



E-ISSN: 2789-8830  
P-ISSN: 2789-8822  
IJLLR 2024; 4(1): 122-126  
[www.civillawjournal.com/](http://www.civillawjournal.com/)  
Received: 16-02-2024  
Accepted: 21-03-2024

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## Policing the law: A comprehensive study of India's criminal justice system

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**DOI:** <https://doi.org/10.22271/civillaw.2024.v4.i1b.71>

### Abstract

All civil governments hold a criminal justice system to maintain the values of their civilized society. The criminal justice system administers the standard of behavior required to protect individuals in the society. The process of criminal justice operates by apprehending, prosecuting, convicting and sentencing those members of the society who violate the basic rules of social living. The role of police is decisive because the policeman is the first to arrive on the scene of crime. Police, first and foremost, work extensively to maintain discipline and prevent crime, make preventive arrests, conduct investigations and detection, control crowds, control public in festivals, prevent riots and manage vehicle traffic etc. Like this, the police play a wide range of functions. In this study, the researcher has tried to explain all aspects of police in an analytical way in India.

**Keywords:** Police, India, criminal, justice, law

### Introduction

All civil governments hold a criminal justice system to maintain the values of their civilized society. The criminal justice system administers the standard of behavior required to protect individuals in the society. Understanding the criminal justice system is a manifestation of understanding the police. 'The process of criminal justice operates by apprehending, prosecuting, convicting and sentencing those members of the society who violate the basic rules of social living. This action by the agencies of criminal justice system against law breakers serves various purposes such as, it removes dangerous people from the society who pose a threat to its survival, it deters others from criminal behavior thereby making conditions conducive for social living and it offers society an opportunity to transform lawbreakers or anti-social individuals into law abiding citizens

'The components of criminal justice system in India are the Police, the Prosecution, the Judiciary, and the Prison and Correctional services. The police remain the central agency in the criminal justice by the virtue of the nature of its functions in a society. The role of police is decisive because the policeman is the first to arrive on the scene of crime. The way the police man applies law in a given situation draws the parameters of a crime scenario within which legal battles are fought. As mentioned above, the police collect facts, evidences, examines witnesses and all other relevant materials which in a big way influences the investigation. The consolidation of the British position in India laid the foundation of the present-day police force' <sup>[1]</sup> 'Now the police force in a State is headed by the Director General of Police. A State is divided into convenient territorial divisions called ranges and each police range is under the administrative control of an Inspector General/Deputy Inspector General of Police. A number of districts constitute the range. District police is further subdivided into police divisions, circles and police stations. Besides the civil police, states also maintain their own armed police and have separate intelligence branches, justice and law, crime branches, etc. All the senior police posts in the States are manned by the Indian Police Service (IPS) cadres, recruitment to which is made on an all-India basis. Recruitment, promotion and cadre control in respect of lower posts from a Police Constable to the Deputy Superintendent of Police are done by the State. <sup>[2]</sup> Police, first and foremost, work extensively to maintain discipline and prevent crime, make preventive arrests, conduct investigations and detection, control crowds, control public in festivals, prevent riots and manage vehicle traffic etc. Like this, the police play a wide range of functions.

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There are many kinds of provisions in the Code of Criminal Procedure which empower the police to do their functions with discretion. The provisions give them power to investigate any offence from registering a FIR to make a charge sheet.

It is often seen that the police do not do their work as a good servant, they even misuse their power. They refuse to register a FIR and the people have to rush to the courts of law for issuing proper supervision to the police for the registration of FIR; sometimes, the police does not take an instant action and delays the registration of the FIR. The police may even alter the sections in favor of either party. 'The law provides that the police are empowered to proceed to the scene of crime for the purpose of inspecting the scene of crime <sup>[3]</sup>.' 'However, police officers show little interest in inspecting crime scenes, sometimes, crime scenes are inspected in an incomplete manner by trained or incompetent personnel, so that physical evidence is not completely located or contaminated. The only purpose of bringing the arrested person to the justice of peace or the court is to detain a person and keep him under legal custody so that appropriate legal actions can be taken to determine the guilt or innocence of the crime that was charged, but the police thought it as a means to disgrace people.'<sup>[4]</sup>

