dr. W.C. Reckless which submitted its report in 1960. The committee gave following recommendations:-

i. The setting up of the Central Bureau of Conventional Services which was later redesigned as the National Institute of Social Defense.

ii. Opposed the handcuffing of the juvenile delinquent by the courts to the prisons which are meant for adult offenders.

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iii. Advocated that a cadre of properly trained personnel was essential to main prison services.

iv. Gave a fillip to specialized training of correctional personnel.

v. Proposed a revision of outdated prison manuals and introduction of legal substitutes for short sentences.

vi. Advocated the development of full time probation and revising board for after-care services and also the establishment of selection of prisoners for premature release.

vii. Establishment of an Integrated Department of Correctional Administration in each state comprising of prisons, borstals, children institution, probation services and after-care services.

viii. Establishment of an Advisory Board of Correctional Administration at the central government level to help the state government in development of correctional programmes.

ix. Creation of national forms for exchange of professional expertise and experience in the field of correctional administration.

x. A conference of senior staff of correctional departments should be held periodically.

xi. The year 1952 witnessed as a breakthrough in national coordination in correctional work as in that year the Eighth Conference of the Inspector General’s of Prisons were held after a lapse of 17 years.

In pursuance to the recommendation made by the eighth conference of Inspector General of Prisons and also by Dr. W.C. Reckless, the Government of India
appointed the All India Jail Manual Committee in 1957. The purpose of the committee was to prepare a model prison act and other relevant central laws and suggest any central legislation and to make proposals for prisons reform to be adopted uniformly throughout the country. The committee submitted its report to Government of India in 1960. The recommendations of the committee are given below:

- The care of prisoners should be entrusted to the adequately trained staff drawing sufficient salary to render faithful service.
  a. The separation of executive/custodial, ministerial and technical staff in prison service.
  b. The diversification of the prison institution i.e. separate jail for various category of prisoners and a minimum of 675 sq.feets (75sq.yards) per prisoners was prescribed within the enforcing wall of the prison.

It is ironical that the recommendations made by this committee could not be implemented due to unconducive political environment.
In the year of 1980, the National Police Commission gave suggestions on prison administration. The commission looked into issues like ‘arrest’, detention in custody, interrogation of women and delay in investigation. The commission also gave suggestions to amend laws and procedure to cut down delay at trial stages and avoid custodial violence.577

The Government of India constituted a committee on jail reforms under the chairmanship of Justice A.N. Mulla in 1980. The committee submitted its report in 1983. The committee explained all aspects of prison administration and made 658 suitable recommendations of various issues of prisons management which were circulated to all states and UTs for implementations. The main recommendations are given below:

i. The state secretariat should have the requisite expertise in prison administration to assist the government in policy decisions.

ii. Senior officers having experience of convectional administration should be posted in the Department of prison, both at union and state levels.

iii. A “Model Manual” was prepared in 1970 and circulated to all states.

577 Ibid.
iv. There is a considerable scope for NGO’s to work in the field of treatment, after care and rehabilitation of offenders.

v. There shall be in each state and union territory a Department of Prison and correctional services dealing with the adult and young offenders.

vi. The state shall endeavor to evolve proper mechanism to ensure that no under trial prisoners be detained. This shall be achieved by speeding up trials, simplifications of bails procedures and periodic review of cases of under trial prisoners. Under trial prisoners should, as far as possible, be confined in separate institutions.

vii. Living condition in every prison and allied institutions should be compatible with human dignity in all aspects such as accommodation, hygiene sanitation, food, clothing etc.

viii. Prison services should be developed as a professional career service.

ix. Probation, after care, rehabilitation and follow up offenders should form an integral part of Department of Prison.

x. Endeavour should be made both by union and state courts to provide adequate resources for the development of prisons and other allied services.

xi. The government recognizes that the process of reformation and rehabilitation of offenders is an integral part of the total process
of the social reconstruction, and therefore the development of prison should find a place in the national development plans.\textsuperscript{578}

**NATIONAL EXPERT COMMITTEE ON WOMEN PRISONERS 1986-87**

This committee was constituted by Government of India under the chairmanship of justice Krishna Iyer. The committee submitted its report in 1987. The following are some recommendations many of which do not cast any financial burden for their implementation.

i. Women prisoners, like man should be informed of their right under the law.

ii. Women constables should conduct searches.

iii. Women doctors should do medical checkup of women prisoners.

iv. Women prisoners should be allowed to contact their families and communicate their lawyers.

v. Women prisoners should be allowed to keep their children with them.

**NATIONAL POLICY ON PRISON REFORMS AND CORRECTIONAL ADMINISTRATION, 2005**

In the year 2005 a committee was constituted for preparing the draft policy paper on the strategy relating to prison reforms and correctional administration under the chairmanship of Shri N.C. Joshi, Direction General, Bureau of Police Research and development. The objective of the committee was to review the present status and suggest amendment on the prison related laws enacted by Union Government. The Committee submitted its draft in January 2006.

\textsuperscript{578} www.prisonreform.org.
This committee gave many recommendations, which can be summarized as under:

i. The young offenders aged 18 to 21 should not be confined to prison meant for adult offenders, as they become more prone to crime while in the company of more experienced and hardened criminals.

ii. The release of hardened criminals before their stipulated term should be given serious though as afar as possible, easier bail provisions using 436-A of the Cr. P.C. and use of probation of offenders act, 1958 should be pressed into service. It would not only reward good behavior of these prisoners, but also take care of the overcrowding in prison.

iii. Serious thought should be given to ensure that prisoners must be given their basic rights of consultation with their lawyer. It should also be ensured that video conferencing as proposed should in no way impede these basic rights.

iv. Prison officials of all ranks should be given special training and orientation for improving prison security and making Indian prison better place.

v. The strength of judges should be increased in higher judiciary for expedited appeal hearing.

vi. Modern method of information technology and e-governance should be pressed into service to improvement in prison administration.
COMMITTEES ON PRISON ADMINISTRATION CONSTITUTED BY PUNJAB GOVERNMENT

After having referred to all India Committee, we may now deal with the reports of the three Committees appointed in Punjab; the first two belong to the pre-independence period and the last was appointed immediately after the partition of the country.

