

HUMAN RIGHTS OF POLICE PERSONNEL: A SOCIO-LEGAL STUDY WITH REFERENCE TO THE STATE OF HARYANA

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By

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DECLARATION

I, hereby declare that the presented work in the thesis entitled “**HUMAN RIGHTS OF POLICE PERSONNEL: A SOCIO-LEGAL STUDY WITH REFERENCE TO THE STATE OF HARYANA**” in fulfilment of degree of **Doctor of Philosophy (Ph.D.)** is outcome of research work carried out by me under the supervision of **Dr. Varinder Kaur**, working as **Assistant Professor**, in the **School of Law** of Lovely Professional University, Punjab, India. In keeping with general practice of reporting scientific observations, due acknowledgements have been made whenever work described here has been based on findings of other investigator. This work has not been submitted in part or full to any other University or Institute for the award of any degree.

Place: Phagwara

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Richa Chaturvedi
Researcher



CERTIFICATE

This is to certify that the work reported in the Ph.D. thesis entitled “**HUMAN RIGHTS OF POLICE PERSONNEL: A SOCIO-LEGAL STUDY WITH REFERENCE TO THE STATE OF HARYANA**” submitted in fulfillment of the requirement for the award of degree of **Doctor of Philosophy (Ph.D.)** in the **SCHOOL OF LAW**, is a research work carried out by **RICHA CHATURVEDI**, (Registration No.) **41900651**, is bona-fide record of her original work carried out under my supervision and that no part of thesis has been submitted for any other degree, diploma or equivalent course.

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ABSTRACT

The thesis titled “Human Rights of Police Personnel: A Socio-Legal Study with Reference to the State of Haryana” intends to study the human rights aspect of police personnel in the State of Haryana. Human rights are the basic rights and freedoms that are inherent to all human beings. Human rights are universal in nature. They neither recognize any geographical boundaries nor do they discriminate on the basis of religion, race, caste, sex, place of birth etc. The police personnel being human beings are equally entitled to the guarantees such as right to life, health, leisure, proper working conditions and congenial environment. Unfortunately, despite being the protector of human rights of others, their own human rights are jeopardized owing to various challenges faced by them in their working.

Police plays a vital role in the Criminal Justice System as it is the first responder in the times of crisis. It works tirelessly so that peace and order is maintained in the society. In the entire process, the police personnel undergo a lot of physical and mental stress. Besides, it is tasked with various responsibilities such as investigation of cases, apprehending accused, maintaining peace and tranquillity, patrolling and surveillance, search and seizure, catering to the VIP protocol duties, providing security cover to those endangered to name a few. The hectic regime coupled with challenges at workplace leads to occupational stress.

The thesis thus aims to trace the evolution of police institution and its consequent growth from ancient period to the current period. Simultaneously, the police institution as existing in the other countries have also been examined apart from studying the various international instruments viz., treaties, conventions, resolutions governing the law enforcement agencies. In depth analysis of the current legal regime governing the police personnel in India including the New Criminal Laws have also been dealt with. The various Committees and Commissions constituted in India to deal with problems and challenges of police personnel have been examined apart from highlighting the pro-active role undertaken by the Courts in focusing on the reformative aspect of the police as an institution.

In order to make the research more meaningful, empirical data from three categories of respondents viz., police personnel, general public and members of legal fraternity have been chosen. Responses from the three categories have been collected through questionnaire method. The researcher has also visited various police stations in order to delve deep into the practical challenges faced by the police personnel. As regards the number of respondents, data from 186 respondents belonging to the category of police personnel; 119 from general public and 88 from members of legal fraternity have been collected from seven districts of Haryana namely Gurugram, Kaithal, Palwal, Nuh, Kurukshetra, Mahendragarh and Faridabad to assess the conditions of police personnel at workplace.

Therefore, after analyzing the responses from police personnel and accessing the feedback received from general public and members of legal fraternity regarding the functioning of police, remedial measures have been suggested so that the human rights of police personnel are adequately secured in the State of Haryana.

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LIST OF ABBREVIATIONS

A.D	:	Anno Domini
AIR	:	All India Reporter
All.	:	Allahabad
Anr.	:	Another
Art.	:	Article
ASI	:	Assistant Sub Inspector
B.C.	:	Before Christ
BNS	:	Bharatiya Nyaya Sanhita
BNSS	:	Bharatiya Nagarik Suraksha Sanhita
BPRD	:	Bureau of Police Research & Development
BSA	:	Bharatiya Sakshya Adhiniyam
Cal.	:	Calcutta
CAT	:	Convention against torture
CEDAW	:	Convention on the Elimination of All Forms of Discrimination against Women
CEPOL	:	European Police College
CERD	:	The Committee on the Elimination of Racial Discrimination
Co.	:	Company
Cr.LJ	:	Criminal Law Journal
Cr.P.C.	:	Code of Criminal Procedure
CRC	:	Convention on the Rights of the Child
DB	:	Division Bench
DDR	:	Daily Diary Register
DSP	:	Deputy Superintendent of Police
ECOSOC	:	Economic and Social Council
Edn.	:	Edition
EPCTF	:	European Police Chiefs Task Force (EPCTF)
EU	:	European Union

EUROPOL	:	European Police Office
FIR	:	First Information Report
FRONTEX	:	European Agency for the Management of Operational Cooperation at the External Borders
GA	:	General Assembly
GOI	:	Government of India
Gov	:	Government
HC	:	High Court
ICCPR	:	International Covenant on Civil and Political Rights
ICESCR	:	International Covenant on Economic, Social and Cultural Rights
IEA	:	Indian Evidence Act
Insp.	:	Inspector
Inst.	:	Institution
INTERPOL	:	International Criminal Police Organisation
IO	:	Investigating Officer
IPC	:	Indian Penal Code
Mad	:	Madras
MHA	:	Ministry of Home Affairs
MP	:	Member of Parliament
NCRB	:	National Crime Record Bureau
No.	:	Number
NPC	:	National Police Commission
NPS	:	National Pension Scheme
NPSC	:	National Public Safety Commission
OHCHR	:	Office of the United Nations High Commissioner for Human Rights
OLAF	:	European Anti-fraud Office
OPS	:	Old Pension Scheme
Org	:	Organisation
Ors.	:	Others

PIL	:	Public Interest Litigation
pp.	:	Pages
PPSC	:	Prefectural Public Safety Commission
SC	:	Supreme Court
SAC	:	South African Constabulary
SAPS	:	South African Police Service
SCC	:	Supreme Court Cases
SELEC	:	Southeast European Law Enforcement Centre
SEO	:	Special Enforcement Officer
SI	:	Sub Inspector
SP	:	Superintendent of Police
Supp.	:	Supplement
U.P.	:	Uttar Pradesh
UDHR	:	Universal Declaration of Human Rights
UK	:	United Kingdom
UN	:	United Nations
UNICEF	:	United Nations Children's Fund
US	:	United States
VIP	:	Very Important Person
Vol.	:	Volume

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CHAPTER-1

INTRODUCTION, HISTORICAL BACKGROUND AND GROWTH OF THE INSTITUTION OF POLICE

1.1 INTRODUCTION

The Police is regarded as an essential component of the State, serving as an active instrument through which the State exercises its power and authority. The origin of the term 'police' can be traced back to the Greek word 'Polis', which means a city. As per the Merriam Webster's dictionary, "it is the department of government concerned primarily with maintenance of public order, safety and health and enforcement of laws and possessing executive, judicial and legislative powers. It is the department of government charged with prevention, detection, and prosecution of public nuisances and crimes".¹

In administrative terms, the police of a State is primarily tasked with the function of upholding public order and implementing laws intended to reduce crime.² The protection of life/liberty of persons, property and ensuring that peace prevails in the reign has been the primary agenda of all Kings, dynasties that ruled the country from time-to-time. Only the nomenclature or ranks might vary. But the core idea of King being responsible for protection of its subjects and punishing the law breakers remained intact. Therefore, it can be validly stated that the form of police that we have now is the result of constant deliberations and improvements (as can be seen in the latter parts of the chapter dealing with the development of police during the Pre-Independence and Post-Independence time) and that each era has played a crucial role in shaping the evolution of the police institution.

¹ Police. Merriam-Webster.com.2023. *available at*: <https://www.merriam-webster.com/dictionary/police> (last visited on January 03, 2023).

² Arushi Sharma and Shivanshi Gupta, "Origin of police system in India and the world" 5 (2) *International Journal of Law Management & Humanities* 793 (2022) *available at* : <https://www.ijlmh.com/paper/origin-of-police-system-in-india-and-the-world> (last visited on January 03, 2023).

1.2 ANCIENT PERIOD

The system of policing was in vogue from ancient times. The said reference is contained in various scriptures including Apastamba Dharmasutra (600-300 B.C) which mentions that it is the responsibility of the King to ensure that the villages and forests are safe and secured from thieves and dacoits and he must recruit such officers in town as well as villages who are pure as well as truthful for the protection of the subjects.³ The Dharmasutra also mentions that if the King fails in his duty of punishing the guilty, he would incur sins. Regarding the traits of Judges it was stated that Judges ought to be individuals of knowledge, intelligent, and diligent in their responsibilities, while witnesses are required to provide truthful testimony and should face consequences if they are found to be dishonest.⁴Manu has also laid emphasis upon the need of police force in maintenance of peace and tranquility in the society and has classified crimes under various heads including assault, theft, robbery, violence, gambling and defamation. It further mentions that the King must have spies or agents who need to conduct investigation of persons stealing property and officials who swindle with state exchequer.⁵ Further, the Vishnu Purana laid down the onerous duty upon the King to compensate the person whose goods are stolen and to return the same in case they are found. The historians have collected evidence regarding the presence of police personnel during the Indus Valley Civilisation at the time of excavations in Mohen-jo-Daro and Harappa.⁶During the Mauryan Period, special officers were designated as *Pradesikas* who were responsible for the revenue and police functions within the province and in towns, *Nagaraks* were appointed to keep a vigilant watch over resting places, place of entertainment and place of stay. Further, *Gramini* were appointed in the villages whose role and responsibility was to try offences (minor) and impose fine and even order expulsion of thieves and while performing the said task he was aided and assisted by

³ Prakash Singh, *The Struggle for Police Reform in India, Rulers Police to Peoples' Police* 1 (Rupa, New Delhi, 2022).