#### Adaptation of Police in India

'The word Police comes from the Latin word "*Politia*" which means "Civil Administration". The word "*Politia*" goes back to the Greek word "*Polis*" or a city. Etymologically, therefore the police can be seen as those involved in the administration of a city. *Politia* became the French word Police. Other names of police include Constabulary, Police Governance, Police Department, Police Services, Crime Prevention, Law enforcement or Civic Guard. Members may be referred to as Police Officers, Troopers, Sheriffs, Constables, Rangers, and Peace Officers. Police of the Soviet era Eastern Europe were called the *Militsiya* <sup>[5]</sup>.' 'Contrary to the general belief that policing in India is a British concept, the concept of rule of law and the administration of justice has been known to exist in India ever since the Vedas came to be recognized as the very epitome of Dharma.'<sup>8</sup> When the British came to India in 1609 with free trade interests, they did not realize that they would rule India. In 1792, they felt the need for a police agency for the first time. After the Mutiny of 1857, The Government of India Act (1858), was the climax of the British as a dominant force in India. The act shifted the governance of British India to Queen-inParliament. The British created the first Police Commission in 1860 and incorporated most of its recommendations into the Police Act of 1861. Therefore, the Police Act of 1861 was passed by the British Parliament and established the existing police system in India. The composition of the police force is very clear. The police force and the entire criminal justice system were established to maintain the colonial structure established by the British. After the previous committee submitted its report in 1860, the organizational changes did not produce satisfactory results. The Indian government established another police committee in 1902. The Indian government adopted these orders on the recommendation of the committee and made changes to the police system in a report dated March 21, 1905. The police system was reformed based on the recommendations of the police committee in 1902 and continued till the British army left

India on August 15, 1947. On the independence of India, August 15, 1947, India inherited a well-defined policing system that was originally developed during the British rule. The protection of basic rights has become one of the most important tasks of the police. Since the implementation of the Indian Constitution on January 26, 1950, the situation has changed. In order to improve the police system, State Police Commissions designated by many states have enacted State police laws and coordinated State police guidelines. However, the Indian police system is based on the Police Act of 1861 and the recommendations of the Police Commission of 1902. Therefore, today's police have evolved according to their current situation and various stages of history. Its current state is the foundation of national governance.

#### Legal Aspect

Legal provisions relating to the administration of police are defined in criminal law.

#### Criminal Law

'The criminal law is in the form of substantive law, procedure law and evidence law. The Indian Penal Code (IPC) as well as the special and local laws are enacted by the Central and State legislatures from time to time and the procedural law is laid down mainly in the Code of Criminal Procedure, 1973 (Cr PC.) and the Indian Evidence Act, 1872. These three major Acts, i.e., the IPC, Cr. P.C. and the Indian Evidence Act were enacted by the British during the second half of the 19th Century. Of these, the only major law that has been revised since Independence is the Cr.PC, which was revised in 1973 on the recommendations made by the Law Commission of India. The other two laws, except for some minor amendments, have remained unchanged.'<sup>8</sup> The IPC defines different types of crimes and their punishments. Crimes are divided into different categories, such as state, armed forces, public order, public justice, public health, security, religions, human body, property, election-related, currency, government stamps, weights and measures, documents and property- symbol, Marriage and slander. The IPC has 511 sections, which contain approximately 330 sentences.

'Besides the IPC, the local and special laws (SLL) also contain penal provisions. These laws have been enacted from time to time mainly to deal with new emerging forms of crime and to protect the interests of the weaker sections <sup>[10]</sup>.'

#### Procedural Law

Procedure Law describes the registration, investigation, trial and follow-up procedures of criminal cases from FIR registration to the final settlement. The police have no right to take cognizance of all punitive crimes. The criminal law divides crimes into two categories: cognitive crimes and non-cognitive crimes.

There are many kinds of provisions in the Code of Criminal Procedure which empower the police. Such Provisions mention the powers of the superior officers of the police to investigate an offence; provisions of arrest during investigation, provisions as to proclamation and attachment, provisions as to search and seizure during investigation <sup>[6]</sup>, investigation of a cognizable offence, investigation of a noncognizable offence, police officer's power to investigate a cognizable offence, procedure for investigation,

submission of report of investigation through superior officer of police and transmission of such report to the Magistrate, police officer's power to require attendance of witness for the purpose of investigation, examination of witness during investigation, statements recorded by Investigating Officer during investigation in evidence during a trial, provision as to no inducement to be offered by a Police Officer during investigation, recording of confession of accused and statements of witnesses, issue of search warrant for the purposes of investigation, procedure when investigation cannot be completed in twenty four hours, report of investigation by subordinate police officer, release of accused when evidence deficient, provision of sending the case to the Magistrate when evidence is sufficient, diary of proceedings of investigation, submission of charge sheet of final report on completion of investigation, etc. However, it is worth mentioning that although the police are the guards of public order, they have violated the expected law. For example, in any case, FIR only has the authority to decide when to register.

