CHAPTER – 1

POLICE & SOCIETY: TOWARDS A
SOCIOLOGICAL
UNDERSTANDING
Before we enquire into the relationship between police and women’s rights it is important to study the sociology of the complex relationship between police and larger society. It is often said that no society can reproduce itself without the consolidation of shared norms and collective order. And it is argued that police plays a key role in fulfilling this function. In other words the role of police as an agency of surveillance, as a protector of order or as a law and order machinery has always attracted the attention of social scientists. This chapter further contributes to this sociological understanding of police – society relationship. To begin with we have looked at the notion of social order and examined how two classical sociologists, Durkheim and Weber provided the foundation for an understanding of Social order. This takes us to the other important domain of enquiry i.e. police as an important constituent of the law and order machinery. But in order to have an adequate and meaningful understanding of this aspect of social reality, we ought to historicize our sociological findings. That is why in this chapter we have also examined the historical trajectory of Indian police and particularly dealt with changing realities in Post-colonial societies like ours. This seems to be the reason why it has become important to raise the issue of human rights, particularly when Indian police expected to contribute to the process of democratisation of the society. We have therefore, inquired: Whether in contemporary times some systematic efforts have been made to make our police-force sensitive to the agenda of human rights.

I - Law and order: Glimpses from Sociological Texts

Social life consists of a constant struggle between those forces, which operate to maintain the social order, and that force, which produce disorder and change. The organization of human is not a well-ordered beehive. Over population, crowding, inequality, injustice, discrimination and other disruptive forces generate disorder, foster deviance and drive people to revolt. In a real sense, we live in the midst of a constant struggle between mechanisms of social control and social tendencies for deviance, conflict and dissents. Societal battlefield has no right and wrong sides, for the forces of control are not always benign nor are those of deviance and dissent always malevolent. This battle never ends as it addresses the most fundamental sociological question: How is some degree of order to be maintained in a society? This very question had haunted the founding fathers of Sociology – Durkheim, & Weber as well. One does not need to advocate the status-quo to realize that societies which can not provide some provisional answers to this question are marked by constant turmoil and change and that although conflict and change can often improve unpleasant condition, there must be some way to create cooperation and consensus among people in society. Without these, society collapses or, as is often the case in human affairs, it becomes an area of constant upheaval. Now we will shift our attention towards how

---

classical sociologists like Durkheim and Weber had confronted the concept of “Order” through their writings.

First we will focus our attention on Durkheim who lived through a very turbulent period in French history. Due to this his overriding concern as a moral man and scientist was with the social order. Durkheim believed that the traditional sources of morality upon which the social order was built, especially religion, were no longer viable or valid without serious and rational alterations. This program of the study was concerned with the Social order (essentially a moral one) and disorder, the forces that make for regulation or deregulation in the body social.

As Durkheimian notion of order was essentially a “moral” one, we should know what his idea of morality is all about. In only two places did Durkheim provide a detailed discussion of morality. One is Durkheim, “Moral Education: A Study in the Theory and Application of Sociology of Education” (Free Press, New York 1932) and other is an articles published in 1906 on, “The Determination of Moral Facts” in E. Durkheim, Sociology and Philosophy (New York free press 1924). For Durkheim Morality consist of 1). Rules 2). Attachments to groups and 3). Voluntary Constraint. Each is examined briefly below.

**Rules:** Morality is ultimately a system of rules for guiding the action of people. At for rules to be moral the most vital to additional elements.

   a). Authority:- Moral rules are invested with authority, that is people feel that they ought to obey them, and they want to abide by them. Moral rules are “System of commandments”.

   b). Desirability: - Moral rules also specify the “desirable” ends towards which a collectivity of people should direct its energies. They carry conceptions of the good and desirable and must therefore be distinguished from strictly utilitarian norms.

**Attachment to Groups**: Moral rules attach people to groups. They are the products of interaction in groups, and as they emerge they bind people to groups and make them feel a part of a network of relation that transcends their individuals being. Durkheim termed these two facts of morality the spirit of discipline. Morality provides a spirits of self control and a commitment to the collective. In term of the concepts developed in suicide, morality eliminates anomic and egoism because its regulation desire and attaches people to the collective. But true morality in a modern society must do something else. It must allow people to recognize that the constraints and restraints it imposes on them are in the “Natural order of things”.

---

2 Abraham and Morgan: “Sociological Thoughts”, Macmillan India Ltd., N. Delhi, PP. 103
4 Ibid PP 345
Voluntary constraint: - Modern morality must allow people to recognize that unlimited desires (anomic) & excessive individualism (egoism) are pathological states. These states violate the nature of human society & can be corrected only by morality. In simple societies morality seems to operate automatically. But “the more societies become complex, more difficult (it becomes) for morality to operate as a purely automatic mechanisms”\(^5\) Must be constantly implemented & altered to changing conditions.

All moral actions, Durkheim says, have two sides: “the attraction to an ideal or set of ideals, in one side. But moral rules also have characteristics of obligation or constraint, since the pursuit of moral end is not always inevitably founded upon the positive valence of ideals\(^6\).”

Durkheim’s concern for moral social order manifested in his highly polemical work “The Division of Labour”\(^7\). (1893). The main proposition developed in the “Division of Labour” is that “modern complex society is not in spite of the declining significance of traditional moral belief inevitably tending towards disintegration. Instead, the “normal” state of the differentiated division of labour is one organic stability. The main substantive problem which is at the root of Durkheim’s concern in “The Division of Labour” stem from an apparent moral ambiguity concerning the relationship between the individual and society in the contemporary world. On the one hand the development of the modern form of society is associated with the expansion of individualism. Therefore, it is not difficult, Durkheim states, to show that there are strong current of moral ideals in the present age which express the viewpoint that the individual personality should be developed according to the specific qualities which the person has and hence that not everyone should receive uniform education\(^7\). There are other contradictory moral trends which are also strong and which praise “the universally developed individual.”

An understanding of sources of these apparently contradictory moral ideals according to Durkheim, can be achieved only through a historical and sociological analysis of the causes and effects of the expansion of the division of labour. The increase in social differentiation, which is characteristic of the process of development from traditional to modern form of society, can be compared to certain biological principles. In the evolutionary scale. The first organisation to appear one is simple in structure but they paved the way for the organisation which show a higher degree of internal functional specializations.\(^8\) The more specialized the functions of the organisation, the higher its level on the evolutionary scale.\(^9\) This is paralleled in Durkheim’s analysis of the development of

---


7 Ibid PP 73

8 Ibid PP 74

9 Durkheim, Division of Labour PP 41
the division of labour and its relationship to the moral order. In order to analyse the
significance of differentiation in the division of labour, we have to compare and contrast the
principles according to which the less developed societies are organised with those which
govern the organisation of the advanced societies.

This change can be measured through changes in the nature of Social solidarity. Since Social Solidarity is, according to Durkheim as in the case of every moral phenomenon not directly measurable, it follows that in order to chart the changing form of moral solidarity “we must substitute for the internal fact which escapes us an external index which symbolises it”\(^{10}\). Such an index can be found in legal Codes. Whenever a stable form of social life exists, moral rules eventually come to be codified in the shape of laws. While on occasion there may be conflict between customary modes of behaviour and law. This is, according to Durkheim, exceptional and occurs only when law “no longer corresponds to the state and existing society, but maintains itself, without reason for so doing, by the force of habit”\(^{11}\).

Durkheim defines crime simply as the violation of an imperative or prohibition. In the sociological sense of the term, it is simply an act prohibited by the collective consciousness. Every society at any given moment of its history has a collective morality, and crime is simply an act that offends the collective sentiment.

Durkheim refutes the popular assumption that crime is pathological, or an example of social morbidity. He insists that crime is normal. Crime has always been present in all societies of all types; a society exempt from it is utterly impossible. “To classify crime among the phenomena of normal sociology is not to say merely that it is an inevitable, although regrettable phenomenon; it is to affirm that it is a factor in public heath, an integral part of all healthy societies.”\(^{12}\) To admit the morality of crime is to admit that there will always be some violations that offend the collective consciousness. Even a society of saints, a perfect cloister of exemplary individuals, is not exempt from it. However, crime may, on occasion, assume abnormal forms, especially when its rate is unusually high.

According to Durkheim, crime is not only normal, it is also necessary: “it is bound up with the fundamental conditions of all social life. It is useful, because these conditions of which it is a part are themselves indispensable to the normal evolution of morality and law.”\(^{13}\). Crime brings about needed changes in society; it implies that the way remains open to necessary changes and in certain cases it even prepares these changes. Thus there is a vital link between deviance and progress. This is the only way we can explain the progressive changes brought about by such great moral innovators as Socrates, Buddha,

\(^{11}\) Durkheim. “Division of Labour”, PP 64
\(^{13}\) (ibid PP-70)
Jesus or Gandhi who rebelled against the system but for the reconstruction of a new moral code.

Now, if crime is normal and necessary, then the criminal is no longer “a totally unsociable being, a sort of parasitic element, a strange and inassimilable body, introduced into the midst of society. On the contrary, he plays a definite role in social life. Crime, for its part, must no longer be conceived as an evil that cannot be too much suppressed.” Indeed, there are types of crime, the very existence of which is a sound indication of the healthy nature of social order.

Having thus outlined a theory of crime, Durkheim has offered a theory of punishment. Durkheim rejects the classic interpretations, which claim that the purpose of punishment is to prevent the repetition of the guilty act. If crime were a disease, its punishment would be its remedy. However, since crime is normal, and not pathological, punishment cannot be a cure for it.

The purpose and meaning of punishment lie in what Durkheim calls “passionate reaction” of a community to violation of its customs or laws, which has offended the collective consciousness. So the function of punishment is to satisfy the collective consciousness which, having been offended, demands reparation, and the punishment of the guilty is the reparation offered to the feelings of all. The roots of punishment lie not so as its desire to do something for itself; punishment, therefore is a kind of vengeance exercised by the collective consciousness to satisfy itself. Durkheim maintains that the essence of punishment has not changed in modern society. “The continuity of crime and punishment lies in the fact that it is through crime and punishment, in their spasmodic eruptions, that a community is able to reaffirm, give emotional intensity to support the community's most fundamental values.”

A legal percept can be defined as a rule of conduct, which is sanctioned; and sanctions can be divided into two major types- repressive sanctions and “restitutive sanctions”. Repressive sanctions are characteristics of penal law, and consist in the imposition of some kind of suffering upon the individual as a punishment for his transgression. Such sanctions include deprivation of liberty, the inflicting pain, loss of honour etc Restitutive sanctions, on the other hand, involve restoration, the re-establishment of relationships as they were before the law was violated.

Repressive law is characteristic of that sort of transgression, which is a ‘Crime’. A crime is an act, which violates sentiments, which are universally approved by the members of society. Its generalised character evidences the diffuse moral basis of penal law. In the

---

14 Ibid PP-72
case of recitative law, both sides of the legal commitment are typically precisely
defined—both the obligation, and the penalty for transgression.

"Penal laws, on the contrary, set forth only sanctions, but say nothing of the
obligations to which they correspond...................... It does not say to begin with, as does
civil law: here is the duty; but rather here is the punishment."

The reason why the nature of the moral obligation does not have to be specified in
repressive law, Durkheim says is event because everyone knows of it and accepts it . The
predominance of penal law within the juridical system of a given society thus necessarily
presupposes the existence of a strongly defined "conscience collective " of beliefs and
sentiments shared in common by the member of the society. Punishment consist above all in
an emotive response to a transgression . In contemporary societies the rationale which is
frequently offered for the continuance of repressive sanction conceives of punishment only
as deterrent But if this were really so, Durkheim argues the law would not punish according
to the gravity of the crime it self, but in relation to the strength of the motivation of the
criminal to commit the crime. Punishment thus retain its expiatory character (as regard the
perpetrator of the criminal act) and remain an act of vengeance (on the part of society). What
we avenge, what the criminal expiates is the outrage to morality. The primary function of
punishment therefore is to protect and reaffirm the conscience collective in the face of acts,
which questions its sanctity. In the simpler societies there is a unitary religious system,
which is the prime embodiment of the conscience collective.

Societies in which the principal bonds of cohesion are based upon mechanical
solidarity is dominated by the existence of a strongly formed set of sentiment and beliefs
shared by all members of the community. The progressive displacement of repressive by
restitutive law is an historical trend which is correlated with the degree of development of
a society, the higher the level of social development the greater the relative proportion of
restitutive laws within the juridical structure.

After Durkheim, we will concentrate on Weber and his ideas on society and social order.

**Max Weber:**

In all of Weber's work he employed, at least implicitly, a vision of society as a social system
that consists of three analytically separable dimensions: (1) Culture, (2) Social structure
(Patterns of Social action) and (3) Psychological Orientations. It will be recalled that
Weber's sociology can be seen as having two interrelated goals.

First: he wished to account for the origin and characteristics of modern western societies.
And second, was the development of a system of concepts, what we have called

17 Durkheim, "Division of Labour", PP 41
19 Ibid PP 76
classificatory ideal types, that could be used for understanding social process in modern societies. One of the best example of his conceptual inventory is his analysis of social stratification, especially when seen as an aspect of his more general political sociology. Although "Economy and society" contains two somewhat overlapping sections on social stratification, the full title of the more well-known essay, "The distribution of power within the political community: class, status, and party," is suggestive of Weber's overall intent: to show how the structure of inequality in modern societies is interrelated with the nature of domination in such nations.

The most stable forms of social relationships are those in which the subjective attitudes of the participating individuals are directed towards the belief in legitimate order. Action may be guided by the belief in legitimate order in other ways than through adherence to the tenets of that order. Such is the case with a criminal who, while violating laws, recognizes and adapts his conduct their existence by the very measures he takes to plan his criminal activity. In this instance, his actions are governed by the fact that violation of the legal order is punished, and he wishes to avoid the punishment. But his acceptance of the validity of the order purely as fact is only as one extreme of many sorts of violations in which individuals make some attempt to claim legitimate justification for their acts.

From childhood, Weber had been exposed to class consciousness and the daily exercise of status and power. As scientist, he was never far from these three dimensions in his study of human behaviors. Stratification, organization and politics consumed his interests. Weber's concept of stratification, as explained by Collins and Makowsky, is essentially "a theory of group formation, a set of hypotheses about the conditions that bring men together, into solidarity groups. These conditions are found in the way men relate to the institutional order that link groups together into a society. Weber analytically distinguished three orders within society-economic, social and political-and corresponding to these, identified three dimensions of stratification: class, status & power.

The crucial characteristics of class are:

(1) Individuals share a particular casual fact of their lives; (2) these facts are represented exclusively by economic drive in the possession of goods and opportunities for property accrual and (3) class situation is essentially a market situation. Class are not communities; they merely represent possible bases for communal action. However, status groups are usually communities. Status situation is determined by a specific positive or negative social estimation of honour; it is not necessarily linked with class situation. The highest prestige in a particular social group does not always belong the richest. Status symbols, special attired, exclusive clubs and unique lifestyles distinguish the status groups. But parties exist in a

---

23 Collins & Makowsky, PP 100
social club as well as state, they seek to influence communal action and acquire power. The genuine place of classes is within the economic order, the place of status of groups is within the social order. But parties live in the house of power\textsuperscript{24}.

Weber defines power (Macht) as the probability that an actor will be able to realize his own objectives even against opposition from other with whom he is in a social relationship. This definition is very broad indeed: in this sense, every sort of social relationship is, to some degree and in certain circumstances, a power relationship. The concept of domination (Herrschaft) is more specific: it refers only to those cases of the exercise of power where an actor obeys a specific command issued by another. Acceptance of domination may rest upon quick different motives, ranging from sheer habit to the cynical promotion of self-advantage. But no stable system of domination is based purely upon either automatic habituation or upon the appeal to self-interest: the main prop is belief by subordinates in the legitimacy of their subordination\textsuperscript{25}.

Weber distinguishes three ideal types of legitimacy upon which a relationship of domination may rest: traditional, charismatic and legal.