⁴ Giriraj Shah, *The Indian Police: A Retrospect* 10 (Himalaya Publishing House, Mumbai, 1992).

⁵ Anupam Sharma, "Police in Ancient India" 65 (1) *Indian Journal of Political Science* (January-March 2004).

⁶ Prakash Singh, *The Struggle for Police Reform in India, Rulers Police to Peoples' Police* 2 (Rupa, New Delhi, 2022).

council of village elders. Even in the Kautilyas' *Arthshastra* which is believed to be the most exhaustive text related to criminal justice system prevailing during those times, laid emphasis on the principal responsibility of the Ruler to look after the law& order situation within the provinces under his control. The book also contains precise details about the police, secret agents, spies and assassins who would work under the King and detect and prevent crime. In effect one can find due emphasis on the aspect of rule of law for securing life and welfare of the people.⁷ During the Gupta dynasty, the Chief of Police was known as '*Mahadandaadhikari*', who had several subordinate officers known as '*Dandaadhikaris*'. The *Purapals* were appointed in towns to handle the law and order and render assistance to police, secret agents and troops whereas villages were looked after by *Gramadyaksha*.⁸ During the reign of Harshvardhan, the police function was performed by officials who were known as '*Sandik*', '*Chowrodharnik*' and '*Dandapashik*'.⁹ The system of administration was duly mentioned in Harshacharita, written by Banabhatt. In the Vijayanagar Empire, the entire area under rule was duly guarded by military chieftains called *Nayaks* or *Poligars*, whose function was maintenance of law and order and to fight fearlessly during war.

1.3 MEDIEVAL PERIOD

The Muslim invaders in India tried to impose a police system which was akin to their homeland so as to blend in with the Indian society. The judicial, penal and policing administration was based on the Islamic principles as founded in the holy Quran. In the Sultanate period, different set of laws prevailed for Hindus, where the Pandits were given the task of interpreting the Hindu law. The *Muhtasibs* or *Muqqaddams*, were appointed as the administrative officers. Following Islamic law, harsh punishments included flaying, chopping off the nose, ear, or forearms, trampling by elephant and mutilation, were

⁷ L.N Rangarajan, *Kautilya: The Arthashastra* 492 (Penguin Books India, Delhi, 1992).

⁸ R.C Majumdar, H.C Raychaudhari, et. al., *An Advanced History of India* 197 (Macmillan and Co., London, 1953).

⁹ N.V. Paranjape, *Criminology, Penology and Victimology* 406 (Central Law Publication, Allahabad, 2018).

imposed upon the offenders.¹⁰ During the Mughal Period, the *Kotwal* was given the task of performing police duties within the towns and cities. *Ain-i-Akbari*,¹¹ written by Abul Faizal, mentions the duties performed by the Kotwals to include detecting thieves, checking the discrepancy in weights and measures, conducting patrolling duties, keeping vigil over the movement of intruders, traders, gathering information through secret services. At the district-level, ‘*Fauzdars*’ were appointed who were looking after the law and order situation in their area under their control. The Fauzdars were also the commander of military forces. The idea of community policing was prevalent during Mughal Period and it finds mention in *Ain-i-Akbari* which provides that the Kotwals with the aid of royal clerks and secret intelligence officers were required to maintain registers describing the number of inhabitants of each house and the persons living there would assist and aid each other and the public informer or secret agents during the times of misfortune and for prevention of any crime. The district was under the superintendence of *Chief* or *Prefect*.¹² During the Maratha dynasty, *Village Headman* and *Watchman* were the part of police machinery. The Village Watchman was under the superintendence and control of Village Headman who performed police magistracy function. The role and responsibility of Village Watchman was to keep vigilant watch over the intruders and strangers; detection of theft; apprehending the thieves; reporting all suspicious activities and persons to headman; to make investigation of crime.¹³

1.4 PRE-INDEPENDENCE PERIOD

With the acquisition of Bengal, the Diwani rights fell within the domain of the East India Company. At that point of time the system that was prevalent was that of Mughals in which there were various important functionaries i.e. *Wazir*, *Fauzdars* and

¹⁰ Arushi Sharma and Shivanshi Gupta, “Origin of police system in India and the world” 5 (2) *International Journal of Law Management & Humanities* 797 (2022) available at: <https://www.ijlmh.com/paper/origin-of-police-system-in-india-and-the-world> (last visited on January 03, 2023).

¹¹ Col. H.S. Jarrett, *Ain-I-Akbari by Abul Fazl Allami* (Asiatic Society of Bengal, Calcutta, 1891) available at: <http://www.indianculture.gov.in> (last visited on January 04, 2023).

¹² India Police Commission, *History of Police Organization in India and Indian Village Police, Being Select Chapters of the Report of the Indian Police Commission* 2010 (General Books, Delhi, 1902-1903).

¹³ *The Imperial Gazetteer of India* (IV) 384 (Clarendon Press, Oxford, 1909).

Kotwals for controlling law and order in rural districts and towns respectively.¹⁴ In villages, the responsibility for oversight was managed by the Village Watchmen, while the policing duties were the purview of the *Zamindars*, who financed and supervised the watchmen.

1.4.1 Cornwallis system

During this phase the Company was gaining more powers. The growing crime rate was a threat to its authority which was required to be tackled sternly. Hence, a new system was introduced by Lord Cornwallis on passing of 'the Regulation for the Police of the Collectorships in Bengal, Bihar and Orissa'.¹⁵ The significant feature of this system was that the *Fauzdars* were replaced with *English Magistrates*. However, the post of *Zamindars* was kept intact but they were required to obey the orders of the Magistrates.

The *Daroga*, being the first officer of the thana/police station, was duly appointed by the Magistrate, and he exercised superintendence and control over the *Mohurer*, *Jamadar* and *Barkandaze*. The main role assigned to a *Daroga* was to maintain peace within his jurisdiction; to immediately report any incident of crime to the jurisdictional magistrate; to prevent crime; to detect crime; to apprehend the criminals and to obey such orders as may be passed by the Magistrate. The *Mohurer* (second officer-in-charge/second in command of the thana/police station) was assigned various duties such as maintaining station records; draft reports and to prepare all other police related documents as directed by the *Daroga* and used to exercise all power of a *Daroga* in event of his absence.

The third officer of the thana/police station was *Jamadar*, who, in absence of above two officers was to exercise powers vested with the *Daroga*. The main duties assigned to him were to keep watch over *Barkandaze* and to guard the prisoner and properties which were brought to the station and were under the custody of *Barkandaze*.¹⁶

This system, however had its own flaws. The retention of *Zamindars* proved to be ineffective in controlling rising incidents of crime as the *Zamindars* resorted to

¹⁴ Satish Chandra, *History of Medieval India* 240 (Orient Blackswan, Hyderabad, 2015).

¹⁵ The Regulation was passed on December 07, 1792.

¹⁶ Basudeb Chattopadhyay, *Crime and Control in Early Bengal (1770-1860)* 64 (KP Bagchi Company, Calcutta, 2000).

widespread corrupt practices. A need was felt for a new system known as Cornwallis Code. Lord Cornwallis devised a new method wherein the policing powers of Zamindars were taken away and the limits were demarcated for better law and order. Districts were sub-divided into thanas (circles).¹⁷ For each unit an officer known as Daroga was appointed who was to work under the supervision of Magistrate.¹⁸

The new system however had its own shortcomings. The Darogas were still controlled by the Zamindars and there arose a strong Daroga-Zamindar nexus. Another reason was the constant blame game in case of any laxities. The native subordinate staff was the easy target which used to be held responsible for each failure. They were not able to exercise any control over village police owing to dearth of manpower. Despite this fact, this system was extended to Madras and other parts.

However, it did not continue for long and the Cornwallis system was eventually scrapped. The new model came with the excessive power in the hands of the Collector who was also head (in-charge) of the village police. In this way, the Collector was made to control revenue, police as well as magisterial functions. Hence, it paved the way for oppression as well as arbitrariness.

Every District was to have two administrative officers. One was the Collector who was assigned with the duty of collection of public dues and another was the Magistrate having civil and limited criminal jurisdiction.¹⁹

1.4.2 Advent of Modern Police System

The decline in the law & order situation was a big cause of concern which led to the passing of Regulation IX of 1808 and paved the way for creation of an office of SP with the objective of apprehending public offenders guilty of robbery or other crime.²⁰

Thereafter a series of regulations were passed in 1829 for the appointment of Commissioners of Revenue and Circuit as it was found that the superintendence of

¹⁷ Rajiv Ahir, *A Brief History of Modern India* 309 (Spectrum, Delhi, 2015).

¹⁸ Malti Malik, *History Modern India and Contemporary World* 62 (Saraswati House, New Delhi, 2003).