### **Criminal Justice Process**

There are following main steps of criminal justice process:

#### **Step 1**

The process of criminal justice system is initiated with the registration of the First Information Report which is written by the police after receiving information about the commission of a cognizable offence.

#### **Step 2**

Now, it is the duty of the police to visit the scene of crime and investigate the facts of the case. Examination of the scene of crime, examination of witnesses and suspects, recording of the statement, conducting searches, seizing property, collecting fingerprint, footprint and other scientific evidence, consulting records and making entries in the prescribed records, like case diary, daily diary, station diary etc., Making arrests and detentions and interrogation of the accused.

#### **Step 3**

After the investigation is completed, the police in-charge sends the report to the Magistrate of jurisdiction. If there is sufficient evidence to prosecute the defendant, the report sent by the investigating officer will be in the form of a charge sheet. If there is insufficient evidence, this report is called the final report.

#### **Step 4**

On receiving the charge sheet, the Court takes cognizance and initiates the trial of the case.

#### **Step 5**

The charges are framed. Now, it is the duty of the Prosecution Officer to prove the charges against the accused beyond reasonable doubt. It is compulsory to give full opportunity to the accused for defending himself.

#### **Step 6**

If the trial ends in conviction, the Court may award any of the following punishments; fine, forfeiture of property, simple imprisonment, rigorous imprisonment, imprisonment for life or a death sentence.

### **Courts**

The Judiciary has the Supreme Court (SC) at the apex, Below the SC are the High Courts at state level, followed by Subordinate Courts in the districts. The judiciary in the State functions under the supervision of High Court. The Constitution empowers the High Court to issue directions, orders or writs for the enforcement of fundamental rights and for any other purpose.

1. Supreme Court of India (The Apex Court).
2. High Court (Highest Court at the state level).
3. Sessions/District Court.

### **Fundamentals of Policing**

'The police are assigned the job of preventing and investigating crimes. They have the responsibility to maintain public order, protect VIPs and play a crucial role in the security of the State. To accomplish these tasks the police are vested with wide legal powers. These include the power to arrest people, search their person and property. Call them to police station for investigation and to take such lawful actions as required for discharging their duties. In order to ensure that the people exercise these powers properly, the law has imposed various restrictions on the police. With the advent of democratic institutions, the people have become the source of power and the State has recognized their basic rights. In other words, the basic duty of police today is to ensure the 'rule of law' which is the essence of a democratic State [7].'

### **Principles of Law Enforcement 1829**

Sir Robert Barker is known as the father of modern democratic policing. In 1829, he established the Metropolitan Police Department in London, England, and based on this, he put forward the principle of maintaining the internal security of the community in accordance with the law.

At the time, these nine principles were very intuitive, and it was obvious that, based on some important ideas on the subject, they had become a key element for the success of policing in all democracies around the world in the past two centuries. Police leaders still use the bottom and often use it as a good reminder of "community policing" and our current reasons.

### **The nine principles were as follows**

1. 'Prevent crime and riots, rather than stopping them through force and legal sanctions.
2. Always recognize that their ability to perform police functions and duties depends on their existence, functions and behavior, the recognition of the people, and the ability to protect and maintain the dignity of the people.
3. Always realize that protecting and maintaining the respect and consent of the people means that the people's consensus cooperation in observing the law is safe.
4. It is always recognized that the degree of security that can be achieved to the public reduces the need for proportional use of force and forcing the realization of police goals.
5. Not by spreading the opinions of the people, but by showing complete justice to the law in full policy freedom, and not seeking justice or injustice in the essence of personal law, seeking and maintaining the

favor of the people; regardless of people's wealth or social status, through polite and friendly humor, and making personal sacrifices to save and save lives, this is related to people's personal service and friendship.

Merely taking discipline, advice and vigilance to obtain the required amount of public assistance, complying with the law or restoring safety and using minimal physical fitness does not seem to be sufficient for any police force to achieve any special purpose.

1. Always maintain a relationship with the people. Take this historical tradition as an example: the police are the people, the public is the police, and the police are just a member of the public. They are paid to pay attention to everyone's responsibilities full-time. Citizens for the well-being and survival of the community.
2. It is recognized that it is necessary to always strictly abide by the executive functions of the police, to deprive individuals or national judicial authorities of the right to retaliate, and to avoid conviction and punishment of the crime.
3. The test of police efficiency is the absence of crimes and riots, and it has always been admitted that the police seem to have no point of view in handling these crimes <sup>[33]</sup>.