1. **Traditional legitimacy**: resting on an established belief in the sanctity of immemorial traditions and legitimacy of the status of those exercising authority under them. (traditional authority)

2. **Rational Legitimacy**: resting on a belief in the ‘legality’ of patterns of normative rules and right of those elevated to authority under such rules to issue commands. (legal authority)

3. **Charismatic legitimacy**: resting on devotion to the specific and exceptional sanctity, heroism or exemplary character of an individual person, and of the normative pattern or order revealed or ordained by him. (Charismatic authority)\textsuperscript{26}

Webers analysis of systems of domination, especially his distinction among the three types of authority implies a model of social change. Like Marx, Weber saw the source of change as endogamous to the society. Weber argued that the struggle for power was a continuous process in every society. For example in traditional societies rulers attempt to enlarge their areas of discretion and power at the expense of administrative officials and notables. They do so by various methods. e.g., the use of police and military force, economic coercion, co-optation and political alliances. In all cases they justify their action in terms of customs handed down over generations. Conversely officials and notables attempt to increase their power at the expense of the rulers, and they use many of the same tactics. Although this pattern can remain stable for many years, the gradual development of structural dysfunctions, as signified by incongruity among psychological orientations is common. As indicated by the following diagram it is during these crises emerging from such malintegration that charismatic leaders are most likely to emerge and attempt to


\textsuperscript{26} Weber, “Theory of Social and Economic Organization”, P 328
change the course of history. If such leaders are ineffective, the crises may continue and even escalate, with the results that leaders will eventually lose their following as the population turns to some other charismatic figure for solutions. But charismatic leaders are effective in resolving crises, the process of routinization occurs as their authority is implemented over time. The inevitable result is the transformation of charismatic authority into either a traditional or rational-legal forms of domination. In this context, Weber argued, the development of rational-legal authority makes a recurrence of traditional domination less likely. It is more likely that social systems characterized by rational-legal forms of authority will resolve integrative crises in such a way that patterns of social action reflect either instrumental or value rational orientations. However, the choice between these two alternatives is not inevitable, because Weber emphasized the importance of chance in human history. Hence the following figure builds in the possibility that a society can resolve integrative problems by returning to a form of traditional authority.²⁷

**Weber's model of social change.**

An understanding of Weberian insight into social order invariably leads us to the pathos that he often shared. For example in complex modern societies, the excessive burden of rational legal structures might lead to an "iron cage". Possibly this expressed Weber's disenchantment and apprehension that rational legal authority (and police definitely derives

its power from this authority) might diminish substantial human freedom and reduce human beings into bureaucratic files. This growing distance between those who are occupying power and authority and people may well be the beginning of violation of human rights.

II - State, Police and Social Order

Thus societies' penchant for change and the increasing frequency of disorder, the manner in which it is expressed, and the responses of Governments to more or less violent forms of protest and dissent have combined to propel policing to the forefront of the public mind. Police is the embodiment of both repressive as well as the restitutive laws.

The enduring nature of order-maintenance is derived from the fact that it fulfills a primary need of all states. If order is not maintained, the process of nation building will be based only on incomplete and insecure foundations. In this respect, it is surprising that the police have until recently either been overlooked or taken for granted, since they are commonly (if sometimes mistakenly) understood to provide the first line of defence against internal disorder.

The key concept of the State, like society is a contested one. The legacy of liberal ideas in Britain and the U.S.A. has been a lasting one. By contrast the continuing struggle for freedom in South Africa makes the state a more tangible entity. Similarly, the aspiration for a free and independent Palestine lends the idea of the state a more concrete reality as does the goal of Irish reunification. In China, the experience of revolution and precepts of Chinese communism connotes a markedly different relationship between state and society, with periodic outbursts of state fomented disorder intended to purify and redirect the revolution any creed. In Short, the cultural and ideological values that from the bedrock of these countries crucially determine the nature and quality of State-Society relations. Our major premise is that the condition of that relationship can be perceived by the nature and from of police society relations as revealed in the realm of public order. Just as state differ, so too do the police.

No where are the police is politically innocent to claim. Their relative ability to exercise powers of discretion in choosing between alternative models of order maintenance means that different styles of policing can co-exist within same force. The discretionary power also lends the police considerable political influence. The choices that police officers make in enforcing public order themselves affect the condition of state -- Society relations.

In general, then, punishment is determined by the nature of the social type in which it is found. On the basis of this the Police – legitimacy of the state’s penal authority – can also be categorized. Categorizing Police forces and their styles of policing on a comparative
basis is difficult, because Police forces are complex organizations and the socio-economic, political and cultural circumstances in which they operate vary. Baylay has grouped Police forces into three categories or styles, which he termed ‘authoritarian’ ‘oriental’ and ‘Anglo Saxon’. 28

‘Authoritarian policing’ occurs within totalitarian systems where the state assumes authority to regulate society in whatever way is required to achieve desired end. The police intrude as they wish and minutely regulate the whole society. People come under Scrutiny for behaviour, which is seen, as precursory to criminality, so that the police intervene pre-emotively in private lives in order to ensure that public order is not threatened. Moreover, they act without legal restraint. Consequent upon these extensive powers, the police have a wide ambit of authority, acting as an omnipotent agency performing whatever administrative tasks the state requires. All this means that the police do not exist to help the public but to provide service to the state. The emphasis is placed upon control through deterrence, not prevention through amelioration. A sign of this according to Baylay, is the martial appearance of ‘authoritarian police’, with their arms prominently displayed. 29

Whereas ‘authoritarian police’ attempt to control and overawe through fear, ‘Oriental Police’ emphasize service through community policing. The police are similarly enmeshed in the routine daily life of the local community, but control is maintained through persuasion, counselling and community support. This form of policing is common to Japan, Malaysia, Korea and China. No matter is too trivial, no service irrelevant for the oriental style of policing. For instance, Baylay cites the urban Japanese experience, where police may boil milk for babies bottles, when women call at their local police station while out for shopping. Through such methods the police deliberately try to embed themselves in social life, providing community services as much importance as law enforcement and functioning as moral censors on virtue, patriotism, duty and so forth. 30

According to Baylay ‘Anglo-Saxon Police’ are more specialized. They tend to concentrate more narrowly on tasks associated with law enforcement, so that they are not all purpose administrative agents of the state or community welfare workers. Furthermore, they have legal but no moral authority, with their role in the community being minimal and restricted largely to emergency responses. There is no routine, low visibility interaction with the public. The response they provide in such circumstances is determined by an extensive legal framework, which governs their conduct and guarantees the rights of citizens. This is symptomatic of the fact that the authority of the state, like that of the police, is jealously guarded and limited by a public which is conscious of its rights and fearful of police intrusion. Baylay argues the style of policing typifies the liberal – democracies.

28 Garland: “The power to Punish”, PP 44, 45
29 Bayley, (1982), “The police, public order and the state”, PP. 227-228
30 Ibid., PP. 228
A functional break-down of the tasks of the police in a wide range of different states, such as that presented here, shows that all these styles can co-exist in a national force irrespective of the nature of the state and society. For example, like authoritarian states, liberal – democratic states all have the task of information gathering, neutralization of offenders and social control, where the state assumes authority to regulate the private lives of people considered to present a threat to public order likewise, even police forces in authoritarian states perform ‘oriental policing’: that is they have obligations to provide guidance, protection and other and other community services.

A comparative analysis of public order policing shows that all forces discharge and wide range of duties, which encompass all these styles. Any comparative typology of public order policing, therefore, needs to incorporate two features, differences in the police – state relationship and the varying mix of styles which states typically deploy to accomplish order maintenance. With these imperatives in view, it may be productive to identify a range of distinctive strategies employed by all states, which are united by their common and primary requirement to maintain internal order.

Most states expect to face public disorder of varying degree of seriousness on an epidemic basis and consequently evolve procedure for the police to follow in the handling of disorder. If the threat to public orders is discontinuous, the state will not usually define mechanisms for the detailed political supervision of the methods of order maintenance. However, where disorder occurs on a sustained and generalized basis, states must necessarily intervene through high – level strategic decision making so as to meet the challenge, of the actual or threatened instability. When, for instance disorder appears as an irregular series of episodes in a normally tranquil society there is a tendency for a premium to be placed upon policing by consent. However, where disorder reaches epidemic proportions, the emphasis shifts to police effectiveness and may require surgical intervention into an ailing society.

The response of the state can generally be filled into three broad categories: Criminalisation, accommodation and Suppression. Since these are not mutually exclusive they can be combined in varying forms in particular societies.

On one level, **Criminalisation** involves the police treating public disorder as instances of ordinary breaches of the law without regard to the political context in which the offences occur. In the face of sustained public disorder, this strategy generally restrict the police to the limited policy of containment, given the difficulties of bringing successful prosecutions in circumstances where the legitimacy of political authority has broken down. Criminalisation can also be a much more ambitious strategy by extending the scope of the criminal law beyond direct manifestations of disorder to cover actions previously regarded as innocent of criminal intent. In this case, too the police rely on the universal applicability
of law to justify the action taken to quell disorder. In effect, the state discounts the political dimension to disorder.

The strategy of Accommodation attempts in some form or other to meet the grievances of the groups from which disorder emanates. The varying types of accommodation have different implications for police conduct. Some of the most common forms of accommodation are measures to remove discrimination against a group, affirmative action programmes and steps to tackle deprivation. Assimilation by a minority group into the host community is the most preferred form of accommodation in some states, while others reject integration, choosing a policy of cultural pluralism designed to protect the special need of particular group. Accommodation can also be effected by policies of devolution or decentralization in order to meet the multifarious demands of some region. The police can be passive actors in implementing or upholding these forms of accommodation, or they can themselves be a mechanism by which accommodation is facilitated, such as encouraging recruitment to the force from disadvantaged or disaffected groups or having different policing policies suited to various cultural or socio-economic groups. An example of this would be low profile policing in areas of high tension to avoid alienating a community. This conflict avoidance is a form of accommodation. The advantage claimed for the strategy of accommodation is that it responds to the causes of disorder, and does not merely address symptoms.

Suppression constitutes a third option open to the state. It can be realized through suppressive legislation or through harsh police tactics. To crush manifestations of dissent, the police can resort to such methods as the banning of political organizations, detention without trial, the imposition of collective punishments, the employment of emergency powers, the introduction or tightening of control over movement and even joint action with the military. A hallmark of the strategy of suppression is the state’s recognition of the political character of the disorder, but through the police, among others, the state confronts rather than accommodates the challenge to its authority. Consequently, to be successful the police need to achieve more than just the containment of violence. The strategy is usually deployed in the expectations that it will not only quell disorder but that its sheer forcefulness will act as a deterrent against further violence. Thus the strategy aims at securing a disaffected community’s compliance with the state’s authority rather than positive acceptance of it. Most forms of suppression are a clear violation of norms governing human rights and the operation of such a strategy tends to be criticized as evidence of the states authoritarianism, leading to the charge that it constitutes a police state.

Thus the attempt to portray public order policing as somehow insulated from political decisions about the choice and mix of state. Strategies to deal with disorder is not only misleading, it also obscures the chain of relations connecting the state, police and society. Again to treat the police as mere ciphers dutifully implementing the state elite has arrived at is equally prone to error. Though police forces may prefer to style themselves as
professionals engaged in the disinterested enforcement of law and order, their pivotal role at the junction of state – society relations leaves them with immense strategic significance therefore, the police are not technocrats occupying a value-free position: the stance they have is not in the middle but to one side of what can become a threatening divide. Their actions can either help or hinder the wider pattern of relationship between state and society.

A number of implications follow from this: -

First: It become impossible to characterize the relationship between policing and the state in a simplistic and un-dimensional manner.

Secondly: It is problematic to describe some states as ‘police states’ as such, for the strategy of suppression is not exclusively employed by authoritarian regimes, nor is this the only strategy utilized in these states. In turn it is clear that liberal states also deploy the strategy of suppression.

Thirdly: As Turk has argued\(^{31}\) policing in all states is politically partisan. This is obviously so in those authoritarian states where the police facilitate stability, continuity and order and inhibit disruption, transformation and charge. Moreover, policing will become more politicised and partisan, even in liberal democracies, as public order issues become prominent.

According to Bayley “People get the government they deserve. By extension people must get police they deserve”. According to the theory implicit in this popular formulation, government reflects the character of its society. The passive theory of political development maintains that environment determines the nature of the system and of the agency within the system. It is most unlikely therefore, according to this formulation that police would develop independently of the system.\(^{32}\)

There are several presumptive reasons for thinking police can exert a formative influence in political life, at least in comparison to the contributions of other agencies. First, they are thoroughly and widely visible, since they are uniformed, their responsibilities permeate all corners of social activity they are brought into contact with everyone. Other Government servants touch only very specialized part of human life and which they do so by attracting little public attention. Second, police possess a near monopoly on the instruments of force. They are society’s regulators, imbued with power denied to everyone else. This creates around them an aura of apprehension, of anxiety, of fear. They are imbued with an emotional significance that does not attach to other agents of government. Third, they have responsibility for safeguarding the most basic elements of human life. They intrude into


individual's lives at moments of stress and tribulation. Police personnel are identified with the greatest of life's crises. Fourth, police are immediately identified with law. In many respects they are more important than law, for they implement its strictures and decide when it is to be applied. Whether government is by men or by law depends to a marked extent on the nature of the police.

Perhaps these reasons explain why many people cannot consider police and government separately. If government is regulation, then police personify government. But then if government can affect its own environment, the police can do so too, simply because the police are the most ubiquitous, visible, and important of governmental agencies for the average citizen. 33

III - Indian Police: Journey from Ancient to Colonial Period.

(A) Policing In Ancient India:

"Punishment meted out by the ruler according to offence equally (without discrimination) to Sons and enemies alike, protects alone this world and the other."34

"Arthashastra"

The Organization and functionary of our Police must inevitably be influenced by its past history and the conditions prevailing in the country. All societies and civilizations, since the very dawn of Organized Community life, have been characterized with same kind of watch and ward organization, bringing the evil doers to justice in one form or the other. Such organizations for order were bound to be culture-bound and differed from one place to another according to local needs and popular ingenuity. With the advancement of Civilization, increasing of population and means of Communication made relatively simple primitive community structure into a huge & Complex Structure. However, Police as an independent unit in the administrative organization of the State is a very recent development in history.

As a law enforcing agency ensuring order, the origin of the Police in India can be traced to the earliest Vedic period of Indian History. The two Vedas, the Rig Veda and the Atharva Veda, eloquently mention about certain kind of Crimes and punishments known to Vedic India. Manu further developed this concept of Crime. In fact, Manusmriti was the first exposition of the Hindu legal system. He classified crimes under eighteen heads including assault, defamation, theft, robbery, adultery, Violence, gambling and betting the last of the Rishi's who codified crimes was Brihaspati. He recognized the

34 Chanakya, "Arthashastra", 118.
eighteen heads of Crime as enumerated by Manu into two major divisions, out of which fourteen crimes related to property and the remaining to the person. Katyana: who defined theft Clandestinely or openly, by day or by night: divided crimes into four major sub-divisions:

**Vakpareshya (Abuse of defamation):** This has again been divided into Nishtura (reproachful), Aslil (indecent) and Tibra (more serious)

**Dandapurushkya (Assault):** This referred to physical injury.

**Sahas (Violence):** This included murder, robbery, assault on another’s life, causing injury to articles and damage to religious establishments and places of worship.

**Stey (Theft):** This amounted to depriving a person of his wealth clandestinely or openly.

Yajnavalkya dealt at great length with the offences connected with perjury and giving of evidences Subsequently, Narada elaborately expounded these laws. He admitted that crimes were mainly offences against the State, and hold that some were in the category of sins, to be expatiated as well as compensated. Thus, in ancient India, the problem of evolving a reasonable code of conduct attracted the maximum attention of contemporary thinkers.

Ancient Scriptures held that the State was ultimately responsible for compensation of all lost articles, as has been prescribed in Vishnupurana. Kautilya held that the protection of artisans and of merchants, remedies against national calamities, Suppression of wicked living, detection of youths with criminal tendencies by detectives, seizure of Criminals on Suspicion on in the very act, examination of sudden death, trial and torture to elicit information and confession, protection of all employees in Government departments, imposition of fines in lieu of mutilation of limbs dealt with or without torture, punishment for sexual intercourse with immature girls with or without consent all these were the responsibility of the king.

The growth and development of ancient city States like Mithila, Hastinapur and Ayodhya posed serious problems of administration. The kings responsibility for ensuring internal order was increased in the context of growing complexities of life in the Epic-Age. (Mahabharata & Ramayana). The information available about the early Hindu period, it appears that there were four main. Elements in the Organization against the crime. Communal responsibility, Village watchman, espionage and several penal provisions. During the period of the Mauryas in the Fourth century BC, information on this Subject can be drawn from two Sources. First, there are the reports of Megasthenes, the Greek ambassador to the Court of the Emperor Chandragupta. And Second, reference could be made to Chanakya’s ‘Arthashastra’.

The Period between 6th century BC and 4th century AD. When the Mauryan Empire rose into prominence, is known as the age of enlightenment. The imperial unity was achieved through military power and efficient Civil administration. “Danda”
is dependent on discipline. A highly complex system of administration came to be established at the time of the Mauryas (300-200 BC). The main aim of the State was the all-round welfare of the people. The Police measures adopted by the king have been detailed at length in Kautilya’s Arthashastra. The frontiers of the kingdom were to be fortified and protected, and the officials appointed for the purpose were known as boundary guards. (Antapals). They kept an eye on newcomers and allowed them to enter cities only after disarming them and a thorough scrutiny of their passports. Roads were kept free from the robbers. The town were well fortified and protected: and they were in the charge of Nagarikas. Who controlled the affairs of the cities and kept watch over inns, sarais and places of entertainment to find out about the arrival of foreigners and persons of bad character and to detect thieves. At the time of the Maurya Empire, there were courts of justice (Dharma Sthaniya) and Police magistrates (Kanataksodhana). The criminal law was severe and stringent. The defender of the citadel was known as Kotpala and the protector of city as Nagarpala. The present words Kotwal and Kotwali have been derived from Kotpala.