¹⁹ Anandswarup Gupta, *Crime and Police in India (Upto 1861)* 43 (Sahitya Bhawan, Agra, 1974).

²⁰ Basudeb Chattopadhyay, *Crime and Control in Early Bengal (1770-1860)* 131 (KP Bagchi Company, Calcutta, 2000).

Magistracy, Police and Executive Revenue Officials were inadequate and therefore office of Commissioner of Revenue and Circuit was created for the superintendence and control of the Magistracy; Police; Collectors and other Executive Revenue Officers.²¹

But this system was also found to be ineffective as the subordinates were found to be low paid, corrupt and inefficient which led to the passing of the Charter Act, 1833. The Governor General of Bengal assumed the role of Governor General of India, subsequently undertaking the vital responsibility of overseeing, managing, and regulating the comprehensive civil and military administration of India.

Thereafter, Act XXIV of 1837 removed the system of Commissioner of Revenue to exercise any power with regard to the Magistracy, rather it empowered the Government of Bengal Presidency to appoint Superintendents of Police.

The failure of the past practices paved way for yet another system devised by Sir Charles Napier in 1843 under which a separate police force akin to Royal Irish Constabulary was established. One of the most salient features of this new force was that it was a separate and self contained organization and its officers were not given any other responsibilities and would assist the Collectors.²² With the new system came new functionaries viz. Inspector General who was to control the entire territory. For District administration, came the Superintendents of Police, who were answerable to both, the Collector and the Insp. General of Police.

The Torture Commission Report of 1855, highlighted the lapses on the part of police working. It thus recommended that independent European officers be appointed to control police administration and also that the revenue and police functions be separated. Consequently, the post of SP was established in every district.

1.4.3 Enactment of the Police Act, 1861

After the Sepoy Mutiny of 1857, also termed by some historians as the first battle for independence, a need was felt to bring about massive changes in the existing police framework so that such similar events could be nipped in the bud. For the said purpose, a Police Commission was duly constituted in 1860 for the purpose of laying down a new

²¹ *Id.* at 222.

²² Anandswarup Gupta, *Crime and Police in India (Upto 1861)* 289 (Sahitya Bhawan, Agra, 1974).

system of policing as applicable to India by analysing the best system of police organization and collecting comprehensive data to analyse the cost of establishing the police structure throughout India. The said system opined that a responsible cadre of constables be established in India²³ which would ultimately increase the efficiency of police force. The recommendations, thus led to the foundation of the Police Act, 1861, whose objective was not to uphold the principles of democracy but to ensure that the trade routes were safe enough to drain the resources from the country. Some of its salient features are provided as under:

1. The Military Police was disbanded, leading to the establishment of Civilian Police Forces on a provincial level.
2. The responsibility for the actions of Inspectors General of Police was made to lie with the Provincial Governments, while the District Superintendents were to be accountable to the Collector.
3. The complete police force operated under the oversight and management of civilian authorities, and as temporary arrangement, Civil Servants were appointed to the role of Inspector General.
4. The DSP was made the head of the rural police system, whereas, the Daroga was appointed as sub-inspector.
5. The newly implemented system consequently resulted in the incorporation of rural police into the imperial framework.

1.4.4 Creation of Intelligence Bureau

During the Viceroyship of Lord Lytton in 1877, yet another development took place under which the Centralized Agency responsible for the collection and distribution of criminal and political intelligence, was introduced with the sole purpose of collecting material information regarding organized crimes which were being committed by the offenders along the railways, by criminal tribes, dacoits, wandering gangs, forgers and

²³ National Crime Records Bureau, *Compendium of Recommendations of the Police Commissions of India* 31 (Ministry of Home Affairs, 1997).

other anti-social elements. This Department was changed to Central Intelligence Department in 1918 and thereafter to Intelligence Bureau in 1920.²⁴

1.4.5 The Frazer Commission

The Frazer Commission was constituted in 1902 to make inquiries into the police system prevalent in the British India. The Commission was of the opinion that although the police system introduced in 1860 was efficient but the same was not effective as there were certain loopholes which were required to be plugged. The Commission further opined that the village police and regular police failed to function in tandem and responsible duties of police were largely assigned to untrained and uneducated officials in the lower post and there was lack of proper supervision and manpower. Even the superior officers were not properly trained and they lacked the sympathy towards the general masses.²⁵ For the first time any commission had given recommendation regarding reforms in the police system. It further recommended that the police must include members from European Services; Provincial Service; Inspector and Sub-Inspectors constituting Upper Subordinate Service and Constabulary at lower subordinate service. The Commission had made relevant recommendations regarding the role of the Magistrate and SP. The SP was overall head of the district police and was required to follow legal and lawful instructions of the Magistrate, but at the same time, he was neither to serve as his assistant nor to work as Assistant Collector. The Commission further suggested that SP should be allowed to work independently without any unwarranted interference and that as far as possible, the police force must be kept separate.

The Statement of Moral and Material Progress of India during the period 1920-23 by L.S. Rushbrooke Williams, contains valuable observations of the police force existing at that time. He was of the view that for the police force in India to gain good public opinion, it must perform its duties like that of the police force of England which had

²⁴ *The Imperial Gazetteer of India* (IV) 395 (Clarendon Press, Oxford, 1909).

²⁵ Anandswarup Gupta, *The Police in British India (1861-1947)* 202 (Bureau of Police Research and Development, MHA, Government of India, New Delhi, 2007).

gained a whole hearted support of the citizens with their efficiency being a matter of pride amongst citizens and their duties being fully appreciated.²⁶

1.4.6 The Police Commission (1902)

The Commission had advocated for the appointment of educated Indians to serve as officers within the police force, however, their advancement was limited to the ranks just below those of European officers.

The imperial rule, had successfully controlled the incidents of dacoity and instances of conspiracy. The police was also deployed to curb nationalist struggle. The Committee of British Parliament, 1813 was of the opinion that the police resorted to atrocities on the general public akin to dacoits.

Thus, the police in India became the repressive arm of the British Raj against the nationalist movement.

1.4.7 Lee Commission of 1924

This Commission was appointed to look into the superior Indian Public Services and proposed for fairly equipped and trained superior police officers for discharging the police duties in an effective and efficient manner. The said Commission was also of the view that quota system must be implemented in the composition of Superior Civil Servants containing 40% of British; 40% Indians (direct recruitment) and 20% being promoted through Provincial Services.

1.4.8 The Government of India Act, 1935

This Act had given greater autonomy to the provinces of British India by introducing federal legislative list, provincial legislative list and concurrent legislative list and public order was placed under the provincial legislative list. During the phase of drafting of the Constitution, the Constituent Assembly had adopted the Government of India Act, 1935 by placing public order and police in the State List.

1.5 THE CURRENT POLICE SYSTEM

The Police System as it exists today is more defined with a proper hierarchical set-up for ensuring smooth administration coupled with law and order maintenance. In

²⁶ *Id.* at 401.

every state there is a DGP who is the senior-most official under whose control the entire state police functions. There is also an authority known as Additional Director General of Police. Each state is divided into a number of zones and each zone comprises of few ranges. The IGP is given the charge to head a particular zone whereas Deputy Inspector General of Police (DIG) is made to head the group of districts. For bigger districts, a SSP is given the charge whereas it is the SP who controls the district. Besides, there is Additional Superintendent of Police as well. For each sub-division, an Assistant Superintendent/ Deputy Superintendent is appointed. An Inspector is made in charge of a police station/thana. Besides there are other police officers namely the SI, HC as well as Constables in each police station.²⁷

1.5.1 Concept of Human Rights and the Socio-Legal Aspect of Police

The human rights are considered to be those inalienable rights available to an individual which cannot be taken away or curtailed by the instrumentality of the State and are ingrained once a human is born. The notion of human rights is not restricted to a particular nation, rather the same is an international phenomenon. They are inherent in nature, regardless of any nationality, gender, race, caste and religion. They encompass various aspect of human life viz., right to life, livelihood, right to food, drinking water, health, liberty & all those facilities which are essential for the just living of a person.

Police being one of the instrumentalities of state is assigned the onerous duty of ensuring the human rights of the citizens, but since they belong to the community, their human rights should also be protected. The social rights are concerned with the aspect of living and working together in the society and the access to basic necessities of life. These include right to quality public services; protection of family; education; health services; social protection; standard of living and employment. Whereas, legal rights are those rights which are protected by law and includes right to life, liberty, food, shelter etc.

²⁷ Commonwealth Human Rights Initiative, *Police Organisation in India*, available at: https://www.humanrightsinitiative.org/publications/police/police_organisations.pdf (last visited on April 13, 2022).

A socio-legal study examines legal concepts, practices, and institutions within the framework of their social, cultural, and historical context.²⁸ Police being part of the justice delivery system is obligated towards securing peace; investigation, performance of preventive function; protection of public properties; effecting arrest; bringing offenders to book and catering to emergency situations. In the entire process, the police institution cannot perform any function in isolation, as the interaction, support and coordination with various stakeholders becomes inevitable. The various stakeholders include, the general public, the members of legal fraternity including Judges, Lawyers, Court Staff, Legal Aid Clinics, Advocate Clerks, NGO's etc. Through the instant socio-legal study, an important aspect, touching upon the human rights of police personnel has been discussed comprehensively, and it is reflected that while protecting the rights of citizens, the basic human rights of police personnel take a back seat and they are deprived of the fundamental guarantees available to them under law.