SPECIAL COMMITTEE ON PRISONS, 1924

It was appointed to enquire into the management of Punjab prisons. The Committee scrutinized instances of unauthorized punishments in the jails of Punjab and also the questions of indulgence, which were equally unauthorized. The report pleaded for the abolition of some forms of punishments and considered the problem of overcrowding in jails, At the instance of the Committee, the “paule system” was introduced and pecuniary rewards by way of incentive for better behaviour were introduced.\textsuperscript{579}

PUNJAB JAILS ENQUIRY COMMITTEE, 1929

Some of the important recommendations of the Committee which bears direct resemblance to the present day stress on humane treatment are as follows:

i. Under-trial prisoners should only be handcuffed when considerations of safe custody imperatively require it. All under trial prisoners should, subject to the requirement of safe custody, be permitted to sleep in the open during summer.

ii. The prisoners should be allowed to have access to their own books and also to receive books from public libraries with prior permission of the jail superintendent.

iii. Every jail should be supplied with one daily newspaper in English, Urdu, Gurmukhi or in Hindi at State expenses.

**EAST PUNJAB JAIL REFORMS COMMITTEE 1948-49**

Among the matters which came under its consideration were as follows:

i. Modifications in the law relating to prisons;

ii. Probation system;

iii. Consideration of changes in diet system;

iv. Jail industries and industrial training to the prisoners;

v. Functioning of the reformatory schools;

vi. Establishment of Prisoner’s Aid Societies; and

vii. Miscellaneous improvements.\(^{580}\)

**PRISONERS' STANDING COMMITTEES**

Prison Department has constituted five Standing Committees. These Committees will be elected by the prisoners from amongst themselves periodically, to associate the prisoners in matters relating to food, medical care, drug control, discipline inside the jails and the fifth for parole and premature release cases. These Committees are being constituted by way of follow up action on grievances of prisoners brought to the notice of the National Human Rights Commission.\(^{581}\)

\(^{580}\) *Ibid.*  
\(^{581}\) *Ibid.*
MODEL PRISON MANUAL OF PUNJAB

Bureau of Police Research and Development (BPR&D) has recently prepared a draft model prison manual, for adoption by states, in order to:

i. Bring basic uniformity in the legal framework of prison administration of the country;

ii. Lay down framework for custody and treatment of offenders;

iii. Ensure uniformity and standardisation of practices;

iv. Lay down minimum standards for the care, protection, treatment, education, training and resocialisation of prisoners;

v. Evolve procedure for human rights initiatives in prisons;

vi. Individualise institutional treatment of prisoners;

vii. Delineate the duties and functions of the prison staff at various levels in objective terms;

viii. Provide a scientific basis for the treatments of women, adolescent and high security prisoners;

ix. Develop coordination between prisons and other components of Criminal Justice System;

x. Forge constructive linkage between prison programme and community-based welfare institutions;

xi. Make prisons a safe place by maintaining security and discipline; make the best use of prisons for reformation and rehabilitation of offenders;

xii. Provide basic minimum facilities to prisoners to maintain human dignity, as prisoners are not born they are made, they are sent to prisons not for punishment but as punishment, by being imprisoned they do not become a non-person and it is the crime and not the criminal which is to be hated.
The draft model manual incorporates the recommendations of the Committees on Prison Reforms, conforms to the statutory provisions and law laid down by Supreme Court and other courts, and deals with welfare of prisons’ staff and development of human resources for prison administration. The representatives of States and National Commission for Women were also involved in its drafting.\(^582\)

**SELF-FINANCING SCHEME FOR CONSTRUCTION OF NEW PRISONS IN PUNJAB**

Many prisons in Punjab are located on sites, which have now become prime land. If these prisons were to be shifted to new sites, the land at which they exist at present would fetch a handsome price that would meet expenses involved in setting up new and modern jails at new sites and construction of more jails. For evolving a concrete scheme for this purpose, the Punjab Jail Authorities and Punjab Urban Development authorities are examining the issue of disposal of the existing sites of jails and reestablishment of new model jails away from crowded locality.

\(^{582}\) Ibid.
PUNJAB PRISON AND CORRECTIONAL SERVICES ACT 2010.

Strengthen the criminal justice administration and to ensure public safety and achieve efficiency in correctional practices, the Government of Punjab passed Punjab Prison and correctional services Act, 2010 under the Chairmanship of Dr. Upneet Lalli, Deputy Director of the institute of correctional administration. The object of this act was to provide for safe, secure and humane correctional system and this act, will ensure care of under trials prisoner and work towards reformation and rehabilitation of offender. This act also will provide a humane environment that promotes Law abiding behaviour in custody and successful re-entry into society.\(^{583}\)

MALIMATH COMMITTEE ON CRIMINAL JUSTICE ADMINISTRATION, 2003

In April 2003, the Government of India constituted a committee on Reforms of the Criminal Justice System, headed by Justice Dr. V.S. Malimath, former Chief Justice of the Karnataka and the Kerala High Courts and former member of the National Human Rights Commission of India. The Committee submitted its report to the Ministry of Home Affairs. The Malimath Committee recommended an overhaul of the entire criminal justice system.

The Committee gave 158 recommendations. A few important recommendations are given below:

i. A preamble shall be added to the Code [of Criminal Procedure] on the following lines: "Whereas it is expedient to constitute a criminal justice system for punishing the guilty and protecting the innocent.

a. "Whereas it is expedient to prescribe the procedure to be followed by it,

b. "Whereas quest for truth shall be the foundation of the criminal justice system,

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c. "Whereas it shall be the duty of every functionary of the criminal justice system and everyone associated with it in the administration of justice, to actively pursue the quest for truth.

d. It is enacted as follows:

ii. A provision on the following lines be made and placed immediately above Section 311 of the Code: "Quest for truth shall be the fundamental duty of every court."

iii. Section 311 of the Code be substituted on the following lines: "Any Court shall at any stage of any inquiry, trial or other proceeding under the Code, summon any person as a witness or examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined as it appears necessary for discovering truth in the case."

iv. Provision similar to Section 255 of the Code relating to summons trial procedure be made in respect of trial by warrant and sessions procedures, empowering such court to take into consideration, the evidence received under Section 311 (new) of the Code in addition to the evidence produced by the prosecution.

v. Section 482 of the Code be substituted by a provision on the following lines: "Every Court shall have inherent powers to make such orders as may be necessary to discover truth or to give effect to any order under this Code or to prevent abuse of the process of court or otherwise to secure the ends of justice."
vi. A provision on the following lines be added immediately below Section 311 of the Code:\(^{584}\)

vii. Power to issue directions regarding investigation

viii. "Any court shall, at any stage of inquiry or trial under this Code, have such power to issue directions to the investigating officer to make further investigation or to direct the Supervisory Officer to take appropriate action for proper or adequate investigation so as to assist the Court in search for truth."

ix. Section 54 of the Evidence Act be substituted by a provision on the following lines: "In criminal proceeding the fact that the accused has a bad character is relevant."

x. Explanation: A previous conviction is relevant as evidence of bad character.\(^{585}\)

**Right to Silence**

On the issue of Right to Silence as guaranteed under Article 20(3) the Committee felt that while respecting the right of the accused, a way must be found to tap this critical source of information. The Committee felt that without subjecting the accused to any duress, the court should have the freedom to question the accused to elicit the relevant information and if he refuses to answer, to draw adverse inference against the accused.