**Police Officials in Ancient India:**

<table>
<thead>
<tr>
<th>Official</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gramin</td>
<td>Village Pradhan.</td>
</tr>
<tr>
<td>Coragrah</td>
<td>He was probably a thief catcher.</td>
</tr>
<tr>
<td>Raksinah</td>
<td>Constable.</td>
</tr>
<tr>
<td>Corarajjuka</td>
<td>He was an Officer who arrested robbers and fettered them.</td>
</tr>
<tr>
<td>Churdharanika</td>
<td>He was an Officer of recovered Stolen property and held charge of ten types of Criminal activities.</td>
</tr>
<tr>
<td>Dandanayaka</td>
<td>He was a Police Officer who held the punishment.</td>
</tr>
<tr>
<td>Dasaparadhika</td>
<td>It was probably the designation of a class of officers who were in charge of ten specified kinds of criminals offences.</td>
</tr>
<tr>
<td>Nagarika or Dandaqhiparin</td>
<td>Chief of Police.</td>
</tr>
<tr>
<td>Araksika</td>
<td>Watchman.</td>
</tr>
<tr>
<td>Gata-Bhata</td>
<td>Officials in charge of the investigation of Crimes.</td>
</tr>
<tr>
<td>Mahapratihar</td>
<td>He was the chief of door-keepers.</td>
</tr>
<tr>
<td>Khola</td>
<td>He was in charge of the intelligence dept.</td>
</tr>
<tr>
<td>Gudhapurusha</td>
<td>Secret Service man.</td>
</tr>
<tr>
<td>Cara</td>
<td>A Simple Spy.</td>
</tr>
<tr>
<td>Praharpala</td>
<td>Police personnel were on duty for three hours – a period which referred to a prahar.</td>
</tr>
</tbody>
</table>

It is evident that Police was vested with the responsibility of intelligence & surveillance. Security of the Head of the State was also the concern of the Police. Besides these prominent function of maintenance of law & order the function of maintenance of law & order the function of Police & their role has changed from time to time. Since religion was the most important means of social control and Police as a part of the Society was not above this.
Police Administration in South India:

According to famous epical work Silpathikaram the main Crimes committed at this time were cattle-lifting, theft and robbery. Murders were occasionally committed. The most important steps for strengthening the administration were taken by the Chola rulers who reinforced the authority of village communities.

In contrast to the earlier Hindu kingdoms the organization of Police force received considerable attention during medieval Vijayanagara empire. There was a royal Police force & peoples Police force. The practice of penalizing Police Officers for the anti-social behaviour was there.

In the provinces, the “nayaks” who were responsible for the maintenance of order in the areas of their jurisdiction while the “kavalghars” were generally drawn from the criminal tribes to prevent thefts from their castemen. They, in their turn, appointed “teliyaris” who were liable to be punished if they did not discharge their duties properly. A vivid description of policing in South India was given by Falconer.

(B) Policing In the Mediaeval period:

After the decline of the Hindu Kingdoms, the country slipped into a State of disintegration and chaos. Which obviously resulted in the wake of invasions from outside. Naturally, This period saw the spurt of secretive and repressive Police system. Although an independent Police organization was still not there, Police functions were exercised by a number of functionaries like superintendents of roads and buildings, excise, treasury, royal household and all kind of spies.

The Sultan of Delhi revived and re-established some of the Police traditions and functions of Indian State. The sultan being at the helm of Diwan-Quadar, settled, the disputes pertaining to criminal administration and religious conflicts. The Diwan-Mazalim performed municipal Police functions. through a number of persons. The Amir-i-dad, assisted by a ‘Muhtasib’ used to supervise and Co-ordinate the Police work of the “Kotwals” working under him. The Kotwal was a key Police Official, who combined the functions of the Muhtasib (censor of public morals) of the Islamic State with that of the Nagaraka or the Maurayan town prefect, whose duties have been defined by Kautilya in his Arthashastra.

The main function of the Kotwal was the maintenance of security in the town. The detailed instructions given in the contemporary enactments and kingly pronouncements may be considered as essential requisites for enabling him to discharge his duties. Some of the major functions of the Kotwal may be thus summed up:

1) Maintenance of Security.
2) Imposition of Curfew.
(3) Espionage and Surveillance.
4) Control of Market and Prices.
5) Care and Disposal of Interstate property.
6) Defence Societies.

The functions of Kotwal have been thus summed up by Vincent Smith. An energetic Kotwal could always find plenty of Occupation.

In the mediaeval Muslim period first significant contribution in the development of Police organization came from Sher Shah Suri. He tried to enforce the principle of local responsibility in his efforts to prevent crimes. This system ensured complete security of life and property. Sher Shah's district Police system was as simple and efficient as in the village. The pargana Police was under Shiqdars. The executive functions of huzuri were left to the fauzdar or amil. The thanedars were appointed by the fauzdar for the following functions.

1) To take complete possession of their job.
2) Not to dispossess people of their rightful property.
3) Not to levy forbidden taxes.

The Fauzdar carried out the following functions:
1) The policing and guarding of the highway and arresting robber gangs.
2) Supervision of all disorders and small rebellions.

Sher Shah's administration was the harbinger of a new era of peace, order & tranquility in the country.

With the advent Babar and the surrender of the last Lodi ruler in 1526, the administration of order began to take shape on the Indian Soil. During Akbar's period the head of the provincial government was called a subedar or Nazim, who had a number of Fauzdar under him to administer the sub-divisions. According to J.N.Sarkar, the principal duties of a fauzdar were:

a) Guarding.
b) Suppression of all disorders and smaller rebellions.
c) Realization of State dues from defaulting villages and
d) Overawing opposition by show of force.35

The Fauzdar had his subordinates designated as Thanedars, a name which survives till today for the officer-in-charge of a Police Station. The Mughal Fauzdar was a combination of the modern collector and S.P. His duties in the fields of revenue and criminal administration overlapped and so was the situation in the case of the Thanedars also, who was not an exclusive Police officer. His functions thus can not be compared with the duties of present day Sub-Inspectors.

The Ain-i-Akbari, written by Abul Fazal provides us a glimpse of the organisation and functioning of the Police in the big-towns of the empire. The office of the Kotwal, according to Abul Fazal was a very powerful office and Kotwal was essentially an urban officer, who acted as chief of the City Police.

(C) Policing During the Period of Transition: Beginning of A Modern Police Force:

In the whirlpool of political confusion, and following the collapse of the medieval system, the breakdown of the Muslim administrative machinery and consequent rise in crime and violence, the European traders who had come to trade with India, remained to rule, and consolidated their trading settlements into little kingdoms. With the passage of time, an effective administrative system was developed to protect the lives and property of the people. Of course, they had their own interest in imperialistic exploits, yet the problems of internal security and protection of their commercial establishments on an alien soil invited their best attention. The British Policy of gradual and piecemeal reforms was thus built over the superstructure of the modern police force, without much disturbing the indigenous police system.

Britishers retained the village system but relived the Zamindars of their liability for police duties. The company administration appointed Magistrate and Darogas and put the latter under the administrative supervision and control of the former. The Darogas has specific jurisdiction in regard to police stations and about thirty armed Burkandazes and the village watch-men were sanctioned for an average police station in Bengal. The big cities, however, continued with the office of the Kotwal, who had a number of Darogas to assist him. In some sub-divisions the medieval institution of Fauzdar was not only retained but systematically strengthened. Thus, the situation till the mutiny of 1857 and few years there after remained fluid.36

Some piecemeal reforms were taken here and there but Governor Warren Hastings of Bengal took first concrete effort in the year 1774. His famous Regulating Act suggested extraordinary legislation to tackle the dacoit problem. In 1808, the Crown Government introduced special and expert control over police administration through a new chief now to be designated a S.P. for the divisions of Calcutta, Dacca and Murshidabad in Bengal.37 His police duties mainly included the collection and compilation of information from different parts of the province and to organize concerted operations for the discovery and seizure of dacoit gangs. The experiment was so successful that in 1810 the division of Patna was also placed under the existing S.P. of Calcutta. This was followed by the creation of the posts of Additional S.P.s for the divisions of Banaras and Bareilly.

36 Curry J.C. (1932), “Indian Police, Faber and Faber”, London, pp. 119
The much needed reform of organizing a separate police force under a district magistrate in Bengal was initiated by Lord Cornwallis in 1792 when he introduced a uniform pattern for the first time and abolished the Zamindari and Thanedari systems. (Kasture G.K. Thoughts on Police Reform, National Police Academy, Mt. Abu, November, 1966, P.2) The districts were now divided into chunks of 400 Sq. Miles and a Darogah was appointed by the government in each of these police stations with an establishment including a Moharir, a Zamadar and ten Burkandaz. This plan was later examined by three different committees on police reforms appointed by Lord Wellesly (1801), Lord William Bentinck (1806) and the Court of Directors of the East India Company in 1813. All these committees were of the opinion that village police should be given more powers and responsibilities than what they had enjoyed. In 1829 the post of S.P. was abolished and Revenue Commissioners were appointed in their place. The District Collectors, in addition to their duties were made administrative head of the police organization.

In the year 1832 a select committee of British Parliament advised the strengthening of the office of the S.P. in view of the fact that collectors and Commissioners were too busy to supervise police work, but the company officials deliberately paid no heed to it for their obvious game of vested interest. In 1843, the company annexed Sindh to its permanent possessions as a part of Bombay Presidency. The Tribal nature of community forced company under the stewardship of Sir. Charles Napier to organize Sindhu Police Force on the model of Royal Irish Constabulary back home. The 1853 reform thus modeled the Bombay police on the Sindh pattern. The leading characteristic features of the model:

1. Every district was to have a S.P. who while generally subordinate to the district magistrate was to have exclusive control over the police establishment in his district.
2. Every Tehsil was to have a native police officer whose relations with the Tehsildar were to be on the lines as obtained between the Additional District Magistrate & the S.P.
3. The Supreme control over police administration of which was formerly exercised by the Fauzdar Adalat was now to be transferred to the executive government of the province.

Till the year 1855, the control of the provincial government was operative through the Judicial Secretary to the provincial government. As the arrangement later proved unsatisfactory the Bombay Government deemed it desirable to transfer it to a Commissioner of police.

After the annexation of the Panjub in 1848, Sir Henry Lawrence also reorganized the Panjub Police on the lines contemplated in the Sindh Plan with some modifications. He actually created two kinds of police forces:

38 Ibid., pp.7.
1) Was an unorganized body of Burkandaz under the Deputy Commissioner in the districts and
2) Other the regular police

The Punjab pattern initiated a similar process of police re-organization in the provinces of U.P. and Bengal. In Bengal the recommendations of the Birds Committee (1838) pertaining to the separation of police – magisterial functions could not be implemented. Sir Frederick Halliday, one of the influential members of the committee pleaded in vain for a strong and independent of police. In 1848, Sir George Clark, the then Governor of Bombay ascribed the inefficiency of the Indian Police to the faulty and absurd system of combining the police the revenue and the judiciary systems into one. He also strongly disapproved the semi-military character of the police corps.

Torture commission highlighted the paradox and disjunction of power between police and revenue authority. The report of the commission was accepted by Madras Government but still the diarchy was to stay and anticipating in built contradictions in the system, the Board of Directors in their dispatch, favoured common organizational plan for the police in the entire country. They allowed Madras Government to proceed but cautioned that when new arrangements were completed in any district, the police functions will cease to be operative. The XXIV of 1859 act brought a separate department of police into existence in the Madras Presidency but its personnel continued to be drawn from the old and discredited revenue department.

All these reforms in the major provinces of the country in the pre-mutiny period laid down the foundations of the police organization which was later to forge an identity of its own and grow in stature after the termination of company rule on the Indian soil. Embryonic efforts to emancipate the police from the magistracy were also made during this period.

(D) Post- Mutiny Development: Establishment and Growth of Modern Police System in India

The mutiny of 1857 shook the very roots of the administration of law and order in India. The diversity and inadequacy of the police machine to deal with the increasing problems of violence and disorder made the Imperial Government realize the urgency of a unified and re-organized police system for the entire country. The heavy expenditure involved in maintaining a military like police to prevent disorder and a civil police to detect its sign in advance during the days of 1857 upheaval and after compelled the government to appoint an all India Police Commission in 1860 to suggest ways and means for an increase in police efficiency.

---

The police commission in its historic report recommended:

1. The abolition of the military police as a separate organization.
2. The constitution of a single homogeneous police force of civil constabulary for the performance of all police duties.
3. The police system on provincial basis with an Inspector General of Police as the head of the Provincial police organization.
4. A district police system was to be headed by an S.P. who was to function under General Control and supervision of the D.M.
5. Two senior police functionaries – the I.G.P. and the S.P – who have to be citizens of European origin.
6. A subordinate police force which was to consist of Inspectors (as to head a group of police stations) and head constables (in charge of police stations) Sergeant and Constables.
7. The Commissioners of divisions who were not to wield additional police powers.
8. The continuance of D.M.s supervision on the district police organization but not beyond that level.
9. The abolition of military police. (In the commission’s view this kind of police was neither necessary nor desirable. Moreover, its cost was prohibitive. A civilian police personnel, though trained to use arms, did not generally carry or possess arms, Politically, therefore, while he is more useful, he is less dangerous than a military police personnel who is really a native soldier.\(^{41}\)

The major recommendations of the Commission were incorporated into a Bill and later on it was passed into a law as Act V of 1861. But the reforms of 1860 did not give any fresh police force to India. It was the old wine in a new bottle. The police force hitherto was not conceived as a service organization. It was designed as a force to be used against the community, but at the same time it was so constituted that it should not overwhelm its creator.

Another major recommendation of the police commission pertained to the abolition of the “Thagi” department which was created by under the command of Captain Saleeman in 1835 to control the crimes of professional plunderers like notorious Pindaris and Satnamis on North Indian roads. In 1839 the jurisdiction of the Thagi department was extended to cover dacoity operations in the country. The success achieved by this department was applauded by the commission, which recommended its merger with the larger organization of the police force in the province.

The police reforms of 1860 remained a matter of debate and controversy for the rest of the century. In-spite of all its recommendations a large amount of power of direction and

\(^{41}\) [refer to a letter from the police commission to Government of India, Home Department, September 1860, Paragraph – 19]
control over the provincial police establishments still remained with the Revenue Commissioners. Different provinces allowed different control mechanisms to operate. The Indian police commission of 1902 attributed the following reasons for the failure of the reforms of 1860:

1. The police work was underestimated.
2. Untrained and ill-educated officers of lower ranks were assigned responsible duties.
3. Inadequate and defective supervision of police operation was a fact.
4. The senior police officers were ignorant of their subordinate and the people at large and
5. The interference & subordination to magistracy have weakened the police sense of responsibility.

Inefficiency and inadequate reforms paved the way for the second all India police commission. The Governor-General in council with the approval of the secretary of the state for India appointed the second all India police commission in the year 1902. Mr. A.H.L. Fraser, chief commissioner of central provinces, headed the commission. Some of the major recommendations offered by this body were:

(i) A criminal investigation department was to be established in each province with a D.I.G.P. as its administrative head to control and supervise the organization and its working. A similar organization for the entire country at the national level was also recommended with a finger print bureau and a special branch of C.I.D. to be established as part and parcel of this agency.

(ii) The province as a unit of administration was to be divided into several ranges and each such range was to be controlled and commanded by a D.I.G. of police to be appointed for the purpose.

(iii) The office of the S.P. of the district was to be strengthened. A Dy.S.P. was to be appointed to assist the S.P. The new post was to be created in the police hierarchy, very much on the lines of an S.D.O in the civilian administration of the district.

(iv) A separate and independent police organization to be known as Railway Police Force was to be constituted with a police official of D.I.G. rank as head of this organization.

(v) The Divisional commissioner was no more to interfere directly in the day-to-day affairs and working of the police administration. Actually, the commission wanted to strike a proper balance between civil guidance and professional autonomy.

(vi) At the lower rungs of the administrative hierarchy, there were going to be several police circles within a district. Each of these circle, having an approximate area

---

42 [Report of the police commission, 1902, paragraph – 29]
of 150 miles as operational jurisdiction was to be under a Sub-Inspector (S.I.) The cadre of S.I. was to be raised for the first time in India and they were henceforth to be distinguished quite distinctly from their formed counterparts, namely, the Dorogas, the Thanedars and the Kotwals.

(vii) The pay and other remunerative benefits of the police officers right from the lowest constable to the highest I.G.P. with simultaneous upward revision in the quality of their recruitment and training.

(viii) An armed police force was to be constituted at the headquarter of each district to serve as a reserve police force to handle emergent situations and other special kinds of police jobs of ad hoc nature.

(ix) The institution of the village headman was to continue but not as the regular police force of the state.

A critical look at the police reforms of 1902 would indicate that they were purposefully planned to strengthen the district police but naturally they ignored some of the very vital aspects of reforms; like Indianisation of the police force or decentralization of the organization to enable the meritorious young Indians to occupy positions of authority and responsibility.

In-spite of the nationalist dissent the recommendations of the commission were accepted by the Government of India in their entirety, which later on served as the basis for the reorganization of the police machines in the provinces. The C.I.D. and the Railway police organization and reorientation of the provincial recruitment and promotion polices were the consequences of the recommendations of the commission.