1.6 CHALLENGES FACED BY POLICE IN INDIA

After examining the growth and evolution of police institution, it is found that the police perform a variety of functions and it has to shoulder various responsibilities to ensure that the law & order is maintained in the nation and the human rights of the people are adequately secured. However, in the entire process, the job of the police is filled with various challenges, obstacles and hardships which the police personnel undergo on daily basis. An attempt is thus made to highlight the various challenges faced by the police personnel while performing their duties, which are as under:

1.6.1 Unfilled vacancies

As per the Data on Police Organizations (as on 01.01.2020), the total sanctioned strength of the state police forces in the country comes out to 26.89 lakhs. However, the actual strength is 20.93 lakhs i.e. an overall shortfall of 5,96,000 police personnel, clearly

²⁸ <https://www.sydney.edu.au> (last visited on April 14, 2022).

highlighting the additional burden on each personnel.²⁹The increase in population with limited resources is putting an additional burden on the existing police force.

1.6.2 Lack of incentives for the Constabulary

Constabulary comprises a major chunk in the existent police force. It is approximately 86% of state police force. There are very less incentives granted to them. The constabulary is generally less educated and retire as head constables. Due to lack of incentives, the zeal and work satisfaction is very low compared to other functionaries.

1.6.3 Political interference at workplace

This is a very challenging aspect of police functioning which has time and again been highlighted. Despite being appointed to protect rule of law in the country, the stature of Police has been minimized to that of the ruler's police as against the people's police.

Sadly, the ruling Governments are not able to come out of the colonial mindset and are using the police forces for serving their vested interests which is adversely affecting the autonomy of police personnel and the delivery of justice, as a whole.

The autonomy of police has been affected in various ways as the ruling Governments interfere in selection process (for vote bank). They also interfere in postings, transfers and other day- to- day functioning. There have been instances of favouritism being shown to police personnel who show their patronage and allegiance to the ruling Government. The result of patronage is that they are handed over responsible posts; granted postings at plum locations, conferred awards and honours to name a few. In the entire process, the rule of law mandate is compromised which causes grave challenge to the Police Institution as well as the Country. The Courts have deprecated this practice and issued warnings to the ruling Governments from time-to-time in order to allow the police personnel work fearlessly and independently and uphold the rule of law.

²⁹ BPRD (Ministry of Home Affairs), *Data on Police Organisation*, available at: <https://bprd.nic.in/uploads/pdf/202301110504030641146DataonPoliceOrganizations.pdf> (last visited on April 05, 2024).

In *Vineet Narain & Others v. Union of India and Anr.*,³⁰ which relates to the Hawala transaction and is also synonymously called the '*Jain Hawala Case*' which was unearthed in which possible bribery payments were given to several elite politicians and bureaucrats from the funds linked with suspected terrorists. The Apex Court observed that the CBI had not investigated into the allegation of corruption with utmost fairness and impartiality. It laid down guidelines to ensure independence and autonomy of CBI officials by placing them under the direct supervision of CVC so as to make the department free from political pressure. The case is thus an important landmark judgment as it exposed the politicians, bureaucrats, ministers of corrupt malpractices. The Hon'ble Apex Court had held that no one is above law and there should be strict implementation to the rule of law irrespective of the status of the person.

1.6.4 Improper training in investigative techniques

This issue has been highlighted by the Hon'ble Courts on various occasions. One of the prime reasons of low conviction rate is faulty investigation. Besides, the multifarious activities performed by the Police, the lack of adequate training in investigation technique has led to shoddy investigation. In the case of *State v. Manindra Nath*,³¹ it was observed that the object of investigation has been and can never be for securing conviction by any means. The Court opined that the investigating officer's responsibility is to conduct a thorough investigation into the case in order to determine whether they can apprehend the perpetrator or perpetrators involved in the crime and ensure they are held accountable. It is not within their jurisdiction to falsify or manipulate statements or evidence related to the case.

In yet another sensational case, the Hon'ble High Court of Allahabad had acquitted the two accused Moninder Singh Pandher and his domestic help Surinder Koli in the infamous Nithari Killings Case. The reason of acquittal was attributed to the shoddy investigation by Central Bureau of Investigation. The Hon'ble Court observed that "*Prosecution evidence has kept changing with the stage of investigation and ultimately all explanations are furnished in the form of confession of accused Surinder*

³⁰ (1996) SCC (2) 199.

³¹ 1960 CrLJ 338 (Cal).

*Koli, by throwing all possible safeguards to the winds. The method of recording confession after 60 days of police remand, was questionable”.*³² The matter pertaining to said killings is currently sub-judice in the Hon’ble Apex Court.

1.6.5 Frequent VIP Duties and security cover to VIPs

Another aspect to be highlighted with regards to the challenges faced by the police is the frequent and unnecessary VIP and bandobast duties, which not only affect their physical health but also impact their mental health. In *G. Subas Reddy v. State of Andhra Pradesh and Anr.*,³³ the Court had deliberated upon the issue of security cover extended to persons in need of such cover. The Hon’ble Court also laid down guidelines in this regard. The Hon’ble Court stated that as regards the Constitutional functionaries, the State is bound to provide security, out of the funds of the State Exchequer; the State also has the bounden duty to protect the property of the State out of States’ Exchequer. As regards the statutory functionaries, the State may take a policy decision based upon the threat perception and the expenses of such cover would be made out of the State Exchequer. Regarding the individuals or persons apprehending threat to their life and property, an application may be moved before the Authority designated at the District level, requesting for security cover. In event of rejection of the application, the Senior Authority may be approached for the purpose. In event of grant of the request, the entire expenses are to be borne by the concerned person. Further, any individual apprehending any danger from Government or its agents etc. may approach the Court of Magistrate. In event of rejection of request, the same applicant may move the Hon’ble High Court for judicial review.

1.6.6 Poor working conditions

The police personnel work under extreme circumstances. The work is usually field based under which they work under extreme climatic conditions. While in police station, the condition is no better as they are required to work in dilapidated buildings with minimal basic amenities and poor infrastructure. Besides, there are no defined working hours for police personnel, as he is supposed to be on duty round the clock. Such

³² *Surinder Koli v. State through CBI*, 2023(ACH)199091 (DB).

³³ 1997 CrLJ 1296.

strenuous job with little or no rest coupled with absence of potable water, clean hygienic toilets, provision for healthy meals further adds to the challenges of police personnel. Besides, the quarters available are either not sufficient in number or not habitable.

1.6.7 Low spending leading to poor infrastructure

While the State Police forces are tasked with law & order maintenance, investigating crimes, the Central Forces provide backend support by providing intelligence inputs and assisting in internal security challenges (e.g., insurgencies). Expenditure on police accounts for about 3% of the Central and State Government's budget. This low spending is clearly responsible for the infrastructural challenges faced by police owing to lack of appointments, lack of adequate working facilities provided to a personnel leading to further challenges. Low spending has also led to improper training of the personnel. The task of police involves public dealing and interaction and they are required to listen to their grievances and provide resolution. But it has been found that the police is not patient enough while dealing with the public and often resorts to violence and manhandling. In addition to this, the personnel are not equipped with the latest scientific techniques and artillery. The budgetary constraints thus contribute to poor working conditions.

1.6.8 Increasing crime rate with low conviction rate

The crime rate is ever increasing but due to overburdened police institution and absence of a separate investigation wing, there is inordinate delay in investigation, which increases the chances of low convictions. Such low conviction rate is detrimental to the society and justice delivery system.

As per the data, crime per lakh population has increased by 28% over the last decade (2005-2015). However, convictions have been low. In 2015, convictions were secured in 47% of the cases registered under the Indian Penal Code, 1860. The Law Commission has observed that one of the reasons behind this is the poor quality of investigations. Lack of adequate training in the field of investigation further adds to their woes.

1.6.9 Multifarious activities

A policeman is expected to perform various tasks ranging from maintenance of law & order, conducting investigations, effecting arrests, ensuring security of VIPs, conducting inquests, etc. In addition to this, owing to low vacancies, police personnel is overburdened with work with no fixed time for rest and leisure and very less time for family. In most of the cases, owing to the challenging work schedule and frequent transfers, the personnel do not live with their families and are forced to shift them to their hometown.

1.6.10 Lack of public trust and confidence

The general perception of the masses is that the police is brutal, barbaric, corrupt and works against the general masses. This has led to frequent clashes between the police and the public. At times, even the generous and humanitarian deeds are dealt with suspicion leading to lack of job satisfaction amongst the police fraternity.

1.6.11 Erratic working hours

The police officer is on duty 24*7 and even during rest days, they can be called in the office for the performance of emergency duties. Out of various surveys conducted from time-to-time, a police officer generally serves for around 14 hours a day (sometimes the shift increases to 16 hours a day) as opposed to the prescribed 8 hours per day as per the Model Police Act. The condition poses a grave challenge as the weekly offs are also cancelled most of the times.

1.6.12 Poor health and stressful regime of the police personnel

The round the clock duty regime of police personnel requires him to be fit and agile both mentally as well as physically. However, time and again the poor health and fitness of the police personnel has become a topic of discussion and grave concern. Although considerable stress is laid upon the fitness of a personnel during the course of recruitment, but once inducted the same becomes a thing of the past and a police personnel generally performs his duty for around 14 hours a day (sometimes the shift increases to 16 hours a day) as opposed to the 8 hours per day norm prescribed under the Model Police Act; the key recommendations and suggestions by various Committees and Commissions and Judicial pronouncements made from time-to-time. All this adversely

affects the physical well-being of police personnel and also poses a grave challenge when the weekly offs are also cancelled most of the times,³⁴ which also has a detrimental impact on the mental health. “*The mental health is regarded as a state of well-being which enables an individual to realize his abilities in order to cope with the normal stress of life, work productivity and make contribution to the community*”.³⁵ Such hectic work regime also amounts to infringement of the guarantees enshrined under the UDHR; the Indian Constitution as well as other related Human Right Conventions, to which India is a signatory.