The Committee felt that the accused should be required to file a statement to the prosecution disclosing his stand.

**Rights of the Accused**

On the issue of Rights of the Accused, the Committee recommended that all the rights of the accused flowing from the laws and judicial decisions should

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\(^{584}\) www.punjabgov.nic.in

\(^{585}\) Ibid.
be collected and put in a Schedule to the Code. The Committee also felt that they should be translated by each State in the respective regional language and published in a form of a pamphlet for free distribution to the accused and the general public.

**Justice to Victims of Crime**

As regards justice to victims of crime, the Committee recommended that the system must focus on justice to victims. Therefore the Committee has made several recommendations which include the right of the victim to participate in cases involving serious crimes and to adequate compensation.

The Malimath Committee gave some recommendations on police administration that are given below:

i. The Investigation Wing should be separated from the Law and Order Wing.

ii. National Security Commission and the State Security Commission at the State level should be constituted, as recommended by the National Police Commission.

iii. To improve quality of investigation the following measures shall be taken:

   a. The post of an Addl SP may be created exclusively for supervision of a crime.

   b. Another Addl. SP in each District should be made responsible for collection, collation and dissemination of criminal intelligence; maintenance and analysis of crime data and investigation of important cases.

   c. Each State should have an officer of the IGP rank in the State Crime Branch exclusively to supervise the functioning of the Crime Police. The Crime Branch should have specialized squads for organized crime and other major crimes, etc.

iv. The training infrastructure, both at the level of Central Government and State Governments, should be strengthened for imparting state of the art training to
the fresh recruits as also to the in-service personnel. Hand-picked officers 
must be posted in the training institutions and they should be given adequate 
monetary incentive.
v. Law should be amended to the effect that the literate witness signs the 
statement and illiterate one puts his thumb impression thereon. A copy of the 
statement should be mandatorily given to the witness.
vi. Audio/video recording of statements of witnesses, dying declarations and 
confessions should be authorized by law.
vii. Interrogation Centres should be set up at the District Hqrs. in each District. 
With facilities like tape recording and or videography and photography etc.
viii. Forensic Science and modern technology must be used in investigations right 
from the commencement of investigation. A cadre of Scene of Crime officers 
should be created for preservation of scene of crime and collection of physical 
evidence there-from.
ix. The network of CFSL's and FSL's in the country needs to be strengthened for 
providing optimal forensic cover to the investigating officers. Mini FSL's and 
Mobile Forensic Units should be set up at the District/Range level. The Finger 
Print Bureaux and the FSL's should be equipped with well-trained manpower 
in adequate numbers and adequate financial resources.
x. An apex Criminal Intelligence Bureau should be set up at the national level for 
collection and dissemination of criminal intelligence. A similar mechanism 
may be devised at the State, District, and Police Station level.
xi. As the Indian Police Act, 1861, has become outdated, a new Police Act must 
be enacted on the pattern of the draft prepared by the National Police 
Commission.
xii. Section 167(2) of the Code be amended to increase the maximum period of Police custody to 30 days in respect of offences punishable with sentence more than seven years.

xiii. Section 167 of the Code which fixes 90 days for filing charge sheet failing which the accused is entitled to be released on bail be amended empowering the Court to extend the same by a further period up to 90 days if the Court is satisfied that there was sufficient cause, in cases where the offence is punishable with imprisonment above seven years.

xiv. A suitable provision be made to enable the police take the accused in police custody remand even after the expiry of the first 15 days from the date of arrest subject to the condition that the total period of police custody of the accused does not exceed 15 days.

xv. A suitable provision be made to exclude the period during which the accused is not available for investigation on grounds of health, etc., for computing the permissible period of police custody.

xvi. Section 438 of the Code regarding anticipatory bail be amended to the effect that such power should be exercised by the Court of competent jurisdiction only after giving the public prosecutor an opportunity of being heard.

xvii. Section 161 of the Code be amended to provide that the statements by any person to a police officer should be recorded in the narrative or question and answer form.

xviii. Identification of Prisoners Act, 1920 be suitably amended to empower the Magistrate to authorize taking from the accused fingerprints, footprints,
photographs, blood sample for DNA, fingerprinting, hair, saliva or semen etc., on the lines of Section 27 of POTA 2002.  

**Courts and Judges**

For reforming the judicial system, the committee made the following recommendations.

i. Qualifications prescribed for appointment of judges at different levels should be reviewed to ensure that highly competent judges are inducted at different levels.

Special attention should be paid to enquire into the background and antecedents of the persons appointed to the Judicial Offices to ensure that persons of proven integrity and character are appointed.

ii. Intensive training should be imparted in theoretical, practical and in court management to all the Judges.

iii. In the Supreme Court and High Courts, the respective Chief Justices should constitute a separate criminal division consisting of such number of criminal benches as may be required consisting of judges who have specialized in criminal law.

Such judges should normally be continued to deal with criminal cases until they demit office.

Vacancies in the criminal divisions should be filled up by appointing those who have specialized knowledge in criminal law.

iv. In the subordinate courts where there are more judges of the same cadre at the same place, as far as possible assigning of civil and criminal cases to the same judge every day should be avoided.

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v. In urban areas where there are several trial courts some courts should have lady judges who should be assigned as far as possible criminal cases relating to women.

vi. A High Power Committee should be constituted to lay down the qualifications, qualities and attributes regarding character and integrity that the candidate for the High Court judgeship should possess and specify the evidence or material necessary to satisfy these requirements. Reasons should be recorded with reference to these criteria by the selecting authority.

vii. The Chief Justice of the High Court may be empowered on the lines of the US Judicial Councils Reform and Judicial Conduct and Disabilities Act 1980.

viii. The Committee recommends that the Law Commission's consultation paper on case management be accepted and the proposals carried out without any delay.\textsuperscript{587}

**Trial Procedures**

The Committee gave concrete suggestions for reforming trial procedures. Some of its recommendations are quoted as under:

i. Section 260 of the Code may be amended by substituting the word "shall" for the words "may if he think fit."

   a) Section 260(1)(c) of the Code be amended empowering any Magistrate of First Class to exercise the power to try the cases summarily without any special empowerment in this behalf by the High Court.

   b) The limit of Rs. 200/- fixed for the value of property under Section 260 (1) (c) (ii, iii, iv) be enhanced to Rs. 5000/-

\textsuperscript{587} Ibid.
ii. Section 262(2) be amended to enhance the power of sentence of imprisonment from three months to three years.