The non-violent nature of freedom movement could not yield enough pressure on police machinery to change their oppressive attitude and orientation. The concept of police bureaucracy during the British period of Indian history remained plagued with the idea of military hierarchy. Though most of these senior officers were either from the army or of British descent, their calibre was low. This compelled the commission to consider about the constitution of a Public Service Commission for India. Thus senior posts in the Indian Police Service were made accessible to young Indians of proven merit in the year 1912. This goes as a great landmark in the history of the Indian Police, However, in practice very few young Indians could actually compete with their British Counterparts. In 1919 the proportion of the Indians in IP was fixed at 33% and subsequently the Lee commission of 1924 expanded this quota to 50%.

The Indian police commission of 1902 visualized the non-gazetted cadres in the Indian police as promotional cadres on provincial basis. The non-gazetted posts were to be manned exclusively from among the Indians. The ranks of the constables and the sub-inspectors were to be filled from among the direct recruits. The post of the DY. S.P.s was

carved out entirely as a promotional avenue from among senior inspectors working their way up from the rank of a sub-inspector.

Thus the history of the Indian Police during the first half of the 20th century is a history of status quo. The Englishman laboriously built the police machine and very meticulously tended its organization to suit to the colonial needs of the Imperial Government.

IV - Police and Post –Colonial State : Challenges Ahead

The colonial rule of British-Raj was organized on a tripod of (1) the network of surplus extraction from land, trade and industry (2) a British controlled repressive bureaucratic machinery and (3) the armed forces. The Indian Independent Act of 1947 terminated the office of the secretary of state for India. Colonial domination was replaced by a representative democracy with Parliamentary and federal features. India’s “tryst with destiny” began with clipped wings and a broken hearts. She had to begin her journey with the wounds and chaos of partition, underdevelopment, poverty and confusion. Independent India’s design for nation building was based on a model of integration that derived its strength from the great diversity and plurality of Indian culture. Far from suppressing the autonomy of constituent units – whether regional or social – in the image of some overriding and homogenising ideology of thrust for power. It was by weaving them all into a common fabric that unity and strength of India was achieved.

It was an all-India setting, a post-colonial setting, a setting in which an ancient society had acquired ‘nationhood in a world of nations and had fought for it a setting in which this nationhood had to be secured for the large masses of the people both through providing security from external threats and through the achievement of a just social order. It was through the institutionalisation of a modern state that this transformation from a largely apolitical non-national entity that functioned through a varied structure of kingdom and communities to a ‘nation-state’ committed to the security and welfare of the whole population was conceived. The role of state in this transformation was to be pivotal. According to Kothari:

First:- It was assigned a degree of autonomy in dealing with demands and pressures of various types. 
Second:- The state and its functionaries, operating through appropriate institutions of Government and party, enjoyed a high degree of legitimacy.

46 Ibid PP-89-90
Third:- The institutional edifice through which the state functioned was elaborate, both in carrying out its formal law-giving, administrative and judicial functions as enshrined in the constitution and in working out more substantive political tasks through a nationwide infrastructure of competition and coalition-making, within and between parties and citizen groups, across the many regions and levels of federal structure and representing the large array of socio-economic, cultural and ethnic components of a continental society. And Fourth:- Such an authoritative allocation of roles and structures was to be utilized by its functionaries for fulfilling expectations and carrying out the constitutional mandate of building a free, and ‘fraternal’ society. In short, a positive state assigned the task of mediating in and transforming the social order for the purpose of providing conditions of happiness and welfare for the people at large.47

The principal justification for concentrating in the state a wide array of powers was that these were necessary for it to serve the people. The traditional social order had been badly marked under the impact of external on slaughter and internal decayed had thus lost its capacity to look after diverse needs. On the other hand, the modern capitalist order was by definition exploitative, treating the people as objects to be tossed around in the free play of market forces. It was the state that was to be a liberator from both the inequities of tradition and inequities inherent in the capitalist order, directly mindful of the interests of the people. In order that it in fact did this democratic structure was built into the constitution of the state through the provision of a range of institutions that ensures against the arbitrary use of powers as also undue concentration of it in any person, group or institution. At the same time such institutionalization ensured legitimacy and wide-ranging support for the state-hence its staying power, its integrity and its survival48.

In this social-historical backdrop it is extremely important to evaluate how independent welfarist, socialist, democratic India had tried to transform its “Police” an essentially repressive force of colonial time to the law enforcement machinery of a sovereign, democratic young nation perturbed by communalism, casteism underdevelopment, poverty and external aggression. Indian police had played a significant role in the consolidation of young and turbulent democracy.

The Indian Independence Act of 1947 terminated the office of the secretary of state for India. Colonial domination was replaced by a representative democracy with parliamentary and federal features. The founding fathers of the Indian constitution in their wisdom decided to retain and provide special security to the two All India Services, including the I.P.S. Article 312 of the constitution allowed the old IP cadre to be converted into the new cadre of I.P.S. Police affairs are handled for the central government by the Ministry of Home affairs, for the state governments by the Home departments. Immediately below the ministerial level come the ranks of permanent government employees or civil

47 Ibid PP-90-91
48 Ibid PP-91
servant namely Secretaries who belongs to Indian Administrative Service. Therefore, the ranking Civil Servant in Police Affairs is the secretary of the Ministry of Home Affairs, or the Secretary of the Home department. It is to the Home department in each state, the Inspector General of Police is responsible.

Although Independence brought revolutionary changes in the political structure of government, it brought none of any consequence to the structure of police, administration. The three structural characteristics distinguishing the contemporary police system are.\(^{49}\)

1) **Control by State Governments:** - The Police are organized, maintained and directed by the several states of the Indian Union. Although the Central Government has some police organization under its aegis, such as Central Bureau of Investigation and the police forces of Centrally administered territories, these forces are in the nature of residuary police forces. They are not expected to bear the primary burden of police work in the country, they complement state agencies as well as providing enforcement muscle in the implementation of exclusively central government tasks. At the same time, the authorizing legislation for the state based on police forces is very similar from state to state. The result is that there is diversity in operational control combined with remarkable organizational similarity. India has managed to avoid both the fragmentation of police under a system of local control, such as in the United States with its forty thousand – separate forces, and the rigidity of a national police force directed by a central government.

2) **Second: Horizontal Stratification** – The Indian Police system is horizontally stratified. Like military forces, the police are organized into cadres depending upon rank – commissioned officers, non-commissioned officers, and men, although these are not the precise terms used in India. Appointment to N.C.O. rank is partly by promotion from below and partly by lateral entry through direct recruitment. Promotion from N.C.O. rank to officer status is not impossible but it is rare. The officer cadre, known as the Indian Police Service, is recruited, organized, trained and disciplined according to national legislation. Moreover, police power and authority, that is, what a policeman is allowed to do in the line duty, differs with rank. Different police powers are assigned by law to be carried out by different ranks of police personnel. This practice is in marked contrast to that of Great Britain where the constable, the lowest ranking policeman can have. Horizontal stratification, then, is reflected in rank structure relations between levels of government with respect to police personnel, and the distribution of legal authority among police personnel.

3) **Third: Functional specialization between armed and unarmed police** – the police in each state are divided vertically into an armed and unarmed branch. This is a

functional division. The unarmed police staff the police stations, go on patrol duties, and prevent and investigate crime. The armed police are employed for those duties, which require the presence of constituted physical force, such as guard duties at Banks and the quelling of civil disturbances. The armed police are housed in barracks, trained in weapons handling and drill and live a quasi—military life. Great Britain and the United States have solved the problem of police and armament in two different ways; India has found yet a third mode. In the United States all police personnel are armed, where in Great Britain none is. The Indian arrangement recognizes the value of having police personnel uncontaminated by arms but also recognizes that it is necessary to have ready at hand a well-trained body of police capable of responding with over-whelming force.

According to the constitution, police are state subjects. States have exclusive power over their control and regulation. The central government may enter the police field only in connection with establishing and maintaining a “Central Bureau of Intelligence and Investigation” The division of power between Central and State governments is not immutable. It can be modified. There are three ways of affecting the division of power.

First: The government of India may declare a state of emergency, subject to ratification by parliament, in which case it may enact legislation with respect to any item on the state list (Art. 352 – 360). Such proclamation was issued in October 1962 when the Chinese invaded India.

Second: Any combination of states may allow parliament by vote of their legislature to intervene in matters of the state list.

Third: The council of states or upper house of the parliament may empower, by co-opt items on the state list. However, in law, and so far in practice, the states have retained control over raising, maintaining and directing the preponderance of police forces in India.

Magisterial Supremacy Over Police: -

The Indian Police administration as envisaged in Indian Police Act 1861 does not allow absolute functional autonomy to the police in the maintenance of law and order in the states. Part IV of this Police Act 1861 reads “The administration of the police throughout the local jurisdiction of the magistrate of the district shall under the general control and direction of such magistrate be vested in a district superintendent as the state government shall consider necessary”.

The ambiguity in the relationship between superintendent and collector has led to a proposal that responsibility for law and order be transferred from collector to the superintendent. The collector should confine himself to non-enforcement tasks. There would thus be a unified command structure for law and order in each state. In support of the proposal that law and order should become the exclusive responsibility of the senior police officers in every district. Bayley has made four broad arguments:
First: In spite of what the regulations require collectors do not exercise active control over law and order administration. They are far too busy now a day to give the kind of continual personal attention that they once did. Collectors become involved in law and order affairs only when an emergency arises, otherwise rest of the time they are submerged in a multitude of development task. It is time to abolish spasmodic accountability and allow the professionals to assume undivided responsibility. Consequently the single-mindedness, the dedication, the paternalistic regard, and even the expertise of collectors have suffered a decline. Because of the cluster of district service has worn off, collectors tend to be young I.A.S. officers or older appointees from state civil services. The young I.A.S. collector’s acquaintance with law and order problem is probably less extensive than that of his superintendent.

Second: Law and order work requires special knowledge, expertise, and training, it cannot be directed by an amateur. The superintendent is better informed, better trained and much more sensitive to law and order administration. The collector cannot possibly supplement police information from his own sources or even bring to bear a substantially independent point of view.  

Third: Police performance would improve if police were conscious of the fact that they were standing on their own feet as sole custodians of law and order throughout the country. Proponents point out that the Landon police force, one of the most respected in the world, has just this system of exclusive police responsibility. Moreover, the most efficient police in the sub continent are to be found in cities that have commissioner system.  

Fourth: The superintendent is in a better position to monitor the activities of the police from the point of view of securing public respect than is the collector. An energetic superintendent required to make inspections and constantly called forth to deal with delicate situations of investigation or control, is in a much better position to solicit complaints and to hear of the mistakes of his far-flung force.  

The proposal that collectors be stripped of their authority in matters of law and order is far too controversial not to be opposed. They press three counter-arguments: -  

First: Law and order administration is but one aspect of government direction, it cannot be separated from the rest and carried out by men with narrow police view. The collector becomes of his vantage point and contacts with other aspects of district is able to see law and order problems as one part of general human needs and responses. Rapid social change and problems of law and order often have an organic connection; only the collector is situated to perceive these subtle connections.  

Second: Though opinion may be changing for the better, police and still widely and deeply distrusted. The collector is a visible promise to the public that independent civilian control over the police still exists.

50 Ibid PP 353  
51 Ibid PP 354  
52 Ibid PP 355
Third: Law and order are contentious areas of responsibility; decisions taken involve bodily injury and bloodshed. Not only are two heads better than one but shared responsibility between the expert in violence and the civilian generalist may strengthen the voice of decision when unpleasant but necessary choices must be made unpleasant but necessary choices must be made. In short, if the superintendent were on his own he would find himself both more exposed and less well supported. The result would be a failure of nerve and the less certain improvement of police administration.

Not surprisingly both sides advocate different solutions, and in each case advocacy serves the status interest of their respective services.

In passing, mention should be made of two other proposals affecting the relations between police and I.A.S. administration. Both of them would make the police more sensitive to considerations of general administrative and political need. The First is the recurrent proposal for a unified civil service. Probationers would elect to specialize in one or two functional areas. Superintendent and collector would be part of the same service distinguished only by the amount of expertise they had in particular matters. This proposal was advocated by Ashok Chanda and Paul Appleby in the early 1950s. The Second proposal would open the closed club of the police to outside influence. This could be accomplished, for example, by abolishing the post of inspector-general, or by placing a joint secretary, Home Department, between the inspector-general and the home secretary. Alternatively, someone from outside the uniformed service could fill perhaps an I.A.S. officer the post of inspector general. These suggestions are not being pushed vigorously, but they do indicate that the problem of I.P.S – I.A.S relationship is being considered from many perspective.

More than 65 years of free India have witnessed all kinds of administrative reforms and state appointed police commissions have identified deep-seated maladies, which demand radical overhaul in the structure and working of police administration. But then, not with standing all these suggestions, literally nothing of significance has been accomplished in terms of reforms and improvement of police administration since independence, which, more or less stands were it, was in 1861.

Police administration in India in the closing decades of the twentieth century faces two major questions which Prof. Bayley has raised. They are: (1) Is the Indian Police system capable of coping effectively with the basic tasks of police responsibilities? And (2) Is the present system of Indian Police as compatible with a democratic polity as it was with a

53 Ibid pp 357
55 Proposed by V.S. Bakhle in a note of dissent to the Maharashtra Police commission P-33
56 Suggested by West Bengal Police Commission, P 148
colonial regime. The answers to these questions are obviously in the negative. Naturally, the people, the politicians, the civilian bureaucrats and the police personnel should put a concerted effort and have a fresh look on the organization and its framework in terms of its potentialities and limitations. The survival and growth of democratic institutions require a well-ordered polity, which does imply a critical role for the police. Who these police personnel are? What do they do? And how do they accomplish what they are assigned to do? Do police personnel represent all the strata of society? What are their priorities in law enforcement? Do they really enforce law? Where is the locus of their initiative? Are they secretive or open? Do they act impartially? These are the open questions, which need the attention of social scientists. If the police administration fails the country in performing its basic jobs, the future of democratic institution may be in jeopardy. The police personnel can contribute to the erosion of faith in popular government and conversely, he can provide a sustenance to the ongoing system of Indian democracy.\footnote{P.D. Sarma, (1997), "Police & Political order in India", Radha Publication, New Delhi, PP. 34, 35.}

**Structural Organization of Indian Police in Independent India:**

**State Level**

The Director General of Police and Inspector General of Police in each State is responsible for the administration of the Police throughout the State. His duties include:

1) Maintain Organizational efficiency through constant supervision in the discharge of the primary duties of prevention and detection of Crime and maintenance of law and order. He works with the approval of the State Government and in accordance with the Police Act, which he considers necessary for the improvement of efficiency.

2) To ensure internal economy.
   a) Preparation of annual budget.
   b) Allot grant to subordinate officers and
c) Observe financial rules in expenditure.

3) To act as principal advisor to the State Government in matters concerning Police administration.
   a) Responsible for collection and communication of intelligence.
   b) Keep government informed on the crime situation.
   c) Advise the government on matters affecting security of the State.
   d) Advise the government on matters affecting the security of VIPs.
e) Inform the government of serious disasters and undertake Police response and
f) Advise the government and assume control on development of Police/Para-military forces during State-wide events like elections, wide spread violence and huge congregations of people like Kumbha Mela etc.
Zonal Level :-

The Inspector General of Police is the Officer in charge of a Zone, which looks after 2-3 ranges. He acts as a link between the D.G.P Headquarters and ranges and districts. Many of the administrative/financial powers of the D.G.P are delegated to the I.G.P in charge of a Zone. His duties include inspections, optimum utilization of human as well as financial resources, disposals of revisions and coordinated response to organized crime, communal incidents natural disasters etc.

Range Level :-

The D.I.G. is in charge of Police administration of a range consisting of 2-6 districts the number of ranges in a State very from 3 in Kerala to 18 in U.P.

His duties include :-
1) Maintain efficiency of the force through inspections.
2) Frequent dialogue with S.P/D.M.
3) Maintain discipline on the force through disposal of appeals.
4) Control of expenditure of funds.
5) To look after the accommodation needs.
6) Keep the DGP and IGP informed of all important developments.
7) Closely supervise the grave crime reports and
8) ensure inter-district cooperation in action against crime and criminals.
9) Deployment of special Armed Police / CPMFS.

District Level :-

The Superintendent of Police is in charge of Police Administration, subject to general control of the District Magistrate who is responsible for law and order and oversees the criminal administration in the district. His duties and responsibilities include: -
1) Maintenance of law and order.
2) Prevention and detection of crime
3) Collection and Communication of intelligence.
4) Discipline and welfare if men under his command.
5) Effecting internal economy through proper maintenance of cash and accounts, and optimum utilization of funds.
6) Ensure efficiency of organization through inspections, properly equipping men in performance of their duties and ensuring their mobility through adequate transport with communication support.
7) Promote Police – public relations
8) Ensure adequate Office and residential accommodation for all ranks.
9) Ensure road safety through proper traffic control.
10) Attend to day-to-day administration by attending Police-office regularly.
Sub-Divisional Level:-

An Assistant / Deputy Superintendent of Police is in charge of Police administration in a Sub-Division. His duties include:

1) Maintenance of law and order.
3) Extensive touring and frequent night-patrolling.
4) Inspections of Police Stations / Out -Posts.
5) Collection and Communication of intelligence.
6) Promote Police-public relations and
7) Submission or reports, returns and statement in time.

At times an A.S.P / Dy.S.P is posted also at district headquarters. In this capacity, he perform those functions, which are delegated to him by the S.P in areas of Crime control, traffic safety efficient running of the district Police Office and Police lines.