The profession of police is treated as one of the most stressful professions in India.³⁶ “*Stress*³⁷ is defined as a condition or feeling experienced when a person perceives that demand exceed the personal and social resources the individual is able to mobilize”.³⁸ The important function of the police is to prevent crime and investigate the same so as to bring the perpetrator to books. In the said process, the police officers are constantly involved in the lives of those who are the perpetrators of crime, those who are the victims of crime and those who are important witnesses to the alleged crime. As such the stress level of a police officer is bound to increase due to continuous exposure of

³⁴ Vaijdan Mohammad Kawoosi, “Stress, apathetic attitude taking toll on policing: Study” *The Hindustan Times*, June 22, 2020 available at: <https://www.hindustantimes.com/india-news/stress-apatetic-attitude-taking-toll-on-policing-study/story-YxU95pBYRBuopCdR8Ck1VJ.html> (last visited on April 09, 2022).

³⁵ Pooja Roy, “Are Police Officers in Grip of Mental Illness: Diagnostics and Preventive Intervention” 66 (3) *The Indian Police Journal, Special Issue on Occupational Stress & Mental Health Issues Among Uniformed Personnel*, 31 (2019) available at: <https://bprd.nic.in/WriteReadData/userfiles/file/201910220443407520366JULYSEPTEMBER20192.pdf> (last visited on April 07, 2022).

³⁵ Jitender Meena and Rakesh Kumar, “Protect the Protector: Morbidity and Health Behaviour among Police Personnel in National Capital Region of India” 22 (2) *International Journal of Occupational and Environmental Medicine* 86 (2018) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6176699/>. (last visited on April 08, 2022).

³⁶ Jayanto N. Choudhury, “Mental Health and Occupational Stress among Police Forces in North-East India” 66 (3) *The Indian Police Journal, Special Issue on Occupational Stress & Mental Health Issues Among Uniformed Personnel* 1 (2019) available at: <https://bprd.nic.in/WriteReadData/userfiles/file/201910220443407520366JULYSEPTEMBER2019.pdf>. (last visited on April 09, 2022).

³⁷ What is stress? *The American Institute of Stress* (2012) available at: <http://www.stress.org/daily-life>. (last visited on 10.04. 2022).

³⁸ Sneha Vasudev Ganachari, “Occupational Stress Among Police In India”4 (4) *GAP Interdisciplinarity, A Global Journal of Inter-Disciplinary Studies* 91 (2021).

negative, stressful and painful incidents. Since the entire process involves anti-social elements including the dreaded criminals, the police officer are under the constant fear of safety and health while chasing the criminals as there is every possibility of facing a retaliation given the fact that the contemporary criminals are sufficiently armed with latest and sophisticated weapons and there are precise evidences that Indian Police, despite been otherwise efficient is not able to counter them owing to outdated weapons and machinery. Besides, other contributory factors include frequent transfers; being away from the family; insufficient sleeping hours; unfavourable topography of the region; unsatisfactory benefits and compensation.³⁹

In *G. Anandan & Ors. v. State of Tamil Nadu*,⁴⁰ the Hon'ble Court took note of the psychological problems faced by police force and suggested the concerned Government to constitute a Commission to be chaired by a retired Judge of High Court to deal with the problems faced by police personnel so that the aspect of indiscipline, desertion and other problems faced by the police could be tackled and the morale of the force be improved and efficiency is increased. Although, pursuant to the said directions, a Commission was constituted in 2019 to address the problems faced by police personnel but the Commission was headed by a retired IAS officer and other top level officials in violation of the Board constituted as per *G. Anandan Case*. The Hon'ble Court observed that the problems faced by police personnel were at lower level viz., constable and inspector and therefore Commission ought to have a retired High Court Judge and representation from officials at lower level.

1.7 REVIEW OF LITERATURE AND RESEARCH METHODOLOGY

1.7.1 Statement of Research Problem

“It goes without saying that law and order is fundamental to the existence of a functioning democracy and a civilized society. The rule of law is the bedrock of a modern

³⁹ Debopriyo Bandyopadhyay and Shraddha D. Kumbhare, “Factors influencing occupational stress in Uniformed Personnel: a qualitative study on Kakching Police, Manipur” 66 (3) *The Indian Police Journal, Special Issue on Occupational Stress & Mental Health Issues Among Uniformed Personnel* 55 (2019) available at: <https://bprd.nic.in/WriteReadData/userfiles/file/201910220443407520366JULYSEPTEMBER20192.pdf>.

³⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6176699/> (last visited on April 11, 2022).

⁴⁰ W.P. No. 93 of 2008, decided on 2.07.2012 (Madras).

economy. As the instrument for maintaining the rule of law, an efficient, effective and accountable police administration is one of the most essential institutions of the State”- Dr. Manmohan Singh, Former Prime Minister of India.

The police forms an important wing in a democratic setup of a nation. Independent, proactive, fearless and friendly police institution is needed to ensure the mandate of Access to Justice as enshrined under the Constitution of India. Etymologically ‘police’ is derived from ‘*politia*’ meaning ‘civil administration/ state government’. It is that branch of the government which is tasked primarily with peace and tranquility, public security and execution of laws. The institution of Police in the present time is the gift of British Raj to Indians. During the drafting of the Constitution, the police administration was kept under List II (State List) of Schedule VII of Constitution. The legislative intent behind its incorporation in List II which existed at that time would have been to ensure smooth and proper administration of law and order situation. But unfortunately, this has not served the purpose as the police today seems to be a puppet at the hands of the ruling political party at the State. Such political interference leads to a chain reaction. The police is not able to function independently, as there is constant pressure and interference from politicians, due to which they are not able to perform their day- to- day tasks leading to widespread public anger and criticism. This outrage leads to adverse mental and physical consequences and gives rise to stress and psychological issues among the police leading to suicidal tendencies and increased violent behaviour. Further, lack of infrastructure at workplace, outdated and poor quality artillery, absence of bullet proof jackets and vehicles, poor conditions of police station, dirty and unhygienic environment at police stations, long and erratic working hours, frequent transfers, lack of complaint resolution mechanism, lack of promotion prospects and frequent police patrolling, continuous and exhausting VIP bandobast duties makes the working condition even worse as the result of which the physical fitness and family life of the police officials are adversely affected. The Courts have time and again pointed out the issue concerning lack of infrastructure, poor training and lack of physical fitness of the police official. Not only are the working conditions non-congenial, even the police personnel are not given proper accommodation to live with their family.

It is an irony that the protectors of human rights are themselves the worst victims and not much is done to protect their rights. In the era of human rights, the political and social fabric operating within the country tends to forget that a cop is also a human being after all and the adage of “to err is human” equally applies to police personnel. Due to an ineffective legal regime, the common masses easily resort to inhumane behavior viz., stone pelting, hurling brick-bats, setting police stations ablaze, thereby, leading to loss of life and limb of the precious police force. The activists and intelligentsia talk and discuss about equal pay for equal work, limited working hours, congenial work environment but unfortunately there is none to advocate for humanitarian as well as constitutional rights of the police personnel. Many a times, the good deeds of police are long forgotten and the darker side is portrayed in the media thereby dividing the community and police.

It goes without saying that police plays a vital role in the day to day lives. Whenever in distress, the only authority that comes to the mind is the police. Despite being a key functionary for securing the rights of people and serving the masses round the clock, very less is done for securing their human rights. The current system is not able to come out of the colonial era mindset, where the police is regarded as puppet in the hands of the ruling party. The police personnel go through a lot in their professional and personal lives. Hence, securing protection of their rights becomes important. Therefore, the questions which need to be answered are as follows:

1. What are the role, responsibility, duties and power of the police in India?
2. What are the international norms governing the police organization?
3. What are the various laws governing the police regime in the country?
4. What are the practical difficulties faced by the police in its working?
5. Whether the aspect of human rights govern the law enforcement agencies?
6. What are the reasons for negative public perception towards the police in India?
7. What are the organizational issues faced within the existing police force in India?
8. Whether there is an urgent need for reforms in the existing framework of the police, if so, whether any Model Police Act has been drafted in this regard?

1.7.2 Review of Literature

The researcher has delved deep into the topic and conducted extensive review of existing literature. Some of the important books, journals, case laws and reports of various commissions and committees reviewed in this study are as follows:

- **Articles & Books**

R.C. Majumdar *et al.*, (1953) has analysed that during the Gupta dynasty, the towns were placed under the Purapals, who were assisted by the police, secret agents and troops so as to uphold peace and tranquility in the Kingdom, whereas in villages Gramadhyaksha were appointed who were assisted by council of villagers. In the era of Sher Shah Suri, the principle of local accountability for the enforcement of local offences was established. The village *Mukhiya* was responsible to detect crime and apprehend the criminals. During Mughal period, the Subedar or governor was responsible for upkeep of peace and tranquility. In cities, the Kotwals were appointed who were entrusted with the task of performing police duties.