Section 2(x) be amended by substituting the word "three" for the word "two."

iii. That all Magistrates shall be given intensive practical training to try cases following the summary procedure.\(^{588}\)

**Vacations for the Courts**

In view of the large pendency and mounting arrears of criminal cases, the long vacations for the High Courts and Supreme Courts in the larger public interest, the Committee recommended that there should be a reduction of the vacations. Hence, the following recommendations are made:

i. The working days of the Supreme Court be raised to 206 days.

ii. The working days of the High Courts be raised to 231 days.

iii. Consequently, the Supreme Court and the High Courts shall reduce their vacations by 21 days on the increase in their working days.\(^{589}\)

**Offences against Women**

For protecting women from various offences, the Committee recommended that a man who marries a second wife during the subsistence of the first wife should not escape his liability to maintain his second wife under Section 125 of the Code on the grounds that the second marriage is neither lawful or valid.

**Organised Crime and Terrorism**

For containing global terrorism committee gave following recommendations:

i. The Nodal Group recommended by the Vohra Committee be given the status of a National Authority with a legal framework with appropriate composition.

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\(^{588}\) *Ibid.*

\(^{589}\) *Ibid.*
This Authority may be mandated to change the orientation and prescription of law enforcement agencies, sensitise the country to the dimensions of the problem and ensure that investigations of cases falling within the ambit of the Authority are completed within a specified time-frame; The Authority should be empowered to obtain full information on any case from any agency of the Central or the State Governments; It should also have the power to freeze bank accounts and any other financial accounts of the suspects/accused involved in cases under its scrutiny; The power to attach the property of any accused. That the Code of Criminal Procedure provide for attachment, seizure and confiscation of immovable properties on the same lines as available in special laws. A Central, special legislation be enacted to fight Organised Crime for a uniform and unified legal statute for the entire country.

ii. That in view of the legal complexity of such cases, underworld criminals/crimes should be tried by federal courts (to be established), as distinguished from the courts set up by the State Governments.

iii. A Department of Criminal Justice be established to not only carry out the recommendations of the Committee but also set up a Committee, preferably under an Act of Parliament, to appraise procedural and criminal laws with a view to amend them as and when necessary.

iv. A comprehensive and inclusive definition of terrorists' acts, disruptive activities and organised crimes be provided in the Indian Penal Code 1860 so that there is no legal vacuum in dealing with terrorists, underworld criminal sand their activities after special laws are permitted to lapse as in the case of TADA 1987.
v. The sunset provision of POTA 2002 must be examined in the light of experiences gained since its enactment and necessary amendments carried out to maintain human rights and civil liberties.  

**Economic Crimes**

For containing economic crimes in spite of well over 70 laws, apart from earlier laws in the Committee gave following recommendations:

i. Sunset provisions should be continued in statutes and these provisions be examined keeping in view the continuing changes in economy and technology. Such statutes should not be allowed to become out-of-date which can be ensured by comprehensive drafting of those statutes to cover future crimes.

ii. The procedural laws regarding presumption of burden of proof in the case of economic crimes should not be limited to explanation of an accused who must rebut charges conclusively.

a. Adverse inference should be drawn if violation of accounting procedures are prima facie established and public documents, including bank documents, should be deemed to be correct.

iii. Sentences in economic offences should not run concurrently, but consecutively. Fines in these cases should be partly based on seriousness of offence, partly on the ability of the individual/corporation to pay, but ensuring that its deterrence is not lost.

iv. Legislation on proceeds of crime be enacted on the lines of similar legislation in the UK and Ireland. An Asset Recovery Agency at the Federal level and similar agency at the State Levels may be created.

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v. Most economic crimes are amenable to investigation and prosecution by the existing law and institutions, there are still some economic offenders of such magnitude and complexity that could call for investigation by a group of a different kind of specialists. Therefore, it is recommended that a mechanism by name 'Serious Fraud Office' be established by an act of Parliament with strong provisions to enable them to investigate and launch prosecution promptly.

vi. To inspire the confidence of the people and to ensure autonomy, the Chairman and Members of the Serious Fraud Office be appointed for a term of not more than five years following a procedure that itself should inspire confidence, integrity, objectivity and independence.

a. In a similar manner, State Government must set up Serious Fraud Office, but appointment be made in consultation with the Chairman of the Central Fraud Office to eliminate political influence.

vii. The Committee recommends that the existing Economic Intelligence Units under Ministry of Finance be not only strengthened suitably by induction of specialists, state of the art technology and specialised training. To achieve a common preventive strategy for tackling serious economic crimes, it is necessary that a closer coordination be maintained between the National Authority, the SFO, the Intelligence Units and the regulatory authorities as also private agencies. They should develop and share intelligence tools and databases, which would help investigation and prosecution of cases.

viii. For tackling serious economic offences, it is necessary that our domestic laws are made compatible with laws of other Countries. Mutual legal assistance, under appropriate Conventions/Treaties/Protocols of the United Nations should be developed for exchange of information of a continuous basis.
ix. It is recommended that to reduce the work of judges, the responsibility of recovery of assets be given to a newly created Assets Recovery Agency which will deal with not only forfeiture of confiscation on behalf of courts and government departments but also support in certain other types of work.

Training – A Strategy for Reform

"Government and judiciary will be well advised to invest in training according to the eight point agenda (set out in the section on 'Training Strategy for Reform') for reaping the benefits of criminal justice reforms in reasonable time."

Vision for the Future

Society changes, so do its values. Crimes are increasing especially with changes in technology. Ad hoc policy making and piecemeal legislation is not the answer. The Committee therefore recommends the following:

i. That the Government may come out with a policy statement on criminal justice.

ii. That a provision be incorporated in the Constitution to provide for a Presidential Commission for a periodical review of the functioning of the Criminal Justice System.