City Level:-

Cities like Calcutta, Bombay, Delhi, Madras, Ahmedabad etc. are administered by Commissioner of Police of the rank D.G / I.G./ D.I.G. There are no district Magistrates in these cities and respective city Police Acts replaces the Police Act in the exercise of the authority by the Commissioner of Police. In the city Kolkata alone, the Commissioner of Police, an of the rank of D.G., directly reports to the State Government.

The Commissioner of Police is assisted by Additional/ Joint Commissioner of Police in rank of I.G./D.I.G. The Deputy Commissioners of Police and Assistant Commissioners of Police correspond in rank to A.S.Ps/ Dy.S.Ps in charge of a sub-division.

Police Station & Out-Post Level :-

Under Cr.P.C any post or place can generally or specifically made by the State Government to be a Police Station and includes such areas as may be specified by the Government in this behalf. Each district has several Police Stations, the Size of which varies from State to State. The Jurisdictional area of a Police Station depends on several factors like density of population, incidents of Crime, industrialization, urbanization etc. A periodical review of the jurisdictional area is indicated by the National Police Commission and each change in the jurisdiction is to be done through gazette notification. Police Station is the basic unit for investigation of any cognizable offence which is also registered at the Police Station. All Superior Supervisory Officers have the same powers as that of an Officer in charge of a Police Station under the Cr.P.C. A Police Station is generally under the charge of a Sub-Inspector/Inspector and in rare cases a Dy.S.P.
Police Station can be classified as:-
1) Rural
2) Town
3) Urban
4) Suburban
5) Railway

The functions of a Police Station are:-
1) Investigation and detection of Cognizable Offences.
2) Prevention of crime.
3) Maintenance of law and order.
4) Maintenance of records relating to crime. And criminals as well as investigations and administration.
5) Traffic Control.
6) Maintenance of order during fairs, festivals, large assemblies of people.
7) Maintenance of order at public places.
8) Service of legal process and orders.
9) Prevention of public nuisance.
10) Arrest of wanted criminals.

An Out-post can be a permanent or temporary unit of policing. It can also be a reporting out-post where cognizable offences are registered and covers a few villages in the rural area under a police station, or a particular Mohalla in a town or areas in an urban conglomeration.

The areas covered by an out-post are generally sensitive in nature and are centers of trouble. The consideration for their location could be the population profile, criminal propensity, Political and Communal complexion and frequency of law and order problems. In rural areas, inaccessibility could be another consideration besides problems like caste conflict, agrarian unrest, activities of criminal gangs, etc. The out-post is generally under the charge of Sub-Inspector/Head constable.

Rural Policing:

The Police system in the villages of India depended on the principle of joint responsibility of the village, enforced through an elected or hereditary headman who was assisted by one or more watchmen remunerated suitably. This practice continued during British rule. The introduction of Panchayati Raj in the country after Independence had upset traditional village hierarchy. Village policing however, continued under the control of the District Magistrate and worked under the Officer-in-charge of the Police.
Station in whose jurisdiction the village lies. Regular Police Coverage to the villages is provided through beat patrolling system of the Police Station concerned by constables and supplemented by voluntary village defence societies for preventing organized property offences in the villages based on the principle of local responsibility or self-help, especially to fight crime like dacoity, cattle theft and crop cutting. Village touring by senior officers during inspection visits is helpful because with the simultaneous scrutiny of Police Station records, public-police relations can also be improved.

**Reserve Police Lines :-**

The district headquarters is provided with Armed Reserve located in Police lines. They perform following duties:

1) Security and guard duties.
2) Escort duties and
3) Act as a ready reserve in dealing with sudden outbreak of violence.

The Reserve Inspector, under a gazetted Officer, in charge of Police Lines is responsible to the S.P in charge of the district for the discipline good conduct and training of men placed in Police lines and on duty at various points in the district.

**District Police Office :-**

The district Police Office of the S.P has all Officer located at district headquarters. It also has various units like general correspondence, accounts, record room, etc. In some states, P.A to S.P is in charge of the office while other a gazetted Police Officer is in charge of each unit like general correspondence accounts. Etc.

**District Crime Records Bureau :-**

The District Crime Records Bureau is under the charge of an Inspector/Sub-Inspector. It collects and disseminates information on criminals and maintains various maps and charts on crime. It also maintains Modus Operandi Charts of Criminals.

**Local Intelligence Unit :-**

The Local Intelligence Unit is under the charge of an Inspector/Sub-Inspector and is directly under the District Superintendent of Police. In bigger district, the unit is headed by a gazetted officer. The unit is responsible for collection and transmission of police intelligence, having an immediate bearing on law and order. One important function of this unit is also to keep watch on the activities of foreigners.

**Photographic Section :-**

The photographic section plays an important role in the prevention and detection of Crime. This unit has also a vital role to play in law and order situations.

**Its functions include :-**

1) Coverage of scene of crime.
2) Help to identify unknown diseased persons.
3) Locate unlawful element in law of order situation.
4) Help to identify stolen seized property.
5) Coverage of foot and fingerprints.
6) Use in post-mortem.
7) Help Police in dealing with questioned documents.
8) Help Police in identifying persons of suspicious background through surveillance.
9) Use in laboratory and
10) Use as evidence in courts of law.

**Forensic Section :-**

The Forensic Section in the district Police is more by way of field units at the district headquarters, often backed by a mobile unit. Besides providing a kit for Scientific aids investigation to all Police Stations in the district, the field unit / mobile unit stationed at district headquarters attend to such calls as may be made upon them from time to time to supplement the efforts of Police Station in scientific investigation. Cases involving laboratories testing are referred to Forensic Science laboratories of the State/ Central Governments as well as chemical Examiners. Cases under Explosive Substances Act are referred to Inspector/ Controller of Explosives. Cases involved in counterfeit notes/ Coins are referred to Security Printing / Government Mint spread over the country.

**RECRUITMENT :**

The committee on Police Training 1973 has highlighted that out of all public services the police services the police alone has powers to exercise direct coercive influence on the individual citizen at times. The response for order and prevention of crime calls upon them to make quick perceptive judgments in the thick of conflict and in the full glare of public scrutiny. Errors of judgment on their part in this context can cause irreparable harm. The committee has observed:

"The nature of the police role in a democracy impartially; they should be administratively competent, politically neutral and imbued with the spirit of selfless service. A police officer enjoys vast powers under the law and exercises wide discretion. The recruitment procedures should, therefore, be so devised that they are free from political, personal or corruptive influences. The need for objectivity in selection cannot be over emphasized."

Recruitment to the police is presently being made at the levels of Constables, Sub-Inspector, Deputy Superintendent of Police and the Indian Police Service with slight variations from state to state in regard to the quantum of recruitment at different levels. With direct recruitment at several levels above the constabulary and with the relatively meager number of posts of the rank of Assistant Sub-Inspector and above in the police system, the promotional flow upwards from the rank of constable is severely impeded, resulting a large majority of constables retiring as constables without even on rank promotion in their entire career. For securing the promotional structure envisaged by police commission, it would be necessary to limit recruitment to the police to two levels only: namely (1) Constable and (2)
Indian Police Service. Police commission, therefore, recommend the adoption of a policy of recruitment confined to the levels of constable and Indian Police Service in a phased programme with a gradual reduction / elimination of recruitment at intermediary levels.

The committee on Police Training 1973 had stressed the importance of psychological tests and pre-entry orientation for a proper recruitment procedure. The various state police commissions have also recommended the introduction of intelligence and psychological tests for constables and sub-inspectors. The working group of the Administrative Reforms Commission on Police Administration has also pointed out the necessity for such test. The committee on Police Training 1973, had recommended the setting up of a small cell in the Bureau of Police Research and Development for developing the psychological tests. We find nothing much has been done in this direction so far.

On the pre-entry orientation the committee on police training 1973 had felt the necessity for creating interest among the youth in police-work by exposing them to the techniques of policing as part of the school and college curriculum. They had further recommended the examination of the possibility of introduction of police science as a subject on the analogy of Military Science. This could be supplemented by the establishment of a police cadet crops on the lines of the National Cadet Crops or Boys scouts to enhance and develop the necessary interest in the work of the police.

Committee on Police Training 1973 recommended that the minimum qualification for recruitment to the post of constable in the armed as well as civil police should be High School. In Karnataka, however, the minimum educational qualification for armed police constables in SSLC while for civil police constable it is Higher Secondary i.e, 12th Standard. But committee has made observation that this qualification is only a stipulated minimum and should not operate against attracting candidates of higher educational qualifications. In fact, we expect the police force to draw in people with even higher qualifications at the level of constable when once the promotional flow upwards becomes smooth and quick in reality. Therefore, the commission of the view that at the time of recruitment some weightage in the form of bonus marks many be given to candidates with higher qualification. But again nothing much has been done. From chapter - 4 the social profile of police in Karnataka will reveal that there is no dirth of overqualified police personnel at constabulary rank but they are no way encouraged by the authorities to pursue their carrier in police. Rather at times they are discouraged to do so.

The minimum age of recruitment for constable is 18 years while the upper age limit varies from state to state, ranging from 21 to 30 years. There is relaxation of upper age limit up to 5 years in case of SC/ST and Backward classes in some states. A view has been expressed that the maximum age limit be reduced to 20-21 years. A suggestion has also been made to catch them young, so that intelligent boys join the service at the proper time and age
and not try their lack in the police after they have been rejected for other jobs. The older candidates also lose some flexibility of body and mind, with the result that the training does not have the desired impact on them.

Regarding physical qualification the committee on police training 1973 had recommended the following:

(i) The minimum height should not be less than 167.64 cm. (5'6'') in general for both the civil and armed branches and 165 (5'5'') in case of men from the hill and tribal areas. This may be raised or relaxed in the different states or for selected areas or particular state for ethnological reasons.

(ii) The minimum chest measurement should be 78.70 cm (31") unexpanded and 83.82 cm. (33") expanded for those whose height is 167.64 cm (5'6'') and 76.2 cm (30") unexpanded and 81.28 cm (32") expanded for those whose height is less.

(iii) Standard age-height-weight correlation table should be consulted while prescribing the minimum weight limits so that these may be in accord with the height limits that may be adopted by the different States/Union Territories.

Constables are recruited on a district / battalion basis throughout the country. But there is no standard procedure either in the constitution of the authority to make the recruitment or in the procedure there of. In some states a board makes the recruitment with the superintendent of police as the presiding officer. But due to increasing competition and alleged malpractices some transparent, independent, objective selection procedures are coming up. As for example in Karnataka in recent years a very transparent system has evolved. Here for both armed and civil police the aspirant first has to appear in a written Common Entrance Test conducted by Karnataka Public Service Commission for their respective services. Successful candidates appear for physical proficiency test. Where they have to qualify for both physical requirements as well as physical efficiency test (100 m. running in 15 sec, High Jump, Long Jump etc) The candidates who are successful in both written test and physical efficiency test appear for the interview and on the bases of marks obtained in these three stages, successful candidates are selected.

Nearly all the states are making direct recruitment to the post of Sub-Inspector. The minimum educational qualifications prescribed for the recruitment of Sub-Inspector in a majority of the states in a graduate degree, from a recognized University. The minimum age limit recommended is 20 years and the maximum of 23 years with the usual relaxations for Schedule Castes and Schedule Tribes. No special weightage however, be given to post graduates or qualified. The same physical standards as applicable to constable can also recommended for Sub-Inspector as well. Those who satisfy the minimum criteria are appeared for a written examination conducted by a selection board. The chairman of the board varies from state to state. For Karnataka the chairman of the board is Secretary, Home
Department. Successful candidates are selected on the basis of written examination and subsequent interview.

Selection procedure for both Deputy Superintendent of Police and Indian Police Service Officers are same. Union Public Service Commission recruits them either by state public service commission or. The minimum educational qualification is graduate degree from a recognized University. The minimum age limit is 21 years while the maximum is 30 years, with usual relaxation for Scheduled Castes and Scheduled tribes. To be selected for their respective services they need to have the basic minimum prescribed physical requirements. They are selected through a 3 tier examination system including a scrutiny objective paper, subjective written examination followed by interview for the successful candidates of the previous stages.

**Training**

Training is a deliberate and planed process of teaching and learning where in knowledge, skills, techniques, attitudes and experiences are acquired by the trainees with the help and guidance of the trainers in a given learning environment. In its second report National police commission (1973) have redefined the role, duties and responsibilities of the police as follows: -

i) Promote and preserve public order.

ii) Investigate crime, and where appropriate, apprehend the offenders and participate in subsequent legal proceedings connected therewith.

iii) Identify problems and situations that are likely to result in commission of crime.

iv) Reduce the opportunities for the commission of crimes through preventive patrol and other appropriate measures for prevention of crimes.

v) Create and maintain a feeling of security in the community.

vi) Aid individuals who are in danger of physical harm.

vii) Facilitate movement of public and vehicles.

viii) Counsel and resolve conflicts and promote amity.

ix) Provide other appropriate services in an emergency and afford relief to people in a distress situation.

x) Collect intelligence relating to matters affecting public peace and crimes in general including social and economic offences national integrity and security.

xi) Perform such other duties as may be enjoined on them by law for the time being in force.

Training is a means to achieve this goal. Training represents an intervention strategy with, inter alias, the following overall objects, namely: -

a) Checking and preventing obsolescence at both organizational and individual levels.

b) Curing pro-active shortcomings of knowledge and professional skills, techniques and procedures.
c) Shaping and making adjustments with fast changing socio-technological, environmental changes and demands.

d) Promoting and developing new outlook, and ethnological version of quality, excellence and accomplishment in one's profession.

e) Transforming and making a total man with new professional and cultural attributes and

f) Providing the opportunities for the fullest development of the individuals and the organization over a period of time[^58]