Manindra Nath (1960) noted that it is important to recognize that the main objective of an investigation is not to achieve a conviction by any means necessary. Rather, it is to thoroughly examine the case and determine whether there is sufficient evidence to recognize and capture the perpetrator of crime, in order to ensure that justice is served. It is imperative that the Investigating Officer refrains from manipulating or coercing statements or evidence in any way during the investigation process. The investigation process must consistently maintain its integrity, and any efforts to manipulate or falsify evidence are in direct violation of the core principles of justice and fairness. The Investigating Officer serves an important function in uncovering the truth and bringing those responsible for the crime to account, without resorting to unethical practices. It is essential that the Investigating Officer remains impartial and objective throughout the investigation, focusing solely on gathering facts and evidence to establish the truth and ensure that justice is served in a transparent and lawful manner.

Anandswarup Gupta (1974) has given the description of the policing system in vogue during different period. During Mauryan period, the criminal law was strict and the State had elaborate espionage system. The Pradesikas were entrusted with police

functions in provinces and Nagarakhs, were placed in town and they were entrusted with the responsibility of keeping vigil over the public places and to report about the intruders, thieves, anti-social elements of the society. In villages, Gramini assisted by the council of village elders were appointed who had the power to impose fines and even expel the thieves. Nevertheless, as time progresses, the system of policing started deteriorating especially during the British colonial times. The Irish Constabulary Model was adopted by Charles Napier during the 19th Century, organizing a regular police force in the province which was separate, self-contained and not given any other role and responsibility.

Indian Inst. of Public Opinion (1979) primarily deals with the public perception of Police in India following questionnaire and sampling method of conducting the survey, in which it was found that there was huge public distrust regarding the functioning of police.

KN Prasad (1979) has shown displeasure in the working of the police in India. The article highlights that no earnest efforts have been made to prevent any political manipulation in the daily working of police. The law enforcement agencies should be responsible for upholding the principles of the rule of law.

L. Territo & H J Vetter (1981) has dealt with the occupational problems faced by the police. The occupational work of police is considered to be most stressful job as they face danger all the time. This causes sudden changes in behaviour; erratic work habits; increased sick time; excessive worrying.

Sukh Dev Kohli (1992) has examined the concept of the FIR to be the initial information provided by any individual concerning a cognizable offence, which must be documented in writing by the officer in charge of the police station. One of the important duties of police is to effect arrest and to apprehend the accused person linked with the offence. It is also the obligation on the part of the investigating agency to prepare case diary describing in details the investigation carried on by him or done on day to day basis. The police is given wide powers to search the premises and seize any incriminating article linked with the offence and later on produce in the Court at the time of evidence.

L.N. Rangarajan (1992) has explained that the Arthashastra which is one of the most elaborate books on governance, gives description of the criminal system prevalent during the ancient period. During the said period, rule of law was given importance. The Judge was called Dharmastha or the upholder of Dharma. It was the responsibility of State to make good any deficiency of property and to return the same if found to its actual owner. There were secret informers, spies, assassins, working under the control of the King, tasked with the responsibility of maintaining security and peace.

Om Shankar Bajpai (1992) has elaborated the power of police relating to search, seizure and conducting raids during investigation of offence. The power of police to conduct raid does not amount to violation of Art. 20(3) of Constitution of India. Broad powers are given to the police at the time of carrying out raid at the premises, viz., to enter the building; to break open the lock; to make personal search; duly record identification marks and to make inventory of goods seized.

Giriraj Shah (1992) has discussed the system of police which was prevalent in India since ancient times. The *Apastambha Dharmasutra* also contains vivid description of the system of policing prevalent during the period between 600-300 B.C wherein the Kings appointed village officers in villages in order to prevent any theft in the forest area. The said Dharmasutra further contained the description that the King was burdened with the task of punishing the guilty and in case he fails to do so he would incur sins. Similarly, the witnesses were bound to tell the truth and in case they failed to do so, they would be punished for being unfaithful. Even the *Vishnu Purana*, contains description that it was the responsibility of the State to compensate for any loss or theft of article and in case the same was got recovered, the King was to duly return the same to its rightful claimant.

Ved Marwah (1998) deals with the human rights issues vis-a-vis., the responsibility of police in protecting the same and abusing/misusing its power to violate the rights of individuals. Extra judicial confession to extract information from the accused is inadmissible in law and effecting arrest without following the due process of law infringes upon their fundamental rights.

P. Ramanatha Aiyer (1999) deals with authority, function and obligations of the law enforcement during arrest and while conducting investigation of criminal case. Although, vast power is given to the police to effect arrest, but the same ought to be exercised cautiously. The arrestee must be given the reason for his arrest and intimation regarding arrest is to be given to his family members. He should be given an opportunity to engage counsel/lawyer of his own choice and after arrest, it is mandatory that the accused must be presented before nearest Magistrate, without undue delay but within 24 hours after getting his medical examination.

Human Rights Standards & Practice for the Police (2004) sensitizes the police to protect and uphold human and individual rights, by laying down standard procedure and practice to be followed by the police, at the time of investigation, arrest, detention, permissible use of force and firearms, situation of emergency and civil disorder, protecting the rights & liberty of juvenile, women and refugees.

Anupam Sharma (2004) dealt with the concept of policing as it existed in ancient India. It dates back from the time of Manu. *Manusmriti* contains vivid description of the policing system prevalent during that period. It mentions that the King in those times used to appoint spies or agents for preventing and investigating any theft of King's property or personal properties.

Quirine Eijkman (2007) states that the significance of human rights within a society must be to question and contest the prevailing laws, norms, institutions, and practices. However, their effective implementation also relies on particular societal concepts and frameworks that shape the understanding and application of these rights. These rights serve as a mechanism for challenging the established legal structures, cultural norms, institutional frameworks, and societal practices. The realization of these rights is contingent upon the underlying societal concepts that influence how they are perceived and enacted within a given community.

Mihir Desai (2009) has briefly pointed out the status of police in India. It discusses about the non-compliance of the directives passed by the Apex Court in Prakash Singh's case and the challenges faced in the smooth functioning. Despite clear

cut guidelines being laid by the Court, there is complete lack of political will & determination in implementing and giving true effect to the police reforms in India.

‘Human Rights Guidance for Police Authorities’ (2009) has been developed to assist the police authorities by providing a robust legal structure for protecting the human rights, in the context of policing.

Jack R Greene (2010) emphasizes the safeguarding of individual and human rights by law enforcement, ensuring a rigorous compliance with the rule of law. The Bill of Rights (Amendments in US Constitution) highlights several basic and essential rights, including, various civil and state rights, citizenship rights; electoral rights etc. It also mentions about the EU Charter of Fundamental Rights which contains much broader provisions for the safeguarding of basic and inherent human rights. The onerous duty of protecting the human rights is vested upon the government and police plays an important part in this system. There must be social control but not at the cost of human rights. The police while performing its function of prevention, responding and mitigating the social and physical harm, interfere with human rights at every stage, be it arrest, detention, questioning suspects, interrogation. The US Amendment addresses the police interventions, while protecting the civil rights. The police at the time of assisting the victim of crime, referring certain types of disputes for alternative dispute resolution mechanism, helping victim pursuing their claims and enforcement of their civil and criminal rights, in a way supports the human rights.

Batuk Lal (2010) has explained in detail the aspect of the evidentiary value of the confessional statement suffered by the accused and recorded by police and recovery of articles made pursuant to such confessional statement. The confession recorded by the police is inadmissible in law and only that portion of confession can be used against the accused which is inculpatory in nature and the fact effecting recovery of any incriminating article from the possession of the accused, can be used in evidence against the accused.

R.S. Sharma (2012) has described the system of police which existed during the ancient period in India. The responsibility to maintain, peace and tranquility in the society was primarily of the Kings and for that purpose, there was elaborate system

through which they could protect their subjects from theft, crime etc., and for which various spies and agents were deployed to apprehend the criminals.

TSN Sastry and Dilip K Bhujbal (2012) the law enforcement agency is essential for maintaining peace within society. While dealing with the same, wide powers are given to them, which sometimes are grossly misused and abused. The article explained and defined human rights and gave broad layout of the powers of police. It also focused on the national and international regime of human right vis-a-vis., police.

Rattan Lal & Dhiraj Lal (2013) deals with the aspect of various statutory powers of police as enshrined under CrPC, 1973. Police is given wide powers to apprehend accused without warrant in case he has committed a cognizable offence, whereas for arresting a person accused of non-cognizable offence, the warrant must be issued by the Court.

J.N. Pandey (2013) has dealt with the various legal and constitutional rights which have been guaranteed under the Constitution. The book further highlights various instances of violation of constitutional mandate by police. The book further discusses about the concept of power dichotomy between the Central and State Governments as laid down under Schedule-VII of the Constitution wherein police, law and order have been kept under the State List.

Rajiv Ahir (2015) has shed light on the modifications in the structural organization of the police institution brought about by the British during the colonial period, after the decline of Mughal Empire. After the acquisition of Bengal, there was a phase when East India Company started gaining powers. The Cornwallis system replaced the old Mughal regime which had deployed Wazir, Fauzdars, Kotwals for controlling rural and town areas.

Ravneet Kaur, Vamsi K. Chodagiri *et. al.*, (2015) discusses the problem of occupational stress in police which has a direct impact upon their personality traits. Due to overburden and erratic working hours, the rest time becomes minimal and also the police often work for more than eight hours, thereby adversely impacting their physical and mental health.

Satish Chandra (2015) has dealt with the police system which existed during the period of Mughals in India, wherein the Islamic law was applicable and harsh punishments were inflicted upon the criminals such as flaying, chopping off ear, hands, mutilation of organs, trampling by elephants, so as to deter them from committing the offence. The assistance of Fauzdars and Kotwals were employed to protect the people and even the aid of public informers and secret agents were also taken to nab the criminals and prevent the offence.