**NATIONAL POLICY DRAFT ON CRIMINAL JUSTICE ADMINISTRATION 2006**

In 2006 the committee on criminal justice reforms constituted by the government of India, Ministry of Home affairs, under the chairmanship of Dr. N.R. Madhava Menon, former director of the National Law University at Bangalore and Calcutta. Shri Anil Chowdry of former secretary (internal security) to Government of India and Shri Mohan Dayal Rijhwani, a Senior member of the Bombay Bar were the
members of the committee. Shri Kamal Kumar, former Director of the National Police Academy was inducted as a member of the committee after his retirement.

**Object and Terms of Reference**

The mandate of the committee was to draft a National Policy paper on criminal justice. Keeping in mind the prevalent criminal laws, orders and judgments of various courts, contemporary socio-cultural value and the need to have a “justice delivery system which is faster, fairer, uncomplicated and inexpensive. India is one among the few countries in the development world which has attempted to administration which would seek to set standards not only on use of legislation to secure freedom from crime but also in limiting to exercise to state power in the interest of rule of law and of human rights. The challenges is to secure the right balance freedom and security in constructing the National Policy and in ensuring compliance on the part of the multiple players including the state government which are primarily looking after criminal law and administration.\(^{591}\)

**Elements of a National Policy**

The key elements of a national policy on Criminal Justice include:

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\(^{591}\) *Ibid*
i. The role of the central and state government given the scheme of the constitution in respect of law and policy making as well as their implementation;

ii. The imperative of Human Rights Protection and obligation of the state under the constitution and international human right instruments;

iii. The implication of terrorism and organized crime which raise issues of national security;

iv. The relative neglect of victim in the criminal justice administration;

v. The lack of adequate data and systematic planning for better co-ordination, increased efficiency and performance evaluation of the system;

vi. The special needs of weaker section of the people in policy making and allocation of resources for the system;

vii. The need for diversion, settlement and alternate ways of dealing with crime;

viii. The question of deterrence and effectiveness of punishments;

ix. The role of media, civil society and NGO’s in prevention of crime and treatments of offenders etc;

Each of the above elements may comprehend policy choices touching upon the law, the institutions and procedures of the system thus making the policy drafting exercise complex, difficult and controversial.592

SECOND ADMINISTRATIVE REFORMS COMMISSION 2009

592 Ibid
The Second Administrative Reforms Commission submitted its fifteenth report on state and district administration on April 2009 to the Ministry of personnel, public Grievances and pensions. Under the chairmanship of Veerappa Moily. Many of the recommendation made in this report particularly on public order government, NEREGA crisis management, conflict resolution and financial management have a direct bearing on the administration at the state and district level etc.

In its report on public order, the commission dealt with the much delayed, but essential reform of police organization and the criminal justice administration; the need for reforms of prisons the future of some special laws, and, the role of political parties civil society and the media. Since public order and police are the state subjects under the seventh schedule of the Constitution of India. The recommendations made in the report are, to a large extent, to be acted upon by the state government and their law enforcement agencies. Some of the important recommendations relating to criminal justice administration are:

1. The commission recommended that their should be a separate machinery for prosecution under a district attorney.
2. Their should be setting up a police establishment committees to ensure fixed tenure for senior police functionaries.
3. For strengthening of the intelligence mechanism, their should be a transparent complaint system by appointing independent complaint authorities both at state as well as district level.
4. The commission has also recommended substantial reforms in the criminal justice administration such as setting up local courts citizen friendly registration of FIR, prescribing rules for inquest, amendments to section 161, 162 of Cr.PC., making confessions before the police admissible as evidence, amendment to Section 311 Cr.PC., and modernization and reform in prison administration.

5. Crime investigation should be separated from police function. A crime investigation agency should be constituted in each state.

6. The tenure of the chief of the law and order police as well as chief of the crime investigation agency should be at least three years.\footnote{\url{www.pib.nic.in}}

The central government and governments of states took some very good steps especially during the post independence period for the reformation of the criminal justice administration but still there are inadequacies in terms of their numbers and the facilities available in administration. Many commissions and Committees are appointed by government from time to time but suggestions of the Committees and commissions are not implemented practically.
The quality of justice determines the quality of society and governance. Just as pollution poisons the atmosphere, the poor justice system poisons the social atmosphere. Equal and fair justice is the hallmark of the society. The quality of justice in civilized society largely depends on a quality of investigation, investigation agencies, judges, magistrate and lawyers. Unfortunately, the justice in India seems to be almost completely dominated by lawyers and their vested interests. In total exclusion of other wings of administration justice system. Most of the people who are arrested even for serious offences are not tried promptly and were released at the first appearance by on the spot decision by unscrupulous argument submitted by the defence lawyers.

In every civilized society, the primary role of criminal justice administration is to protect the member of that society. Justice system in this respect is a formal instrumentally authorized by the people of the nation to protect both their collective and individual rights. Another duty of any administration of criminal justice is the maintenance of law and order. Since crime and disorder disrupt stability in the society. Therefore, we have vested the criminal justice administration with the authority to act as means by which the existing order is maintained.

Criminal justice dispensation is as old as the mankind. It is oftenly said that the crime and man were born together. With the development of the society the criminal law, like other laws has undergone tremendous change. The concept of crime therefore, involves the idea of a public as opposed to a private wrong with the consequent intervention between the criminal and the injured party by an agency representing the community or public as a whole. In this view the crime is the intentional commission of an act or omission deemed socially harmful or dangerous.
and specifically defined, prohibited and punishable under the criminal law, which shall be in force for the time being.

In the modern civilized society only the violation of rules, regulations proclaimed and enforced by agencies of the government technically are crime. Although crime is sometime viewed in a very broad way as the violation of any important group standard of as the equivalent of anti-social, immoral and sinful behaviour, much immoral behaviour is not covered by the criminal law and violation of some laws included in the criminal code are not regarded as immoral or even anti-social, or are so regarded only by a small portion of the population. No matter how immoral, disgusting of harmful an act may be it is not legally a crime unless it is covered by a law which prohibits it and prescribes punishment for it.

The criminal justice administration is comprised of police, court and correctional machinery. The police is responsible for controlling crime, maintaining law and order and act as an investigating agency. The courts are prosecuting agencies in criminal justice system. Finally, the aim of the correction is institutionalizing the activity of the offender and rehabilitating into full and useful participation in the society.