**Components of a Training System**

```
<table>
<thead>
<tr>
<th>Input Trainees</th>
<th>The Process of Training As A System</th>
<th>Output Trained Trainees with cash</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities</td>
<td>Trainees</td>
<td>TRG Environments</td>
</tr>
<tr>
<td>Process Operations</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7 Conduct Training

6 Obtain Instructional Resources

5 Select Methods & materials

4 Develop Curriculum

1 Develop Job Standards

2 Identify Needs

3 Determine Objectives

EVALUATION & FEEDBACK

C Time

D Budget

A Conditions

B Constraints

Source: K. M. Mathur, 1994, PP 274

Training in any field or any organization is indeed reflection of the traditions of that system. Historical forces coupled with social, political as well as administrative compulsions and other powering factors nurture and shape the events to evolve its outcome.

The British India administration modelled the police system in India not after what was prevailing in their own soil but resorted to a strange mixture of their innovative ideas in police administration.\(^5^9\) The result was the Police Act of 1861 which speak for an utilitarian dictate determining the role and responsibility of the police in India. The act was devised on the one hand as an efficient instrument for the prevention and detection of crime and on the other as a repressive tool of foreign power to perpetuate and maintain their reign. Training was also designed achieve this goal and due to this police training drew its inspiration from the armed forces and was mechanical in nature.

Even after Indian Independence and introduction of Constitution, the police system continued the same structure but with the visible changes. Same old repressive force rightfully served their duties of nation building in the crisis period. The guiding parameters of the new climate started filling a dawning philosophy of police working to suit the demands of the emerging new nation – state. Therefore, a new look was accorded to the training schedules, both in core and content with the National Police Commissions report of the committee on police training (1973). It was being implemented all over the country and a qualitative change was apparent in the subsequent era as the perspectives and approaches of invoking greater professionalisation and higher competency in police work became increasingly evident. Another salutary effect was seen in the application of modern managerial techniques in all facets of policing, training included.\(^6^0\)

Sensing the significant and elementary inadequacy, the Third National Police Commission suggested introduction of a specific provision in the proposed police act, which would categorically and unmistakably enjoin on the police duty to uphold and enforce the rights of all persons, including the rights of the accused in al the processes of criminal justice administration.

The role of police in the changed context, as aptly suggested by the third national Police commission put emphasis on the need to guard the rights of the citizens including that of accused persons. They must realize that the accused is not just the object of their work in crime detection or case investigation and he (i.e., the accused) is a human person and is endowed with the inherent dignity of man. The police, as a representative of the state or the community has to respect the idea consistent with the legal directions which cover and specify the legal directions which cover and specify the relationship between the two. In the historical backdrop of the evolution of the police and their training traditions it would be

necessary to weave into the inputs a healthy blend of skill and knowledge dimensions and venture to attitude marshal them on to a course of democratic policing in which rule of law is supreme.\(^61\)

Though the committee on police training (i.e., popularly known as the Gore Committee) had urged the need for transition in inputs altering the overall content and dimensions of police training, the change is not yet fully visible in actual terms, all over the country on an uniform basis. Smartly turned out men with strong physical capabilities are no doubt essential for the profession. But, the emphasis on the necessary and vital “Attitudes and Skills” so crucial to the job requirements at the Investigators level and the values reflecting the right “Attitudes”, so fundamental at the constabulary levels warrant to be projected adequately in unmistakable terms and effected systematically.\(^62\)

\textit{Regimentation}: - All out door work in general inclusive of physical fitness, drill, weapon training crowd control, unarmed combat, games, athletics, and related inputs.

\textit{Knowledge}: - Law, Criminology, Forensic Science, Police Administration & Police Manuals etc.

\textit{Skills}: - Police Duties & Functions, Investigation and related matters.

\textit{Attitudes}: - Constitutional values, Role of Police in Modern India, Human Behaviour, Police Conduct, Moral and ethical inputs and public relations etc.

\textit{Constabulary}: - The maximum visibility of the police to the people, as an organization, centres around the constable and the SHO. The constabulary and the SI/Inspector of Police perform the crucial roles in the police and the rest of the hierarchy has mainly supervisory and supporting roles. The field staff at the police station level are the first to come in contact with the people who perceive in them the authority of the state to assist them in resolving their problems constabulary is the only limb of Government who comes more in contact with the common man in his everyday life than the personnel in any other wing of the government.\(^63\) The impression of the people regarding the conduct of constabulary contributes greatly to the image of police. Thus according to NPC it is necessary that a constable should possess more than average intelligence, be able to appreciate the difficulties of the public, have an analytical mind and understanding of fellow human beings and countrymen and their rights.

\(^61\) NPC Report Chapter - V
\(^63\) 5\textsuperscript{th} report of NPC, 1980.
According to NPC constable should thus be looked as a potential investigation officer who could entrusted with higher responsibilities in field jobs as he picks up experience and rises further by promotion on the basis of his performance at each level. The crux of efficient policing is, the effective and amiable street presence of well qualified, trained and motivated constables.

1 - Pre-Gore Committee

- Regimentation: 65%
- Skills: 10%
- Attitudes: 5%
- Knowledge: 20%

2 - Post Gore Committee

- Regimentation: 52%
- Skills: 10%
- Attitudes: 8%
- Knowledge: 30%

The CPT, 1973's recommendations cover all aspects of training essential for induction into the new role of the constabulary. The recommendations cover periodical examinations, guide schemes, night work practical exposure to problems, assessment of performance etc. Pre course training can give the exposure to prepare the recruit for imbibing the culture of the organization but it is on the job training, which plays the important role of conditioning the recruit to the culture of a police force.
If we give a look at the nature of training of the constabulary, a very clear emphasis is on the regimentation while very little have been done on attitude development. (See Diagram attached and also see Appendix-2 depicting training syllabus for constable).

Though NPC has observed that the prospect and opportunity structure within the police should be so modelled as to enable the able and deserving constables to steadily reach higher levels in the system. They also recommended that the State Training Institutions should take the responsibility for encouraging such deserving candidates by guidance and other means for further education and acquisition of professional knowledge required for their tasks. But very little has been done towards this end.

Training of Inspectors / Sub-Inspector:

The Sub-Inspector of police occupied the most important functional area in the police hierarchy. He is usually the officer-in-charge of the police station and the principal investigating officer. The Cr. P.C. and other penal procedures acts vest in him enormous powers like power of arrest without warrant, release on bond or bail, search and seizure, carrying out inquiries and summoning witnesses. In law and order situations, he has an arsenal of powers whose impact on the citizen’s fundamental and other rights is far reaching. He combines in himself the preventive detective, and regulatory control functions of law enforcement. He comes into continuous contact with the public. He occupies the first level of supervision and leadership in the set up, over the constables and head constables, who are most visible to the public eye.  

1 - Pre-Gore Committee

Too much centralization of action and powers at this level combined with pressures and demands for results by several supervisory levels has resulted in the Sub-Inspectors getting hardened in their attitudes, with consequent failure to
see the humane angle of the problems that arise from social, economic and physical handicaps. On top of it, they get little active help and guidance from their senior offices in conflicting situations.65

The CPT, 1973 in prescribing the training programme for this level while giving the necessary importance to professional efficiency has balanced it with a much needed tilt towards sensitising S.I.s to the human problems of our people and re-orienting their behaviour and generally afraid of the police due to a long colonial tradition.

2- Post Gore Committee

![Pie chart showing the distribution of skills, knowledge, attitude, and regulation.]

The Sub-Inspector has to be professionally competent and keep the public and his superiors satisfied if he is to come up in the service. This involves a thorough training not only in legal side of his work but also in the practical side like scientific aids and other skills in investigations, gathering of intelligence, adequate knowledge of forensic science etc. In the area of law and order he should be trained in crowd control, regulation of fairs and festivals, meetings and processions. He should also be trained to have the necessary understanding of the causes that results in communal and social conflicts. He is required not only to be prompt and effective in action, but discreet and tactful. He should have faith in the preventive aspects of police work as well as the criminal justice systems and be able to stand up to its exacting procedures.66

3- Proposed Module

![Pie chart showing the proposed distribution of skills, knowledge, attitude, and regulation.]

1,2,3, Source: Krishnamurthy 1994

---

65 NPC fifth report, G.O.I., 1980
66 National Police Commission, Fifth Report, Govt. of India November, 1980
The committee’s recommendations for attaching the S.I.s to some social service institutions as part of the training, deserve careful attention. It is necessary that he is exposed periodically to refresher course which would increase his sensitivity, understanding of psychology and teach him management techniques and behavioral sciences. He has to be periodically brought up to date in the use of various scientific tools and skills.

The basic thrust of the police commission indicated that recruitment would ultimately be confined to the levels of constables and Indian Police Service. But till the constables recruited and trained under the new concept come up in sufficient strength to take the place of directly recruited S.I.s., we have to abolish the system of S.I.s gradually.

It would be desirable that the training syllabus for the promoted S.I.s is to designed by a combination of professional and academic subjects that on completion of two years probation, the promotee is enabled to appear at and pass a departmental examination entitling him to award of a Diploma / Certificate of merit in police sciences. For this purpose, each training academy may be declared as a center of Education in police science, just as the Indian Institute of Technologies, Institute of Managements are entitled to award Diplomas / Certificate of Merit of their own for the course they teach. All these promoted offices would have already passed the High School examination or the Higher Secondary examination and in some cases may be degree holders. Their working experience of several years in police would also have matured them. This will ensure that those constables who are promoted to the rank of SIs feel no way inferior to the directly recruit SIs with whom they will be working for some time. This will also ensure that in further some of them can hope to catch up with I.P.S. offices as well. As a measure of incentive those among the promoted SIs who obtain degree in Police Sciences in the second class should be given an award of Rs. 1,500/- and those who pass in the first class should be given an award of Rs. 3000.

After the police organization is re-structured, police commission envisage that depending upon the importance of the charge, the duties and responsibilities of both the Sub-Inspector and Inspector would be more or less identical. Some Inspectors will be holding the more important charges and in certain cases they will supervising the work of Sub-Inspectors. Keeping these in view, we would recommend that a special course may be organized in the state training institutions for those sub-inspectors who are selected for promotion as Inspectors. The duration of this course may be 6 weeks only to serve as a gap between the tow ranks and knowledge of work with problem solving skills. A detailed course materials for Sub Inspector’s are attached in the appendix-3.

The post of the Deputy Superintendent of Police is a continuing historical reality. This cadre of gazetted officers was created by the British both as a palliative to the

67 National Police Commission, 5th Report, GOI, Nov. 1980
sentiments and aspirations of the local population for a share in the administration and as an interface between the English Superintendent of Police and the rank and file of the force as also the Indian people with whom the Deputy Superintendent could communicate in their own language.

An experienced Dy. S.P. has years of working experience of all aspects of police functioning as so both the young directly recruited Superintendent of Police and the DIG/IG depend upon him for bulk of the police work. He does the bulk of the supervisory work in the field and has personally to make a large number of enquiries. The retention of this rank is further necessary to provide a promotion level for the large number of rank and file from the constable upwards.

Recruitment to the level of Dy. S.P varies from state to state. This level is filled by both direct recruitment as well as by promotion from SIs/Inspectors. The CPT, 1973 had recommended that till such time as direct recruitment to the rank continues, the basic course content of their training should be that of IPS probationers.

Since the level of the Dy.S.P. will be a promotional level for the Inspectors, there will be no need for any basic training course for these officers as is required at present for the direct recruits. All that will be needed in their case would be a refresher course of about 3 months to equip them to understand and undertake the additional responsibilities. They should also be given the necessary exposure to managerial techniques suitable for this level. This should include training in human behaviour, personnel management and new management techniques and concepts. A short exposure to sensitivity training would also be helpful to free them from their past experience. This will enable them to play their new role with greater sensitivity.

Training for this level of officers are being conducted in state training colleges. But commission is of the view that since state police training institutions do not have the necessary and adequate facilities for providing training for this level, the training would be imparted in NPA. NPA can run 3 months short refresher courses for this purpose. The training of Dy. S.P.s at the NPA will help in reducing the gap between the IPS officers and the Dy. S.P.s to the minimum. This centralized training will enable them to develop a esprit de corps with their colleges from other states. But nothing much has been done.

Training for I.P.S. officers :-

The IPS officers occupy the middle executive, administrative and the senior management positions in the police. The police performance at the cutting edge level of constables and middle operational and supervisory levels of sub-inspector and inspector largely depends on the quality of leadership and professional competence of the officers of the IPS. The IPS has a difficult, challenging and stimulating task ahead. The very preservation of the social order and the implementation of the various laws with public
in this context that the committee on Police Training, 1793 had pointed out that the future image of the police force as a whole, will depend to a large extent on the proper attitudes, character, professional skills and knowledge of the IPS officers, and the quality of the leadership they can provide to the force. Their personal example, initiative and dynamism will set the tone for the lower ranks and the impact of their knowledge, skills and personality can result in an over all improvement in the effectiveness and conduct of the force.

1 - Pre-Gore Committee

The committee on Police Training 1973 had reviewed the then existing training arrangement for IPS officers in the above perspective. Regarding the basic course, the committee had observe that the objective of the probationers course is to equip them with all such professional knowledge and skills and attitudes as will not only prepare them for effective performance of their tasks but also for higher responsibilities. They should be helped to develop a proper sense of values, faith in the rule of law and a spirit of public service. They should have an understanding of socio-economic changes taking place in the country. Their thinking should be in tune with the national goals and value systems and the urges and aspirations of the people.

2 – Post-Gore Committee

Unlike a few other services, the standards of health and fitness of the IPS officers have to be particularly high. A continuing awareness in this regard can only be created if practical work and physical fitness are given an important place in evaluation and subsequent training. While endorsing both the perspective and changes suggested by the committee police commissioner, would like to emphasis the need for adequate knowledge of laws, training in weapons and used of Science and Technology. Instead of packing all this knowledge and skill in one Basic Course, it should be spread over the first five years of service and should alternate between training in the National police Academy and training on the job. But again our diagrams shows presently very little importance is given on the attitude development.
3– Proposed Module 68

(Emphasis on motivation and leadership.)

Training pattern for Directly recruited IPS officers as suggested by 6th Police commission (1981 Mar) on the basis of recommendations made by committee on police training 1973 and training scheduled by the ministry of Home Affairs, Govt of India.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Course</th>
<th>Duration in Months</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Foundational Course of LBSN AA</td>
<td>4</td>
</tr>
<tr>
<td>2.</td>
<td>Civil Defence and handling of Explosive</td>
<td>1</td>
</tr>
<tr>
<td>3.</td>
<td>Basic Course of SVP NPA</td>
<td>6</td>
</tr>
<tr>
<td>4.</td>
<td>Army Attachment</td>
<td>½</td>
</tr>
<tr>
<td>5.</td>
<td>State PTC including a 12 day fleet management course at the central school of Motor transport and 15 days course at the central school of weapon &amp; Tactics.</td>
<td>2</td>
</tr>
<tr>
<td>6.</td>
<td>Working in a P.S. as constable and Head Constable</td>
<td>1</td>
</tr>
<tr>
<td>7.</td>
<td>Working as Sub-Inspector in a police station</td>
<td>2</td>
</tr>
<tr>
<td>8.</td>
<td>Attachments to prosecution branch, CID head quarters lines and at District Police office</td>
<td>2</td>
</tr>
<tr>
<td>9.</td>
<td>SHO rural police station</td>
<td>6</td>
</tr>
<tr>
<td>10.</td>
<td>Review course at SVPNPA</td>
<td>2</td>
</tr>
<tr>
<td>11.</td>
<td>SHO urban police station</td>
<td>6</td>
</tr>
<tr>
<td>12.</td>
<td>SDPO</td>
<td>24</td>
</tr>
<tr>
<td>13.</td>
<td>Junior Management Course at SVPNPA</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>59 ½</td>
</tr>
</tbody>
</table>

The Basic Course could focus on the following

68 1,2,3, Source: Krishnamurthy 1994
The Basic Course could focus on the following

1. Police history and implications of the changing social scene on the role of police in India.
2. The police organization in the general administrative set-up (a) Divisional and district administrative set-up (b) Judiciary including Nayalayas and (c) Local self Government Institutions, urban and rural.
3. Police organizations in the states, laws relating to police, office records and procedures.
4. Human behaviour and police attitudes.
5. Laws – Cr. P.C., I.P.C. Indian Evidence Act, Criminal Jurisprudence as a foundation for these laws.
6. Police sciences with focus on (a) Crime prevention and (b) Crime investigation.
7. Map reading and plan drawing, First-Aid and Ambulance drill and wireless communication.
8. Knowledge of Hindi and a local language.
9. Physical fitness programme and out-door training drill and weapons as at present.
10. Role, duties and responsibilities of SHO

V - Police and society in India: Trends in Existing state of Research:

"Independent India must...... Choose whether she will have a people's police or a ruler appointed police, in other words whether the people should rule or the party should rule. The Constitution has laid down that people themselves are the rulers, so the police must also be the peoples police.” [Khosla Commission: report of the Delhi Police Commission 1966-68]

According to Upendra Baxi –a reputed writer on social and legal issued and among the very few non-police person who has significantly contributed in police literature- Indian independence has not made any substantial difference to the functioning of the police.69 This has been the conclusion of a large number of state police commissions appointed by state governments, National police commissions and reiterated by scholarly studies. The police administration retained its colonial structure despite nearly 60 years of independence. But Bayley, most reputed police scientist who contributed significantly on the nature of Independent India’s police force opined that, “if the police retain its repressive colonial profile, it is due to the fact that the governing elites wish it so. Independence brought revolutionary changes in political structure of the government, it brought none of any consequence to the structure of police administration”70. Bayley believes “people get the

government they deserve”. By extension, people must get the police they deserve. According to the theory implicit in this popular formation, government reflects the character of its society. There is no point in wringing one’s hands if government is repressive, inefficient or corrupt. It could not be otherwise since people generally are not sufficiently disturbed to protest and reform. The police can only be what the public will allow. Government passively reflects society, the police, as an agency of government, is the creatures of both. But after analysing in detail on structure and organization of the police force, & it relationship with political establishment as well as the other administrative structures Bayley had opined that police too can influence its social and political environment in following manner. First, they are thoroughly and widely visible. Since they are uniformed, their activities are difficult to disguise and since their responsibilities permeate all corners of social activity, they are brought into contact with everyone. Other government servants touch only very specialized parts of human life and when they do so they attract little public attention. Second, Police possess a near monopoly on the instruments of force. They are societies regulators, imbued with power denied to everyone else. Third, they have responsibility for safeguarding the most basic elements of human life. Theirs is the power to protect or not to protect, to save or not to save. Moreover, they intrude into individuals lives at moments of stress and tribulation. Police personnel are identified with the greatest of life’s crises. Fourth, Police are immediately identified with law. In many respects they are more important than law, for they implement its strictures and decide when it is to be applied. Whether government is by men or by law depends to a marked extent on the nature of police.