K.S. Dhillon (2016) has attempted to deal with the aspect of police reforms by pointing out that the colonial character and elitism still dominates the India Police. The political parties interfere in the working of police and impose their will upon the investigation domain of police, due to which the police is not able to work independently and impartially. The said excessive interference causes stress and burden on the police leading to lack of autonomy and rise in dissatisfaction.

K.P. Singh (2016) has dealt in detail the problems and issues related to the police machinery since colonial era and need for revamping the police institution as a whole. The colonial mindset of political rulers dictating the police personnel need to be done away with. The image of the police in the eyes of public requires a complete overhaul and it must be sympathetic and accessible to the public and hear their grievances in a patient manner.

N.V. Paranjape (2017) has elaborated on the police system wherein the origin of police, its development, organizational structure, role, functions and problems faced by them have been discussed at length. The book further gives an insight into the various committees and commissions set up regarding police reforms from time to time striving to effectuate a constructive transformation within the police institution as a whole.

Anviti Chaturvedi (2017) sheds light upon the emergent issues governing the police regarding low governmental expenditure on police, poor police infrastructure, overburdened police force, the increasing crime rate with decreasing conviction rate owing to shoddy investigation, the overview of the police, its functioning and the issues faced by the police in India.

Rohit Raj (2017) deals with Community Policing. It is the process of working in tandem with the community to prevent and detect crime. It is not a program but a philosophy. It follows the concept that policing cannot be the sole task of the police and response of the community is required for maintaining peace and harmony. Gathering and sharing of information would be best achieved if community as a whole is involved. This would also help building trust amongst the people and police which would be in harmony to bring about congenial environment. The idea of community policing has its roots in ancient times and medieval period where community watchmen were deployed for maintaining local peace and security.

Michelle Beshears (2017) lays emphasis upon the stress which the police officers face while carrying out their day-to-day duties. The article highlights the reasons for stress, its causes and remedies to reduce stress. Since the police works under hostile environment, stress is bound to occur and they must relieve stress by conducting stress management techniques including meditation and exercise.

Sukhwinder Singh and Deepank Bharadwaj (2018) highlighted the issue relating to collection and analysis of preventive intelligence; criminal investigation; vacancies; outdated arms and equipments; lack of organization and proper training, issues of police accountability, crime investigation, poor police infrastructure and poor public-police relation.

Manaswitha Boyanagari, Vamsi Krishna Boyanagari *et al.*, (2018) police officers form an integral part of occupational group who work constantly under stressful conditions. Due to the nature of work and work environment, it was found that many were addicted to alcohol, tobacco, smoking, developed tendency of hypertension, heart related ailment, insomnia. Studies amongst constables suggested that they were inadequately paid, had no time for family, round the clock duty, harassment, ambiguity, negative public perception resulting in irritation, burnout, stress, suicide and anti-social behavior.

R.C. Arora and B.V. Trivedi (2018) suggests measures to minimize and control incidents of custodial deaths in India, use of high technology in keeping a strict vigilance,

proactive and alertness among the jail staff, strict action against delinquent officers and rewarding the vigilant ones, fast-track inquiry and trial mechanism.

Walter Suntinger (2018) emphasizes the importance of educating law enforcement personnel on the protection of human rights. Various International Conventions & committees, including, ICCPR, Human right committee, Convention against Torture (CAT), CEDAW, lays stress on imparting extensive training to the enforcement agencies with respect to protection, preserving and upholding the human rights of persons.

Abhijit Banerjee, Raghabendra Chattopadhyay *et.al.*, (2018) a study was carried out that revealed the importance of training in soft skills, including communication, leadership, and stress management, as essential components for enhancing trust between the police and the public. Accordingly, the Police Force in Rajasthan adopted training in soft skill in police training curriculum. In order to facilitate community interaction, training in soft skill was perceived to be an important tool to train the police officials for garnering public support and cooperation. Similarly, training in scientific investigative methods was incorporated to improve the efficiency of investigation.

Waqar Hussain & Fayyaz Ahmad Faize (2018) deals with the stressful work environment of the police officers who are required to work under immense pressure, causing depression and anxiety among police personnel. The article researched upon the levels of stress, anxiety and depression in sensitive and insensitive police stations.

Jessica Saunders, Virginia Kotzias, *et.al.*, (2019) stressed upon the mental pressure exerted by the law enforcement agencies (USA) owing to their work culture as they are required to work in potentially dangerous situations, negative portrayal by media, not so cordial relation with public, administrative burden, causing mental stress amongst police personnel.

Amrit Purba & Evangelia Demou (2019) focuses upon the occupational stress of the police officer which causes serious mental illness affecting public safety, professionalism and their efficiency. There is dire need to reduce stress level amongst the police so that the police personnel perform his task in an effective manner.

H. Vanalalruatkimi and S. Ramdoss (2020) sheds light upon the gory picture of the police in handling cases coming within the purview of POCSO Act, 2012. Few instances highlighted in the article includes disclosing the identity of victim, lack of sensitization amongst the investigating officer, lack of legal expertise and proper training, under reporting of case, non reporting of the incident promptly to Child Welfare Committee within twenty fours from receipt of information, delay in conducting medical examination of victims.

Sewa Singh Dahiya and Samundar Singh (2020) lays emphasis upon the methods of crime prevention in India with special focus towards the role of the Panchkula. Police beats, patrolling, pickets, maintenance of police record are methods for ensuring prevention of crime and preservation of public peace in the area.

Vipul Mudgal (2020) discusses the flaws in the police administrative machinery, the blatant violations of Standard Operating Procedure for curbing mob violence by citing the examples of the protests at Jawaharlal Nehru University, Jamia Milia Islamia University, Anti Citizenship Amendment Act protests in various parts of Delhi as well as communal riots in Saharanpur.

Urmila Pullat (2020) has dealt in detail the two sensational rape cases in Kathua and Unnao districts, bringing to the fore the inaction on the part of police and how the directives issued by the Apex Court in various judgments have been flouted by the police.

John Stogner, Bryan Lee Miller & Kyle McLean (2020) during the Covid-19 Pandemic, the police was expected to coordinate local shut down, encourage social distancing, enforce stay at home mandates etc., but the COVID-19 pandemic had serious impact on the officers' health, stress, as they were performing duties day in and day out at the same time exposing themselves to the pandemic.

Suparna Jain and Aparajita Gupta (2020) have dealt with the need to build a smart policing system in India in tune with the current era of advancement in information technology. There is a need for enhancement in three areas of police operations, with the first being the development of the capacity and infrastructure of police forces; second relates to working on the constitution of police forces and bringing about challenges at

the administrative level and thirdly by upgrading the existing technology used by the police.

Tannistha Datta, Sharmila Ray *et. al.*, (2020) has tried to depict the humanitarian and selfless service of police during COVID-19 pandemic. It includes responding to distress calls made by general public; helping the public to reach their destination; admitting the patients in hospitals; delivery of essential items to the public; enforcement of lockdowns.

Shyam L. Kaushal and Stuti Jalan (2020) has dealt with the aspect of causes of stress to include lack of basic amenities including safe potable water, clean toilets, refreshments, exposure to air and noise pollution, monotony in work, lack of new challenges and abusive behaviour of superiors which further adds to increased mental stress amongst the police.

Dr. Pinki (2020) highlights the fact that the level of occupational stress varies and differs from one gender to the other. Through the study conducted, it was concluded that male police constables face less occupational stress as compared to their female counterpart. It was thus found that the male police constables have better stress management than female constables.

Ritika Sharma (2021) has dealt with the authority, role and functions of police in India with special emphasis upon Model Police Act, 2006, which describes the power of police to register FIR; investigate offence; effecting arrest; conducting raids; search of premise and preventive arrest.

Monidipa Fouzder (2021) discusses the human rights breaches and the police action. A number of cases were being brought against the police for their inaction or challenging their action in investigation of crimes. The recent ruling of Strasbourg in VCL and AN v. the United Kingdom, has mandated for separation of modern slavery crime and investigation in case there is suspicion that the suspect is being exploited.

Sneha Vasudev Ganachari (2021) highlights the mental stress experienced by Police Personnel while on duty. The article broadly emphasizes on the various types of stress like baseline stress, acute stress, cumulative stress, critical incident stress and also

highlighted the causes of stress namely job mismatch, working conditions, working relations and pressure.

Gopal Ch. Mahakud, Jaspreet Kaur *et. al.*, (2021) deals with the issue of stress and mental health of police officer who are required to work under immense stressful environment. It deals with the concept of stress, anxiety, depression and the means to cope with them. Periodic psychological assessment, meditation, yoga, counseling, adequate sleep, dietary counseling.

Tina B. Craddock & Grace Telesco (2022) emphasizes the challenges faced by the cops who endure daily critical incidents and work-related stress, which adversely affects both their personal and professional lives.

H. Douglas Otto & Alysson Gaten (2022) explains that the nature of police work is stressful as it involves dealing with varied situation causing threat to one's life. The stress of job combined with organizational stressors may severally impact police officer. The said situation can lead to substance abuse, trauma, poor health, increased alcohol, poor concentration etc. the stress level can be reduced by way of stress management training; peer counseling and support group.

Prakash Singh (2022) had penned down his struggle in bringing about changes in the prevalent police system. The book contains elaborate and in-depth account of the need for police reforms. It highlights the plight of the author and his struggle for implementing the Court's order for police reforms. The book also deals with the historical background of the system of police in India and the necessity to have reforms in the police structure. The book further elaborates the role of police in other countries.