The criminal justice administration in India has evolved over a period of three thousand years. Initially, the law or Dharma, as propounded in the Vedas was considered supreme in ancient India for the king had no legislative power. During the Muslim rule in India though enlightened monarchs like Sher Shah Suri and Akbar showed great zeal to administer justice impartially, yet as a whole the administration of justice during the Muslim period in India suffered from defects. Lord Hastings took special interest in reorganizing the police force to deal with the criminal and maintain law and order in the country.
Thus the British introduced reforms wherever necessary. They adopted new principles by modifying the existing law wherever required and made new laws where they felt it was must. The institutions of police, majesty, judiciary and jails developed during the British period still continue without significant changes in their structure and functioning. However, the British rulers also, while restructuring the criminal justice administration, did not fully implement the concept of equality. The reform introduced by the treated all Indian and non British Europeans equally the British always enjoyed special privileges. It was only with the constitution of India coming into being that the right to equality before law was fully recognized and incorporated in the constitution as a Fundamental Right.

Constitutional provision, it is observed that the ideals of equality, liberty and dignity of the individual were kept constantly in view while framing the Constitution. The framers gave top priority to ‘justice’. They made several provisions for criminal justice and its administration in the Constitution itself. While recognising rights of the people, the imperatives of security, unity and integrity of the state were also kept in view constantly.

The Constitution allows the state, which includes the police and magistracy, to impose reasonable restrictions on some of the fundamental right of the people in certain circumstances to maintain order, decency, morality, etc.

Thus, the Constitution contains adequate provisions for fair administration of criminal justice. However, for achieving desired result, the provision needs to be implemented meticulously obeying the spirit behind them and not just the latter.

Considerable developments have been made in the correctional services in post-independence period. The retributive theory of punishment has given way to
reformative and rehabilitative theories. Separate prison establishment have been opened for women and young prisoners.

In India, prison system has existed from the earlier times, although their management had not been good. Prisoners used to be lodged in those prisons but no attention was ever paid toward their proper upkeep since the whole object had been to punish them for the crime they had ones committed. During the period preceding the British rule, the prisoners were ill-treated, tortured and subjected to barbarous treatment, and even today jails are no more a place of dingy and depressing confinement.

The Prison Department of Punjab Government has remained neglected for several years now. It has been starved of resources of maintain its physical infrastructure. Quality of its human resources has also declined perceptibly due to indifference towards in-service training of employees. Simultaneously, offenders’ population has been increasing resulting in congestion in living space and consequent pressure on the existing facilities and amenities inside the prisons. All these factors have invited public criticism of the prisons department.

Prisons are terribly overcrowded and overpopulated. Over 14000 prisoners are lodged in the prisons of Punjab against provision for about 11000 at present. The real intention of imprisonment is to rehabilitate the criminal. But, the general manner in which the rituals of life are rigidly administered and enforced inside jails, tend to dehumanise the prisoners. Jails do not function to reforms and rehabilitate the criminals.

One of the most important requirements towards reforming the prison system is to make available adequate prisons to house the increasing number of prisoners. Overcrowding of jails not only causes congestion and paucity of basic amenities, but
also overburdens the jails staff resulting the poor supervision. The statistics of jail occupancy during the year 1997 shows that in many of the states the inmates population was more than the capacity of the jails.

In India, the police, the courts and other correctional agencies tend to be isolated from each as well as from others communities groups, welfare agencies and human rights institutions. It appears that the administration of police, courts, prison and probation services tend to maintain their *statue quo*. As agents and organs of the government, the police and courts conform to traditional practices. The primary goals of criminal justice administration can best be secured only through proper coordination between the different wings of criminal justice agencies.

**FINDING OF THE STUDY**

- The study revealed that the frequency of the police raids shot up after 1988 and increased further in 1991; the number declined after 1993.

- The study shows that during the period of 2000 incidence of total IPC crime in the country increases by 0.4 per cent, while in Punjab this crime during 2000 increased by 20.2 per cent. The IPC crime in Punjab has been increasing subsequently over the years.

- The study shows that during the period of 2000 total Special and local Laws (SLL) crime in India as compared to 1999 increased by 7.9 per cent. In Punjab this crime in 2000 compared to 1999 increased by 4.6 per cent. In the study the sharp decline was noticed at all India level and at the Punjab level.

- It was reported that the behaviour of the police became more nasty and insulting during the later phase the families of the terrorists and those who gave shelter were made the special targets.
In addition to the above, enforcement of many newly enacted social laws, security of vital installation, law and order duties for procession, morchas, strikes bondh etc. consume large number of police personnel who could otherwise be deployed in crime prevention work. Consequently, the actual availability police for crime prevention and investigation work appear to have decreased and therefore, shortage of manpower is one of the major factors responsible for increase in crime rate.

The police being an emergency force, it is necessary that the police personnel’s are provided with suitable residential accommodation near their place of duty so that they are available for any exigency. If the force is readily available on short notice field level officer such as the officers-in-charge of police station, can make its optimum utilization by organizing sudden nakabandhis, combing operation, nights patrolling, etc, which can help keep crime under control.

The Criminal Justice Administration in Punjab is both time-consuming and expensive. It helps those defendants who have money to get the justice delayed in their favours, and thereby to emerge as ultimate beneficiaries, while the victim and the poor and ignorant defenders becomes the worst sufferers.

One of the major indicators to determine the quality of Criminal Justice Administration is the rate of conviction in criminal offences which implies percentage of cases that resulted in conviction of the accused to the number of cases in which trials were completed during a particular year. The data reveals that the rate of conviction in Punjab has decreased. The pendency rate is very high i.e. 75.5%.The disposal rate is 33.8% in IPC crimes. It needs to be emphasized that
the actual incidence of crime is not reflected in official data since a large number of crimes are either not reported to the police or if reported, not registered by the police. Nevertheless, Whatsoever is in the above figures would be contend that our Criminal Justice Administration has been suffering from certain maladies resulting in a wide performance gap on a persistent basis.

- The main reason for the decreasing rate of conviction is faulty and slipshod investigation by the police which, in turn, is largely due to inadequate staff for investigation work and inability of the concerned police official to pursue investigation on day-to-day basis with a sense of commitment and determination.

- The study revealed that the investigating officials have limited time for investigation. Their major time is taken in performing other duties connected with maintenance of public order, receiving VIP who frequently visit district headquarters, petition enquiries, preventive patrol and surveillance, court attendance, etc,

- The study revealed that Police officials lack professional capability and competence in detecting crime investigation because they are not sufficiently exposed to rigorous training and refresher courses in and outside the country. Therefore they lack knowledge, skill and aptitude meant for crime investigation and detection.

- The study revealed that there is lack of coordination between police and prosecution which leads to increasing rate of acquittal i.e. 33.8% from the period of 1990 to 2000.