The relationship of police and civil society is far from being cordial David Bayley in his empirical examination of Indian public attitudes towards police show a strong no-contact, no recognition dimension. For the majority of people, the police are faceless and nameless creatures with whom they have never had any contact.

One of the issues most frequently debated is the use of unwarranted physical force by the police on those under their custody or control. There are at least six sources from which one may learn about the varieties of police torture.

1) Biographical and autobiographical accounts of the victims of torture (including the inflictor of tortures themselves).

2) A second source of knowledge, and comparatively more reliable one is to be found in the work of judicial and quasi-judicial bodies.

3) Scholarly analyses and official reports on the police organization provide a third source of information.

4) The fourth source is to be found in the work of the non-governmental bodies whether international (such as Amnesty International) or national (Such as Tarkunde Commission on police encounter with Naxalites.)

71 Ibid PP-12
72 Ibid PP-14-15
73 Ibid PP-219
5) The fifth source of information concerning torture is, of course, the media especially newspapers, periodicals and Magazines.

6) The sixth possible source of such information is to be located in citizen-attitudes to police, especially their fears of possible custodial violence to themselves.

After knowing different sources to acquire knowledge on police excess, now we will shift our attention on how media, civil society and liberal academia has talked about and portrayed the police as a violator of human rights.

**Police: The Abuser of Human Rights**

Police culture and public image of Police are inextricably linked with each other. Ideal Police culture would also correspond to this ideal image of the Police. But unfortunately, there is a wide chasm between ideal and reality and the image of the Police, instead of being glamorous, is tarnished. Police are always under the scanner of media, civil society and liberal academics for their errant behaviour.

1) **Barking Cognizable Crime:**  
   It is common knowledge that Police evade registration of cognizable crime. They register cases of cognizable crime only when they cannot avoid it. They might register a case of cognizable crime as a non-cognizable crime. Such a Police culture makes people think that the Police are there not to serve and help the people but instead are there to boss over and harass people. The offenders, against whom even genuine cases are not registered, escape the clutches of the Police and thus get emboldened for launching their depredations with impunity. Thus, concealment of cognizable offences is a source of weakness and embarrassment to Police administration.

2) **Misbehaviour:**  
   It is a well known fact that Police misbehave with citizens; they come in contact persons suspected of committing a crime are arrested and then subjected to various types of tortures to force them to confess their guilt. The tortures ranges from: -

   - (A) → Beating (Both in public view, at home and inside the Police Station)
     → Punching in face, head and abdomen.
     → Kicking in chest, abdomen and back.
     → Trampling and kicking a man, made to lie down on ground.
     → Beating with lathis of foot.
   - (B) → Hanging the person from ceiling beams by hands.
     → Hanging from tree in upside down position.
     → Hanging the person by one hand only.
     → After a person is so hanged, he is severely beaten or other form of Torture are carried on.
(C) Wet submarine treatment – immersing the head of the person in a bucket or drum of water till he is nearly drowned.

(D) Continuously pouring water over the mouth and nose of a person after he is bound up and immobilized till he is nearly suffocated.

(E) Staking - a person is made to lie down on ground and his hands and feet are tied in a spread eagled manner. By this method a person is totally immobilized and then he is beaten.

(F) Giving electric shock from a 12 volt car battery or directly from domestic mains. Shocks are given to head. Eyes, cheeks, ears, neck, shoulder, armpits, back and even to private parts.

(G) Uprooting hairs by pinchers from head, eyebrow armpit and even pubic hair.

(H) Hitting a person on his genitalia and testicles till he becomes unconscious from pain.

(I) Applying chillie powder to eyes with the hands bound behind his back and also to anus.

(J) Forcefully pulling apart the legs, resulting in tear of the anus. or inserting a stout lathi smeared with chillie powder through the anus.

(K) Burning with lighted cigarette butts. Such burns are even given to private parts.

(L) Sticking pins all over the body.

(M) Denying food and water for days together.

(N) General physical punishment and humiliations, sometimes in full view of the women folk, and are forced to do the following.
   a) To kneel facing the sun for hours.
   b) To stand naked in sun and rain.
   c) To stand in waist-deep or neck deep water for hours.
   d) To perform frog jump till the person is exhausted.
   e) to run in circles.
   f) To carry other persons over back over the long distances.
   g) To perform sit ups holding the ears.
   h) Forcing to eat sand, earth or to drink alcohol and filthy water. 74

Thus known categories of misbehavior by Police are found to be occurring frequently.

1) Rude and discourteous conduct.
2) Refusal to certain complaints.
3) Overbearing attitude.
4) Beating.
5) Harassment.

---

It has been known that many times a particular kind of conduct or behavior can result in annoyance, harm, difficulties and at times even cause irreparable loss or damage to many individual citizens. Amongst the types of such behavior patterns that have been identified since long, the following are appropriate for our immediate considerations.

[A] Corruption - Demand and acceptance of bribery for doing or not doing things by the Police.

[B] Favoritism - Doing or not doing things for obliging people in power or people who matter.

[C] Use of third Degree -

[D] Discourtesy - Use of abusive language or other types of misbehavior such as not extending proper or even minimum courtesy.

[E] Neglect of Duty - Not doing things which the law requires them to do.

[F] Ignoring the poor and non influential.

[G] Fabricating evidence and padding up evidence

3) Actions and Inactions :-

Police falsely implicate innocent persons in criminal cases either at the instance of persons who grease their palms or with a view of increasing number of cases put up in the courts for trial. They fabricate evidence with a view to securing conviction (Anything is considered which will help to secure the conviction of a person whom the Police believe to be guilty) Police beat even persons who are not criminals or law breakers but who inadvertently annoy them on petty grounds. Police make money by favouring persons. They resort to extortion. They also resort to wrong doings at the instance of relatives, friends or politicians-in-power. All these overt actions or inactions indulged in by police personnel in brazen disregard for the principles of the rule of law and civilized conduct adversely effect Police discipline.

4) Proportion of Wrong-doers :-

There is no dirth of right thinking, right doing, cool, courageous and conscientious police personnel. A thousand instances of courage and coolness must pass unnoticed. There are indeed few jobs as demanding integrity, wisdom and courage wise as that of a Police administrator. This perhaps explains why misconduct of the Police severely pinches, irks, annoys and angers the people and has a lasting tarnishing effect on the public image of the Police where as good deeds performed by the Police prove to be ephemeral, hardly get noticed and also fail to brighten the public image of the Police.
5) **Custodial Deaths :-**

The custodial deaths or the “lockup deaths” are another manifestation of Police atrocity. The use of barbarous methods and third degree torture often results in death of accused or suspects. If we analyse the cases of custodial deaths it is proved that custodial torture and the subsequent death is a negative phenomenon. It is nothing but the deliberate killing by the “Custodian of Law” it puts a stigma on the India’s Human Rights Obligations and lowers the image of the nation in the eyes of international community.

6) **Encounter :-**

The encounter is a unique contribution of the Police in India to the vocabulary of Human Rights. It initially implied an armed confrontation when fire was exchanged and in the ensuing shooting people were killed. Generally, the so called “encounter” is justified by the Police on the ground of self defence. No doubt, Police has been given the power to shoot but it is subject to restrictions, limitations and circumstances. It can not kill a person under its custody, However, it is common belief that in some instances the killing of Political extremists and other persons wanted by the Police in so called encounters were nothing but cold blooded murders. Encounter is a gruesome act which is the violation of fundamental rights enshrined in the constitution of India in particular, because Article 21 of the Constitution of India states that no person shall be deprived of his life or personal liberty except according to procedure established by law.

7) **Police Atrocity and Women :-**

Police interact with women in various capacities. In many situations Police action can really deliver good to women. Since this is the main area of emphasis in my thesis, I will concentrate on this later. It is important to note that when the inmates of the custody happen to be the women, the vulnerable section of society face additional unspeakable mode of torture including molestation and rape. Women are often faced with following problems while interacting with police:-

1) Initial complaint is disbelieved and action is contemplated only on proper verification and after a value judgment as to whether the woman is deserving of appropriate Police response.

2) Discouraged from pursuing complaint.

3) Intensive, bullying and callous interrogation and aggressive and sexist questioning.

4) Succession of Officers interviewing the victim,

5) Medical examination delayed and conducted in unpleasant or threatening surroundings.

6) Women are not supplied with basic information about her legitimate rights and support services available.
But we need to be careful in understanding the contexts of torture. According to Bowden\textsuperscript{76} The use of Police violence against revolutionary protest movements is one such context; here the police respond (or are made to respond) to the demands on the part of governing elites to help maintain their power. If custodial torture is used by the police in such a context, it is regime-sponsored or part of governments public policy in extremes.

The \textit{Second} context of pervasive use of torture, somewhat related to the first, is that of management to internal disorder under the regime of a constitutionally proclaimed national emergency. Here, too, custodial violence is actively promoted to achieve the ends of a regimes security or security of a mere leader or a group or in bona fide situation to protect national unity or to secure a preferred social order.

There is a \textit{third} context where national emergencies are proclaimed because of external aggression or war, here again law enforcement machinery gets mobilized, to lesser or greater extent, to help the war effort: custodial violence towards enemy aliens or ethnic groups or suspected spies becomes a standard case.

We \textit{fourthly}, have a less inclusive contexts of terrorism and intra-group warfare manifested through riots. The context of terrorism is one in which the role of the police is often seen not just by the state but also by a substantial segment of the community as counter-terrorist one; in other words, terror has to be met with terror. In situations of communal or ethnic riots, or localized “class” wars between employer and trade unions or between landlords and peasants or violent student agitations, the police are often expected to restore order and investigate and establish culpability: almost invariably, there is a outcry of police torture in these situations. There is also considerable discretion at operational level in situations of this kind, which demand immediate pacification.

There are two other contexts involving custodial torture. One is custodial violence in the course of investigation: the other is applications of custodial torture as reprisal of “unformed vendetta”, situations where the police act as judge, jury and executioner, situations which are broadly called police vigilantism.\textsuperscript{77}

As I have already mentioned in India police research is sharply divided into two groups. First group comprises of social & political scientists, media personalities and jurists who always views police from a very critical view point and mostly as a violator of human rights. On the other hand second group of literature has developed by police personnel themselves and undoubtedly they hold a cautious, sympathetic attitude towards the issue. Very few social scientists like Bayley, U. Baxi, criminologists like James vadackumeary and police men like Dr. Krishnamurthy, Shankar sen, Krishna Mohan Mathur holds a balanced and impartial approach towards police-society relationship.

\textsuperscript{76} Bowden. J. (1978), “Beyond the Limits of Law”, PP-34.
\textsuperscript{77} Ibid PP 93-112.
The impartial, balanced approach demands a patient hearing of both sides. Thus we need to know the reasons behind the police excess. To understand the types of custodial torture and some of its causes is, of course, not to justify it from any ethical point.

The foregoing aspects help us to better understand the causes behind the phenomenon of police torture in wider aspect of societal violence and torture. But we cannot, in the final analysis justify the practice of torture on these grounds.

Causes for Violation of Human Rights by Police :-

The guiding principles of Criminal justice administration in a democratic society recognize the centrality of human rights in the enforcement of the rule of law. Accordingly, detailed standards for the protection of the rights of the accused and convicted persons prescribed. The substantive relationship between the protection of human rights and the prevention of crime and treatment of offenders is institutionalized through formal process and procedure. The mounting evidence of human rights violations by the police make it hard to argue that our police and security forces follow the legal and constitutional provisions intended to safeguard the rights of the persons accused of committing crime.

The situation, on the contrary, is that those who are meant to uphold the law quite often violate it, and seek to justify their actions on the ground that such steps are necessary to maintain law and order. Police are not a bunch of sadists or psychopaths. Thousands of police personnel have given their lives to protect and safeguard the integrity of the nation and have rendered valuable service in crime prevention, putting down organized crime and giving relief to the people affected by natural calamities of human rights abuse by the Police, the constraints under which the system works, and the conflicting commands that the system and its functionaries are forced to comply with.

Some basic structural functional anomalies and in congruities which contribute to Police inefficiency and encourage errant behaviour on the part of the force, are:

1) Obsolescent and outdated Organisational System :-

One of the most potent reasons for the inability of the Police system to conform to the demands of the human rights mandate, as also to the demands of the democratic polity, is the continuance of an obsolete and outdated Organisational system. The system is governed by an Act of 1861 which British rulers had drafted to constitute a civil force that would perpetuate their rule by controlling rebellion and containing the Indian people through the modes of repression retribution and revenge. The police, as per

British design was a force to suppress peoples aspirations, silence their dissent and disobedience.\(^79\)

Unfortunately, the act continues to be more or less unchanged despite the end of the empire and a radically different socio-political milieu. The British designed policing system is the root cause of many malaise, which all Police Commissions and senior Police Officials have pointed out. All piecemeal and cosmetic effort to reform Police system, have yielded little result. The charges of corruption, inefficiency, and oppression tantamounting to torture, custodial rape & deaths, fake encounter killings, false arrests, demanding and dehumanising methods of investigation and interrogation. Varied forms of excess and abuse of authority are levelled in large numbers and substantiated in quite many in the official documents, including the reports of the National Police Commission, the National Human rights Commission, Indian Law Commission. National Human Rights Commission\(^80\) opined that “After Independence the basic role of the Police and its structure did not undergo any change, even though the demands of the Police increased. The emphasis still remains on ‘Order’ rather than the ‘Law’ The heart of the matter is that the Indian Police system is not accountable to the people, it is not a service, it is a force, and finally it is one of the most unfortunate British legacies which the democratic India has retained and strengthened with all catapulations of a repressive colonial force.

2) **The Vestiges of Colonial Police Sub-Culture :-**

The Police in India carries the vestiges of a colonial Police-Sub-Culture. Which has certain distinct features of its own, not common to other Police cultures, particularly in the more developed countries of the world. This culture encourages servility to those in authority and induces them not to say ‘no’ to the superiors regardless of the illegality of their orders. These traits according to Ved Marwah\(^81\) have encouraged cynicism in their conduct and character, the Police Sub-Culture allows handling of the law violators by lawless methods, and tramples upon the rights of the accused. Sadism, barbarity, arrogance, abusive language, corruption and callousness are still part of Police sub-Culture and no wonder, therefore, Police are roundly accused of human rights violation.

3) **Police and Media – A Complex Relationship :-**

Police and Media are two important institutions of democratic societies and both have their separate areas of responsibilities. Media has to work as a healthy critical watch dog over Police. Similarly, Police should have some control and monitoring over the media. Instead of developing “adversary relationship” or a “Confrontational culture” both can develop a “Co-operative-culture” in their relationship. But in contemporary India, Police and Media are not sharing a very healthy relationship. The

\(^79\) Ibid, PP 92
\(^80\) Ved Marwah, (1977), “The Sub-culture” Seminar, October, PP.16
\(^81\) Ibid, PP 15.
media generally are blamed for depicting Police in very critical manner for the following:

1) Role of Police is generally negative and status quoist and thus media portrays the atrocities of Police or their high-handedness in a biased or prejudiced manner.

2) There is always a communication gap between Police and media because Police have a culture of secretly and as they are bounded by official secrets Act. They are trained to hide reports.

3) Subordinate officers at the level of investigating officers must be authorized to give required information to the media. At present lower rank up to the rank of Dy. S.P are not permitted to brief the media. Administrative constraints and mental reservations of the Police create antagonistic relationship between media and Police. Indiscriminate character assassination. Over exaggeration, negative vindictive yellow journalism made Police reluctant towards positive criticisms made by media. Even in some cases Police and Media in collusion jeopardize the very notion of human rights as both favours the might and wealth.

4) **Job Stress** :-

Stress is a multi-causal, complex, psychological phenomenon created by insidious, long range, continuous pressures, strains, threats and demands on the individuals much beyond tolerance limits. Stress can be caused by social factors, job demands, organizational factors and intra-psychic human factors up to a limit. Individual can cope with stress by extra-ordinary efforts, aggressive coping techniques, and relaxation methods. But when an individual fails to cope with cumulative stress, it causes psychological breakdown.

National Police Commission (Dharam Vira) Report has rightly noticed that an average constable works 14 hours every day without any respite under extreme conditions of stress and strain.

The causes of stress in Police are due to the following factors:

1) Long hours of work without weekly off or any holiday even during holidays.
2) This leads to disturbed family life.
3) Poor living conditions in Police quarters where available and where not available they live at the mercy of the house owner.
4) Police Stations lack even basic facilities like toilets and even chairs for the constables to sit down and relax.
5) Courts including frequent appearances and lenience by courts.
6) Administrative back up including lack of support in different situations.
7) Lack of support from the public.

---

8) Lack of career planning opportunities.
9) Inadequate rewards & non-recognition of achievements.
10) Excessive paperwork.
11) Ineffective measures against criminals and fear for security.
12) Distorted press reports.
13) Inadequate resources and inequalities in pay and job status.
14) Working in isolation and under hostile environment.
15) Strains of tours and travelling and time management problem due to too many VIP visits.
16) Conflict with social/family commitments.
17) Traumatic events like witnessing dead bodies in (Some times of their colleagues) involvement in armed encounters and constant threat of physical injuries and to life.
18) Irregular grant of leave and refusal of grant of leave
19) Lack of adequate emotional support from poor group and superiors.
20) Lack of clarity of orders and unresponsive administrative set up and conflicting values of the Organisation.

The very experience of stress leads to following :-

A) Growing indiscipline in the Police force, particularly in lower ranks who face the burnt mostly.
B) Growing number of voluntary retirement cases in central Police Organisation and the Police.
C) Police personnel are gradually smelling of alcohol even on job and excessive use of antacid per day by Police personnel.
D) Individual Police personnel generally overstaying leave inspite of liberal grant of leave.
E) Increasing number of accidents and Police personnel having serious suicidal tendencies and having frequent temper tantrums with spouses and family members.
F) Police personnel who believe that anything they do to enforce the laws and maintain internal security is perfectly justified.
G) Police Officers who always handle situations of physical violence with impunity when they could handle them by talking.
H) Police Officers who have utter disregard to the rule of law and believe in use of force and extra legal methods to control the crimes.

\[81\] Ibid, PP 55-61
5) **Public Apathy and Ambivalent Public Attitude :-**