When the police perform their duties, they engage in various activities, such as arrests, searches, and interrogations. Various procedural guidelines require the police to conduct inspections. These guidelines should be inferred or understood from the perspective of the Indian Constitution; the Criminal Procedure Act of 1973 and other laws, such as the Police Act or the Police manual. The importance of each such level is the basic meaning. Among all the rights of the defendant related to the police procedure, it is usually considered to be the pre-trial procedure, and what needs to be understood is the entire criminal justice management department. For an effective and permissible method, it must be "fair, reasonable and just".

### The Role of Police & Judicial Response

The task of the police is to maintain discipline and enforce the law. Therefore, the administrative department shows respect for human rights by investigating and appointing police officers before investigating and prosecuting those who violate the law to enact laws to protect the human rights of the people. It is the responsibility of the state to protect and promote human rights in a democratic society. It is the responsibility of the police, military, judicial or civil affairs departments to respect the human rights of all state institutions, prevent violations of human rights and take positive measures to promote human rights. In this case, the role of the police is particularly important.

Unfortunately, due to the conflict between the constitution and legal rights and the police, when performing this duty, the police have both the legal obligation as a defender of the law and the moral obligation to maintain the value of human rights for various reasons.

The Constitution is the supreme law of our country and gives everyone living in India the right to protect their human rights. The third part, the chapter on fundamental rights, is called the center of the constitution and guarantees the basic human rights of all people. It promises that the state will protect human rights and protect citizens from

unnecessary attacks on their freedom, security and privacy. The Supreme Court and various high courts have explained the field of the Fundamental Rights. The Supreme Court firmly opposed the infiltration of state agents. The court has issued several specific orders to enforce the law. This guide covers all aspects of police room level and advanced police service. The constitution guarantees certain rights for the defendant. Bail is granted; suspects are interrogated; their laws also have the power to protect the rights of poor and disadvantaged women. Military officers who deliberately violate the law will be prosecuted in accordance with the relevant provisions of the Indian Penal Code and the 1971 Court Temporal Court Act.

The guidelines for police given in following judgment is.

### Case of Arnesh Kumar vs. Respondent: State of Bihar

According to the said judgment, our efforts are to ensure that police officers do not arrest unreasonable defendants and that magistrates do not allow irregular and mechanical detentions. In order to confirm what we have observed, we provide the following guidelines:

Instruct all state governments not to automatically arrest their police officers when filing a lawsuit under IPC Article 498A, but to meet the arrest requirements specified in the above parameters in Section 41 of, CRPC.

- All police officers will be provided with a list containing the specific subsections in section 41(1)(b)(ii).
- Police officers will send a properly registered checklist, provide reasons and materials for the arrest, and detain the defendant further before sending/delivering to the defendant.
- The magistrate shall record the report submitted by the police when approving the detention of the defendant under the above-mentioned conditions, and shall only approve the detention order after the justice is satisfied;
- The decision not to arrest any defendant should be sent to the magistrate within two weeks from the date of the case.
- The defendant shall be provided with instructions in accordance with Article

41A of the Crimi l Procedure code within two weeks from the date of the establishment of the case, and shall be extended in writing by the chief of the police station.

- Failure to comply with the above instructions will lead to contempt of court decisions in courts outside the jurisdiction of the police officer responsible for the departmental litigation in the High Court.
- The relevant high court is obliged to take appropriate departmental actions, and the relevant magistrate approves the detention, but does not notify the reasons for the above reasons.

It is added that the above guidelines apply not only to cases under sec. 498A of the IPC or sec. 4 of the Dowry Prohibition Act, but also to cases where the period is less than 7 years or more than 7 years whether with or without fine <sup>[8]</sup>.

### Conclusion

After analysis of the above data, it is concluded that the police has a significance role in criminal justice system in



India. Administration of justice in India is regulated by three statutes namely; the Indian Penal Code 1860, the Code of Criminal Procedure 1973 and the Indian Evidence Act 1972. But facts have proved that the work of the police often contradicts the standards stipulated in various criminal laws. The Indian Penal Code stipulates crimes and stipulates penalties. The Indian Penal Code deals with the "what" was done. The harassment by the police is only to determine the "what" of the crime. As an investigative agency, the police are fully responsible for discovering the culprit of the defendant. The police developed a strategy of correcting the defendant through collusion or slander in each crime. For example, the Indian Penal Code divides crimes into identifiable crimes and unidentifiable crimes. It is usually found that only the police can decide how to classify a specific crime, and the police can record it as a crime. The Criminal Procedure Code provides for any provisions dealing with crimes and criminals. The regulations in the code are mandatory, not just the catalog. The law requires the police not to use profanity, register a false FIR, resort to illegal detention, harass or coerce suspects. But the police use this unpopular and derogatory practice everywhere. Everyone, whether they are involved in crime or not.

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