- The study revealed that Jail Administration has been unable to promote adequate accommodation to the prisoners and under trials.
The study also revealed that existing Criminal Justice Administration in India, which remains by and large a colonial legacy, is not very effective to combat the deep-rooted corruption in the society. The laws pertaining to the Criminal Justice Administration are outdated and need reforms.

**SUGGESTIONS**

The evaluation of the performance of the criminal justice administration discloses deterioration in its ability of controlling and punishing crime. It is now the time of analyzing the reason of failure and suggestion solutions thereof. The suggestion relating to various components of the criminal justice administration are put in the same order in which the component are generally placed, i.e., the criminal law, police, bar, judiciary and prisons. Efforts are made to make empirical and practicable suggestions to improve the efficacy of the criminal justice administration rather than recommending radical changes and idealistic theories. The study has offered following suggestions to make Criminal justice Administration more effective:

The image of Indian police, as it exists, is quite discouraging and unsatisfactory. Some drastic reforms are essential though proper policing for a better functioning of the Indian police in the 21st century and to turn the same as an ideal police. Certainly, the challenges and problems of 21st century are bound to be more complex and demanding. Only a highly motivated, trained and well-equipped police force can tackle political, economic, technological and social changes of the 21st century. Definition of the role of police in India, repeal of Police Act, 1861, police accountability, new command and control structure, decentralisation of police and people’s involvement and steps to improve the quality of police personnel and
bringing about altitudinal change in them must be given priority in the 21st century. Enhancement of professional skills, police professionalism, better facilities and equipments for the police, curbing political interference in the work of the police and adoption of rapid advancement in the information technology is the need of day. Image of the police needs to be revived as a friend and community’s services agent with social acceptability.

To meet the challenges in the 21st century, the police reforms must also be based on a number of valuable recommendations made from time to time by Law Commission of India, as well as police commissions. For strengthening police in the 21st century, some legal reforms are essential in procedural law, confessional statements made before police officers and forensic evidence. The British module and some of the provisions of Criminal Justice and Public Order Act, 1994, could be incorporated in the Indian laws. Challenges of computer crime are to be faced with knowledge of latest computer technology.

The police uniform, the police language, powers of arrest, police custody, concept of police stations, police interrogation, police behaviour, corruption in police, police discipline, police morality and police-public relation need to be taken care off. The aspect of international importance, i.e., Indian police will have to build up new police sub-culture of human rights, respects and sensitisation to the various human rights issues with full dedication and commitment. The training syllabus at various levels also needs a change to give in adequate input of human rights. A policeman must be properly trained in the 21st century about observation of human rights to make an ideal police in the new millennium.

The role of the police as a central agency of criminal justice is to detect and prevent crimes and to maintain law and order in society is basic one. This role has not
changed and can never be changed. But the manner in which this role has to be performed has called for changes. A policeman has to be sympathetic, humane and considerate, and police should have a clear perspective of his role in changing context. In recent times, the dimensions of the role have expanded. In the present welfare state, the police is expected to be aware of the needs and aspiration of the people and required to behave accordingly.

The judiciary in India has enjoyed immense public respect. But no institution can take for granted the reverence of community. The people demand from every institution the proof of its utility. Today the judiciary is required to act at a time when the nation is witnessing a rapid social change caused by scientific and technological revolution. Hence, law and courts must be avowedly instrumental in performing its role at a much faster speed than now.

There is gross inadequacy of judges to cope up the enormous pendency and new inflow of cases. The existing judges-population ratio in India is 10:5:13 per million population against 50 judges per million population in the many parts of the world. The Supreme Court has given direction to all the states to increase the judge strength by five times in a phrased manner within the next five years. The vacancies in the High Courts have remained unfilled for years. This must be remedied quickly. Judges do not have sufficient time to frame charges in a smooth way because of rush of cases. The more entrustment of the power for appointment to the National Judicial Commission will not ensure appointment of competent and upright judges. There is need a process to ensure objectivity and transparency in this behalf. This requires laying down the precise qualification, experience, qualities and attributes that are needed to in a good judge and also the prescription of objective criteria to apply to the overall background of the candidate. Criminal work is highly specialized and to
improve the quality of justice only those who have expertise in criminal work should be appointed and posted to benches to deal exclusively with criminal work.

In the subordinate courts where there are more judges of the same cadre at the same place, as far as possible assigning of civil and criminal cases to the same judge everyday should be avoided. In the urban areas where there are several trial courts some courts should have lady judges who should be assigned as far as possible criminal cases relating to women. Judges and magistrates be made known regarding the importance of change. There must be given training with regard to framing of charges against the alleged accused.

The prime function of the court is to impart fair and impartial justice. In order to ensure fair trial to an accused person impartiality of judges is very important. The judges have to discharge this arduous task with utmost care and caution so that public confidence in judicial process is not shattered. The presiding judges must be aware that his verdict in the case is going to make a lasting impression upon the accused about justice or injustice depending on his rightful or wrongful acquittal or conviction.

There is an urgent need to overhaul the present judicial machinery in order to cope up with the problem of delay.

It is said that the quality of justice depends more on the quality of the man who administers the law than on content of the law they administers. It follows logically that judges must be assured of an optimum degree of independence and relative freedom from pull and pressures both inside and outside the government.

The salary and other service conditions of judges are also not very attractive. This fact discourages the luminaries in the profession to join the bench. Thus, the salary and other service condition of the judges should be improved to attract the best
brain in the profession. It would in turn to improve the working efficiency of the courts.

In India, there are only 13 judges per million people as compared to about 100 in the United States and they are burdened with daily workload. In order to dispose off the cases quickly the number of judges in the lower courts has to be increased.

Supreme Courts Benches should be constituted outside Delhi. Establishment of Bench of Supreme Court outside Delhi will dilute the role of Apex Court in the country.

Establishment of fast track courts in the states to deal with the backlog of minor cases should be given top priority.

There should also be a fixed time limit for the disposal of criminal case.

In many parts of western countries have developed courts calendars, for utilising scientific management techniques, wherein the movements of each cases is prescribed, dates of hearing in each case are determined and total service time for a case, depending upon its nature, is laid down. The situation prevailing in the courts in India is highly miserable. A considerable amount of time is wasted in the service of summonses on the witnesses and in other technical procedures due to unscientific management of techniques. Apart from the colossal waste of time, the imaginable uncertainties about the dates of hearing are too apparent to need recapitulation. Hence, the development of a calendar is needed. It will undoubtedly reduce the number of adjournments.

It has been observed by the many investigators that many adjournment in the lower courts are granted by the presiding officers because they do not want to gain displease of the senior member of the war. The reasons for this are not for to seek.
These facts require considerable attention in view of the importance attached to the notion of independence of the judiciary.