Police violence often takes place while Police are performing their role of crime fighters. Our legislatures churn out laws at an alarming rate to satisfy their conscience and entrust the enforcement to Police. Many of these laws, though noble in their aims have not been accepted by the public. As Police are required to enforce all laws this creates a situation of conflict with the public. Total law enforcement is a gigantic inconvenience in a free society as it impinges on the basic freedom of the citizen. In our country, we seek to achieve social reforms through punitive measures enforced by the Police instead of thorough persuasion and education. Benefit of modern means of Crime detection, devoid of public co-operation, utilizing archaic judicial procedure and working with a sluggish and non-responsive judiciary, Police tend to attain quick result through third degree. Surveys reveal that general public are also not averse to Police on their using violence against ‘Criminals’. People can not distinguish between a ‘suspect’ an accused and a ‘criminal’. Since mostly weaker sections of the society are the ‘suspects’ in criminal cases, violation of their rights by the Police seldom attract peoples attention, unless a death takes place in custody. The public is not bothered whether human rights of these criminals are respected or violated. This ambivalent public behaviour promotes police high-handedness.

6) **Political Interference :-**

Growing Political interference in day-to-day working of Police has turned the force into becoming the agents of the party in power. The pressures which the politicians in power use to harass their adversaries contributes in the practice of torture. Ethos of Democracy lies in control of peoples representatives over administration. But once the politicians and the Police become partners, the former are compelled to overlook the misbehaviour of the latter. The Police personnel succumb to political pressure because of temptations or threats, and carry out illegal verbal instructions of the political masters. The worst part is that unlawful actions often produce the desired results in the form of recognition, promotions, decorations, rewards and favours. Subramanian comments “when quick decisive results are demanded of police and no question regarding the means are raised, law enforcers - the police in their eagerness to achieve the results take law into their own hands. When ends become important and the means are not questioned human rights become the first casualty

7) **Limitations and Compulsions of Criminal Justice System :-**

The criminal justice system consists of four elements; legislation, police, judiciary and Jails. The Police is only a cog in the wheel. All parts are required to work well for the smooth functioning of a machine. When approximately 15 to 16 lakhs or even more I.P.C cases are pending in criminal courts, how can the legal system work? Justice delayed is Justice denied. The entire criminal justice system needs some daring reform.

---

The functions of the Judiciary and the Police are complementary and criminal justice system needs the abolition of hiatus between justice and poverty.\textsuperscript{85}

Most Police brutality is due to their belief in personalized justice caused due to the criminal justice system punishing the accused but doing nothing for the victim. The courts even grant bail to persons who have burn their spouses. This makes the police personnel pass his judgment on the offender and go out of his way to punish the offender. “In the changed democratic set up of our country, a radical reorientation of outlook on the part of both the judiciary and the police personnel is the dire necessity in order to achieve the objectives of criminal justice.”\textsuperscript{86}

8) The Confused and Dehumanised Force :-

The Indian Police system faces a crisis of sorts in as much as it is unable to cope up with pressure of work, increasing demands from politicians and public, growing criticism from the media, and an unending stream of court verdicts of human rights violations. An undermanned and ill-equipped force is being subjected to daily denigration for its failure to arrest the awesome crime wave, increased lawlessness and mounting Socio-Political tensions. The pressure of Political and bureaucratic masters to keep the alarming law & order situations in disturbed areas seemingly under control, or else face the consequences transfers, suspensions, and punishment posting, leads Police to keep the crime situations by resorting to indiscriminate, arrests and other oppressive and unlawful activities. And in so doing, they are roundly criticized for committing a variety of human rights violations. Under the compelling conditions of work, they resort to short-cut methods of arrests, interrogations and investigations. This is how they stumble on peoples’ right to life and liberty and other constitutional and legal safeguards, falling under the ambit of human rights. The police personnel gets acclimatized to this hostile environment leading to their dehumanization. This is actually caused by dealing with criminals day in and day out, legal process being lengthy, time consuming and getting buried in procedural labyrinth seeing the injured, the brutally mutilated and decomposed dead bodies produce in him a streak of hard heartedness and often tend to dehumanize him.

9) Police Sub-Culture :-

Police culture has several easily identifiable characteristics :-

1) Cynicism and Pessimism.
2) Defensiveness.
3) Suspicion and Secrecy.
4) conservatism.
5) Alienation.
6) Machismo.

\textsuperscript{86} K.D.Singh, “Criminal Justice and the Police, Papers for XIV Police Science Congress”, Delhi, PP. 19-21.
7) Rigid hierarchical Structure, Authoritarianism and Pragmatism.

Some structural causes of Custodial Violence
First, it could be said that the training and outlook of the subordinate police make them prone to exercise of illegal force from time to time. The para-military nature of police organization stresses unquestioned obedience and fosters lack of discretion as to the use of proscribed and permissible force. Besides, lack of appropriate training for the subordinate police is fundamentally responsible for police excess. The training and outlook of the subordinate police need basic change.

Second, problem of inadequate facilities for investigation and detection of crime as a factor contributing to police violence. The need to detect criminals, and lead them to early punishment, is a structural demand within the organization as well as community expectation, which occasionally puts heavy pressures on the police to succeed in investigation.

Third: The paramountcy of detection (and disposal) of cases makes use of third-degree appear legitimate from internal organizational point of view. The notion of police efficiency is a complex one, that detection. Should not be over-emphasized; that prevention of crime should be regarded as major aspect of police work rather than successful detection and securing conviction.

VI - Police and Human Rights: Towards a New Sensitivity
Apart from traditional task of maintaining Law and Order, prevention and detection of Crime and Traffic control and Regulation, in recent years several other social services like counter insurgency, disaster management, VIP security, economic offences cyber crimes etc, are getting added to the domain of Police work. Since the scope and breadth of the Police functions are increasing, the issues of human rights violations caused by the personnel vested with power of enforcement of law are also getting wider. Conspicuously, the basic procedural law (the code of Criminal Procedure, 1973) and the substantive laws (like Indian Penal Code and Police Acts and similar other legislations) clearly follow the constitutional philosophy of just humane and equitable guidelines in all the areas of the penal processes. The scope of this discussion is focused primarily on the areas which fall under the purview of the Police. They are commonly known as the first stage of the Criminal justice processes and they form a very distinct and visible part, generally recognized as the "Pre-trial" sphere of the penal process.

The constitution of India and the Code of Criminal Procedure, 1973 have individually as well as collectively provided for nearly two dozen specific rights of the
accused that can be easily identified and distinguished. Some of these rights are so basic to human dignity that they have been made Fundamental Rights under the Constitution. They can be identified as:

**Fundamental Rights in Criminal Proceedings:**

1. Right against conviction or enhanced punishment under an ex-post facto law [Article 20(1)]
2. Right of an accused against double jeopardy [Article 20(2)]
3. The Right of Accused Against self Incrimination [Article 20(3)]
4. Right to be informed of the grounds of arrest [Article 21 of Indian Constitution]
5. Accused Person and his Right to Counsel :- [Article 22(1)]
6. Right to Legal Aid :-
7. Right of an accused to be produced before a Magistrate :-
8. Right of an accused to be informed of the ground of arrest, immediately after the arrest. (Sections 50, 55 & 75 of the Code of Criminal Procedure, 1973.)
9. Right of the accused persons not to be subjected to unnecessary restraint. (Section 49 of the Code of Criminal Procedure, 1973.)
10. Protection against arbitrary or illegal detention in custody :- [Article 21]
11. Right to be released on Bail, if arrested (Article 21)
12. Right of a person whose premises is searched to be present or have his representatives to be present during the search under a warrant and to have a copy of the seizure list as well as get a receipt of list of items seized. [Article 21]
13. Right of the Accused to have himself medically examined :- [Article 21]

*For further details see appendix -1*

**HUMAN RIGHTS OF VICTIMS OF CRIME:**

- to be free from intimidation.
- to be informed about the availability of financial assistance and legal assistance.
- to get back stolen or other personal property which is no longer needed as evidence.
- to a speedy investigation and trial of the case.

**Compensation to victims:**

Section 357(1) of Criminal Procedure Code provides that when a court imposes a sentence which includes a fine, the court may direct that the fine amount should be utilized.

a) By giving the expenses of prosecution.

b) In making payment in the loss caused to the victim.
Section 357 (3) of Criminal Procedure Code provides that the court can award compensation even in cases where fine does nor form part of the sentence.

**The Model Scheme for Victim-Assistance in India.**

Considering the present status of crime victims in India, the need to have a comprehensive victim-assistance policy is obvious and no reiteration. Acceptance of this policy should start with recognition of certain basic rights of the victims, such as:

1) **The Right to Protection from Criminal Victimisation:**

   This is the right to know about the protective measures which a person may take to avoid possible victimization.

   It is for the law enforcement agencies to educate the public about crime prevention measures and also to take necessary steps to community's self-protection ability.

2) **The Right to Reparation for consequences of Criminal Victimisation (Physical injury, loss or trauma)**

   This right is aimed at ensuring physical, psychological, social and financial well-being of the victims. Consequently, the victims of crime should have:
   
i) Right to have access to professional services and other support from the relevant agencies.
   ii) The right to Government compensation for physical injury.
   iii) the right to punish the offender through civil and criminal proceedings for the loss and damages suffered by the victim.

3) **Right pertaining to the Agencies of Criminal Justice System:**

   The victim must also have:
   
i) The right to be informed about the procedures and practices of the criminal justice system in simple language.
   ii) The right to information about the progress of investigation, arrest of the culprits case status in the court etc.
   iii) The right to fair treatment from the agencies of the criminal justice system.
   iv) The right to privacy, dignity and respect.
   v) The right to legal advice and assistance.
   vi) The right to ask for a speedy disposal of the case.
   vii) The right to have his recovered property returned early.
   viii) The right to receive fair treatment when testifying in court.
   ix) the right to protection from any intimidation threat or aggression from the accused side.

---

The Code of Conduct of Police in India

Police, due to the very nature of their job be it investigative functions, be it maintenance of Law and Order, be it crowd regulation or crowd dispersal, be it traffic regulation or in various other social service situation, have to interact with citizens in one way or the other. In all such difficult situation Police personnel are expected to uphold and ensure the human right of the citizens. Firstly because this is what constitutional mandate demands and secondly it is crucial to the very existence of the organisation in a democracy. Goodwill of the community and popular support will thus become the final bench mark for the future of any public service organisation and it is certainly more so in the case of an organisation like Police.

The Police Act of 1861, the substantives as well as the procedural penal laws like the Indian Penal Code and the Code of Criminal Procedure, 1973 together with the Indian Evidence Act have comprehensively prescribed the way in which the Police will have to fulfil their duty commitments and meet their tasks. From an universal legal point of view, we may note that code of Conduct for the Law enforcement Officials has been well accepted by the member nations and this is also reflected as a Code of conduct applicable in our country. However, the third National Police Commission suggested a marginal change in the twelfth clause of the code by suggesting that the Police must act as a servant of the law and not as a servant of the government in power. In addition it was also suggested that the "Obedience to superiors" must be in consonance with the law of the land and the illegal orders are not to be obeyed blindly.

The Code of Conduct:-

1) The Police must bear faithful allegiance to the constitution of India and respect and uphold the rights of the citizens as guaranteed by it.
2) The Police should not question the propriety or necessity of any law duly enacted. They should enforce the law firmly and impartially, without fear or favour, malice or vindictiveness.
3) The Police should recognize and respect the limitations of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit on judgment on cases to avenge individuals and punish the guilty.
4) In securing the observance of law or in maintaining order, the Police should, as far as practicable, use the methods of persuasion, advice and warning when the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.

88 Conference of Inspector Generals of Police in India 1960.
5) The Prime duty of the Police is to prevent crime and disorder and Police must recognize that the test of their efficiency is the absence of both and not the visible evidence of Police action in dealing with them.

6) The Police must recognize that they are members of the public, with the only difference that in the interest of the society and on its behalf they are employed to give full time attention to duties which are normally incumbent on every citizen.

7) The Police should realize that the efficient performance of their duties will be dependent on the extent of ready co-operation that they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and actions and to earn and retain public respect and confidence.

8) The Police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth or social standing.

9) The Police should always place duty before self, should remain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.

10) The Police should always be courteous and well mannered. They should be dependable and impartial, they should possess dignity and courage and should cultivate character and the trust of the people.

11) Integrity of the highest order is the fundamental basis of the prestige of the Police. Recognising this, the Police must keep their private lives scrupulously clean, develop self restraint and be truthful; and honest in thought and deed in both personal and official life, so that the public may regard them as exemplary citizens.

12) The Police should recognize that their full utilities to the State is best ensured only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in a State of constant training and preparedness.

13) As members of a secular, democratic State the Police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people of India transcending diversities and to renounce practices derogatory to the dignity of women and disadvantaged segments of the society.

Let's study the constitution and function of National Human Rights Commission, which is the pre-dominant institution of enforcing and monitoring the Human Rights performance of the Indian Police.

---

National Human Rights Commission

National Human Rights Commission was constituted on the basis of the protection of Human Rights Act 1993.

The commission shall consist of

a) Chairperson who has been a chief justice of the Supreme Court.
b) One member who is, or has been, a Judge of the Supreme Court.
c) One member who is, or has been, the Chief Justice of a High Court.
d) Two members to be appointed from amongst persons having knowledge of or practical experience in matters relating to Human rights.

The chairpersons of the National commission for minorities, National commission for the scheduled castes and scheduled tribes and national commission for women shall be deemed to be members of the commission.

There shall be a Secretary – General who shall be the Chief Executive officer of the commission and shall exercise such powers and discharge such functions of the commission as it may delegate to him.

The members are appointed by the President of India on the recommendations of a committee consisting of the Prime Minister as Chairperson and Speaker of the House of the people, Home Minister, leader of opposition in the House of the people, leader of the opposition in the council of states, Deputy Chairman of the council of states as other members.

Chairpersons & Members are appointed for five years or up to the age of seventy years. They are ineligible for further employment under the Govt. of India or Government of any State.

Functions and Powers of the Commission :

Functions :

a) Inquire, suo-motu or on a petition presented to it by a victim or any person on his behalf into complainant of
   1. Violations of Human rights or abetment thereof, or
   2. Negligence in the prevention of such violation, by a public servant.

b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

c) Visit, under intimation to the state Government any jail or any other institution under the control of the state Government where persons are detained or lodged for purpose of treatment, reform & protection to study the living conditions of the inmates and make recommendations there on.

d) Review the safeguards provided by or under the constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
e) Review the factors, including act of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

f) Study treaties and other international instruments on human rights and make recommendations for their effective implementation.

g) Undertake and promote research in the field of human rights.

h) Spread human rights literacy.

i) Encourage the efforts of non-governmental organizations and institutions working in the field of human right.

j) Such other functions as it may consider necessary for the promotion of human rights.

The commission shall, while inquiring into complaints under this act, have all the powers of a civil court trying a suit under the code of Civil Procedure, 1908 and in respect of the following matters namely:

a) Summoning and enforcing the attendance of witnesses and examining them on oath.

b) Discovery and production of any document.

c) Receiving evidence on affidavits.

d) Requisitioning any public record or copy thereof from any court or office.

e) Issuing commission for the examination of witnesses or documents.

f) Any other matter which may be prescribed.

The commission may for the purpose of conducting any investigation pertaining to the enquiry, utilize the services of any officer or investigation agency of the central government or any with the concurrence of the central government or the state government, as the case may be.

The commission may take any of the following steps:

**Steps after Enquiry :**

upon the completion of an enquiry held under this act namely:

1. Where the inquiry discloses, the commission of violation of human rights, or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned government or authority the initiation of proceedings for prosecution or such other action as the commission may deem fit against the concerned persons or persons.

2. Approach the Supreme Court or the High Court concerned for such directions, orders or writs as that court may deem necessary.

3. Recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of this family as the commission may consider necessary.
4. Subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative.

5. The commission shall send a copy of its inquiry report together with its recommendations to the concerned government or authority and the concerned government or authority shall, within a period of one month, or such further time as the commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the commission.

6. The commission shall publish its inquiry report together with the comments of the concerned government or authority, if any and the action taken or proposed to be taken by the concerned government or authority on the recommendation of the commission.

Procedure with respect to armed forces:

1. Notwithstanding anything contained in this act, while dealing with complaints in violation of human rights by members of the armed forces, the commission shall adopt the following procedures namely:
   a. It may, either on its own motion or on receipt of a petition, seek a report from the central government.
   b. After the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that government.

2. The central government shall inform the commission of the action taken on the recommendations within three months or such further time as the commission may allow.

3. The commission shall publish its report together with its recommendations made to the central government and the action taken by that government on such recommendations.

4. The commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

The commission, shall submit an annual report to the central government and to the state government concerned and may at any time submit special reports on any matter which, in its opinions of such urgency or importance that it should not be deferred till submission of the annual report.

The central government and the state government, as the case may be, shall cause the annual and special reports of the commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the commission and the reason for non-acceptance of the recommendations, if any.90

---

In this chapter we have covered a long journey from the question of social order to the "police" as the State appointed custodian of social order. We have found that due to the tremendous coercive power they enjoy, they are prone to neglect the rights of the individual. I have made a rigorous study of the prevalent recruitment and training system available for police personnel to show its futility and limitations in building right kind of attitude among police personnel in their adherence to human rights.

As we have just suggested, a democratic, postcolonial society needs a qualitatively different police force. Because unlike what it did in a repressive colonial regime, in the changing times it ought to assume the role of a catalyst to the process of "Democratisation". In other words, the self-perception of the police force has to undergo a dramatic transformation. But then our enquiry suggests that the legacy of a coercive repressive police force contribute, and although a new consciousness has began to emerge, enough has to be done to have an attitudinal transformation of police personnel. In fact this discussion on police and sensitivity to human rights would acquire a new meaning when in the next chapter we would specifically concentrate on women's rights.