Law Commission in its 37th Report has accepted the view that venue of trial has an important role to play in ensuring fair trial to the accused person. According to Section 177 of the Criminal Procedure Code, every offence shall ordinarily be inquired into and trial by court within whose local jurisdiction it was committed. If the place of trial is highly inconvenient to the accused person and causes various impediments in the defence preparation, the trial at such place cannot be called a fair trial. Apart from exceptional circumstances it would be convenient both to the prosecution and to the defence if the trial is conducted by a court within whose jurisdiction the offence was committed. Trial at any other distant place would generally mean hardship to the parties in the production of evidence.

Due to delay in decision making particularly in trial courts, the summary procedure prescribed by the Section 262 to 264 of the Criminal Procedure Code should be adopted. It would quicken the pace of justice considerably. All offences which are punishable with the imprisonment of three year or below should be tried summarily. The punishment prescribed for summary trial should be increased to three years. At present the Code only specially empowered magistrate can exercise summary power which should be given to all judicial magistrates. The trial should be conducted on the basis of day to day hearing and granting of adjournment should be avoided.

Paucity of funds to construct new jails and large number of under-trials languishing in jails for very long periods because of inordinate delay in disposal of the cases appears to be the major causes of over occupancy. For example, in Tihar Jail in Delhi, at least 73 per cent of the 9000 odd inmates were involved in petty offences.
Therefore, the cases involving under-trials prisoners should be taken on priority basis and available capacity of jails should be enhanced by constructing more jails. Deferring arrests and granting bail in less serious offences, liberal use of probation in suitable cases to avoid incarceration, releasing the prisoners on parole to ease out the congestion, and the concept of open prison, may also be considered to ensure that prisons remain reformative houses for convicted and hardened criminals.

The Jails are supposed to be so organised, so that inmates receive human treatment and proper training to become better citizens. Therefore, specialized training programmes, including sessions on understanding human psychology, behaviourism, human rights, yoga, the spiritual development, etc. should be organised to enhance the capabilities of jail staff.

One of the most glaring reasons for poor quality of jail administration is the poor quality of jail employees at various levels. There are flaws in the recruitment policy, training career development and many other personnel policies, which adversely affect the quality of jail administration. For example, all jail superintendents in Punjab had joined service at a very low level and have reached such high positions without going through proper training. Their lack of officer-like qualities finds expression in the manner in which they deal with the problem of administration. They do not exert for enforcing discipline among subordinate staff and prisoners, give excuses for not following various procedures laid down in the prison manual and are part of corruption prevalent in jails. It is essential to have a relook regarding how to select personnel for various levels in the administrative hierarchy of prison department.

The buildings for kitchen in many prisons are old and badly designed, therefore cooks and helpers are also cooking meals in antiquated ways. Kitchen
building should have a design to accommodate modern cooking equipment. It will ensure saving on manpower, cleanliness in cooking operation and distribution of cooked food.

Buildings for dispensaries in most of the prisons are small with very little space for storing medicine properly. There is also hardly any space for setting up needed equipment for pathological work, dental treatment, ailment of eyes, chest (X-ray machine), etc. Each prison should have a dispensary building of reasonable size, where certain equipments and fittings can be accommodated for the benefits of the prisoners.

The room for meeting of prisoners with their visitors should be redesigned in such a fashion that the visitor can meet with the prisoners in privacy. This place should also have an efficient screening system to make sure that undesirable things are not smuggled into the prisons. Therefore, the prisons should also be equipped with screening and frisking equipment.

A control room fitted with communication facilities controls the office equipments. It should be so designed that the required staff has adequate sitting and working place, and there is also need to enough space for keeping stationery and record, which is required for efficient functioning of a control room.

There should be a conference facility where the jail superintendent can organise meeting with his own staff, visiting officers and persons and there should be office rooms for all staff of the prisons. There should be a proper place for keeping weapons and a guardroom.

The houses for officers and lines (barracks) for the subordinate staff of the jail are in a very bad state of upkeep due to non-availability of financial resources from the government. Several proposals are pending with the government under the
modernisation scheme. There is an urgent need for the government to release funds for implementation of these proposals to fulfil pressing needs of the prisons.

Video conferencing facility should link each prison with court having jurisdiction in the area. The facility would primarily include a computer/ TV monitor, control for up linking with satellite or underground cables connecting prisons with courts, a room to set up the facility in the prisons. This facility would drastically reduce requirement of prisons having to travel to courts and its attendant security risks. Disposal of cases of under-trials would also be expedited resulting in reduction of congestion in prisons.

It is an urgent need of the day to make criminal justice administration more speedy and vibrant so that no citizen is denied of his or her basic rights of justice. A systematic and well-managed police administration, well-trained and fully professional police force can safeguard human rights of common people to a great extent. The police personnel should perform their duties within the existing framework of law and fulfil the requirements of the Constitution and also the Human Rights Covenants. The Indian Penal Code, Code of Criminal Procedure, Indian Evidence Act, etc., which are enacted by the British rulers more than a century back, are failing to meet the challenges arising out of new form of crime today. The existing law and procedures should be thoroughly overhauled, keeping in view the Covenants of Human Rights and also the Constitution of India and changing need and international opinion in respect of crime control and prevention strategies.

It has also been opined time and again that adversely procedural technicalities of law in India need simplification to cut short the delays. They are highly critical of maintaining the illusory distinction between summons trials and warrant trial and uncertainty of interpretation of ‘interlocutory orders’. It is thereby suggested that the
distinction between summons trial and warrant trial should be abolished, as it creates confusion and consumers courts time.

In order to make people aware of court procedure regarding the posting of the case for evidence or other stages, wide visual media publicity should be given, so that people also aware of the significance of the posting of the case and the importance of attending the proceeding at the relevant stages.

The existing accused oriented system needs to be replaced with a victim oriented one, and for this the burden of proof should lie with the accused. In order to protect the poor and ignorant accused under the new system, the existing free legal aid scheme is required to be strengthening with necessary measures. Further, the victims must get the sensitive and polite treatment as well as safe custody, under the care of the select civil society organization.

The purposeful administration of criminal justice cannot be effectively implemented without proper orientation at all levels and the coordinated functioning of all three agencies involved in this process, i.e., the police, the criminal courts and the correctional administration consisting of the prison service, the probation service and the correctional agencies only when this vital coordination is secured at all stages and at all levels, will it be possible to achieve the real purpose of the crime prevention by the reformation and the rehabilitation of the criminals.