- **Cases**

M.P. Sharma (1954) laid down that search does not offend Art. 19(1)(f)/Art. 19 (1)(g) of the Constitution of India, since invasion of the right is temporary. The Court rejected the contention that right to hold, possess, and own property was infringed upon by conducting search and seizure as such seizure of article is not permanent.

Nandini Sathpathy (1978) it was laid down that any testimony extracted from a suspect directing towards the guilt of the suspect in an atmosphere of pressure, be it direct

or indirect, psychological or mental would amount to compelled testimony and is well protected under Article 20(3) of Constitution of India.

Parmanand Katara (1989) dealt with the aspect of humanitarian approach in saving the lives of the people. This was a PIL filed on the ground that immediate medical attention ought to be given to the road side accident victims.

Roshan Bevi (1984) has established that the fundamental components necessary to define an arrest include the presence of an authority to effectuate the arrest, along with the actual seizure or detention of the individual involved. This process must be conducted in accordance with legal standards that are comprehensible to the person being arrested. The criteria for a valid arrest are deemed to encompass the existence of lawful authority to make the arrest, coupled with the physical restraint or detention of the individual in question. Furthermore, it is imperative that the legal basis for the arrest is clear and understandable to the individual who is being apprehended.

Dilip Kumar Chand (1987) the Court noted that once an FIR is registered, the criminal process is initiated. Subsequently, the investigation process begins to take shape. It was emphasized that the FIR holds significance beyond being a mere procedural document. The Court's observation highlighted the pivotal role of the FIR in kick-starting the criminal justice machinery. The FIR serves as the catalyst for the investigative process to commence, signifying its importance in the legal framework. The Court emphasized that the FIR should not be viewed as a mere formality, but rather as a crucial step in the administration of justice.

Rajmal Heeralal (1989) the Court determined the scope of search and seizure and held that it does not constitute testimonial compulsion, and therefore does not infringe upon the regulations outlined in Article 20(3) of the Constitution of India. It was therefore established that the action of conducting a search and seizure does not tantamount to testimonial compulsion, and as a result, does not contravene the stipulations of Article 20(3) of the Constitution of India.

D.K. Basu (1997) laid down elaborate guidelines relating to arrest which ought to be mandatorily complied with by the police. The detainee must be informed of the grounds of arrest, and that his family members are promptly notified of the location

where the arrestee is being held. The arresting police officer should visibly display their official identification badge at the time of arrest, and must also complete a formal arrest memo that is signed by minimum one person. The arresting officer should prepare a memo of arrest to be attested by at-least one witness of the locality. In cases where the arrestee requests it, any injuries sustained during the arrest – whether major or minor – should be documented and examined by medical officer. Furthermore, the person should possess the right to voluntarily undergo a medical examination. Additionally, there should be a designated control room established at both the District and State Headquarters to ensure proper oversight and coordination of all arrest-related activities.

G. Subas Reddy (1997) highlights the issue of security cover to VIPs. The security cover must be based on actual threat perception and not otherwise. The security cover should be constantly reviewed and in case there is not threat perception, the same may be withdrawn. Such continuous exercise is required to protect the police as well as the State from additional responsibility and also to ensure that the limited resources are utilized in the optimum manner and also the security may be extended to the one who actually requires it.

Shri Dinesh Trivedi (1997) the Vohra Committee Report was tabled in the Parliament in 1995. It was a thirteen-page report having around 100 pages annexure. Since the annexure contained some sensitive data pertaining to criminal-politician nexus, the Petitioner in the case (a Rajya Sabha MP) had sought for annexure and copies of the Vohra Committee recommendations from the Ministry but was not given any proper response. He then moved the Hon'ble Court to get his grievances redressed.

Vishaka (1997) established the protocols concerning sexual assault and harassment following the notorious rape case involving a social worker, aimed at ensuring the safety of women in the workplace and preventing such horrific occurrences. The extent of this harassment was established by the Hon'ble Court while imposing a bounden duty on the employer to ensure protection of women employees at workplace and also to provide adequate mechanism to redress the grievances of female employees.

Rakesh (1994) held that honest and dedicated efforts should always be made for securing the presence of witness during search, to prevent any planting of article. The

inventory of seized article must be witnessed by independent persons of the locality in order to give credence to the search and seizure.

Katasani Rami Reddy (1998) deals with security cover provided to protectee. The security cover or arrangement must be reviewed on periodic basis and must be based on actual threat perception. The Court has determined that a threat to an individual's life can be transient, indicating that ongoing security measures may not always be necessary. Consequently, when personal protection is assigned to an individual, it is imperative that the Superintendent of Police conducts regular assessments. If, based on the information at his disposal, he sincerely believes that the threat has dissipated; he is authorized to withdraw the security arrangements. It is essential for the Superintendent of Police to continuously evaluate the necessity of personal security for individuals under threat. The Court's ruling emphasizes that such threats may not be permanent, and therefore, if the Superintendent concludes, through careful consideration of available intelligence, that the danger has subsided, he has the discretion to terminate the security provisions.

Vineet Narain & Others (1998) pertains to the Hawala transaction which was unearthed in which possible bribery payments were given to several elite politicians and bureaucrats from the funds linked with suspected terrorists. The Apex Court had held that CBI failed to conduct the investigation into the allegations of corruption with utmost fairness and impartiality. It laid down guidelines to ensure independence and autonomy of CBI by placing them under the direct supervision of CVC so as to make the department free from political pressure.

L/Nk V.H.K. Murthy (2000) the matter of ensuring top-notch security for the Head of the Government underwent thorough scrutiny by various government agencies. To address this critical issue, a high-level committee led by Shri Birbal Nath was formed to conduct a detailed examination of VIP security and propose necessary measures. The recommendations led to the constitution of SPG. This specialized unit was tasked with providing immediate security to the Prime Minister and his close relatives.

Daroga Singh (2004) the Court highlighted that the police function as the executive branch of the State responsible for upholding law and order as well as enforcing regulations to prevent and detect criminal activities. The Court reiterated the

role of the police in maintaining peace and harmony and implementation of laws, emphasizing their vital role in maintaining the rule of law and safeguarding the rights of individuals.

Bihar Policemen's Association & Anr. (2004) the Court had struck down the modification in recruitment of Constables where the State of Bihar had lowered the minimum educational qualification of candidates from Standard X to Standard VII as the same was contrary to the recommendations of Commissions on Police Reforms.

Navjot Sandhu (2005) the general principle relating to search and seizure of article was explained in this landmark judgment.

Robin Tirkey (2005) in this case the Petitioner had assailed the Government Notification relating to appointment of constables in Jharkhand Police Force wherein it had lowered the minimum education qualification from class X to class VII and without giving any adequate weightage to higher education qualification. It was noted that the question relating to the recruitment of constables was dealt with in the reports of Committee of Police Reforms by K Padmanabhaiah wherein it had recommended that for constables, minimum educational qualification should be X Standard. Even the National Police Commissions' (5th Report) contained similar recommendation and provided for additional weightage for higher educational qualification. The Court held that with fast technological development giving rise to new dimensional crimes in the form of cyber-crimes, IT-related crimes, e-commerce related crimes, IPRs, a need is felt in the society to have well qualified and sophisticated policing to deal with such new crimes. The Court found it unexpected that the State of Jharkhand would choose to decrease the educational standards for constable recruitment, given the significant number of well-educated individuals who are currently seeking employment opportunities. As such, the provision regarding lowering the educational qualification for appointment of constable and not giving bonus marks for enhanced educational qualification was held unconstitutional.

Radha (2006) dealt with the scope of inquest inquiry/proceedings initiated under the provisions of Sec. 174 CrPC, in order to ascertain the apparent cause of death. In case of death that occur under suspicious circumstances, the police conduct inquest proceedings to establish a preliminary assessment regarding the true cause of death. This

process is essential for determining whether further investigation is warranted. The objective of these inquest proceedings is to gather evidence and insights that may clarify the circumstances surrounding the death. By forming an initial opinion on the cause, law enforcement can decide on the appropriate course of action moving forward.

Minu Kumari (2006) laid down that the Magistrate is not required to approve the final report submitted by the police. Upon finishing its investigation, the police must prepare a final report, which the Magistrate has the discretion to accept or reject.

Prakash Singh (2006) examined the role and performance of the police and the need to bring radical reforms in the current police system. Various guidelines in the form of directions were issued to the Central and State Government for framing appropriate legislations concerning the reforms in police. The seven directions issued by the Court included establishment of Police Establishment Board(PEB), the State Security Commission(SSC), separation of law and order wing from investigation wing, a set criteria for appointment of DGP , minimum security of two years at one station.

J. Jayalalitha & Ors. (2008) it was laid down that the State, as the guardian of its citizens' rights, is obligated to protect the natural rights of its citizens. The Court directed that a high ranking officer may be deputed to visit J. Jayalalitha to gather information regarding her threat perception and also to assess the security arrangement.

Roop Ram (2008) the Court condemned the actions taken by cops who do not register FIR, even after receiving information concerning the occurrence of a cognizable offence. Such practice undermines the legal obligations of law enforcement and the rights of individuals seeking justice.

Kashmir Singh and Another (2010) the issue revolved around the permissibility of transferring constables and head constables from one district to another, as well as Asst. Sub Inspectors and SIs from one range to another. The relevant provisions under consideration were Sec. 1 & 2 of the Indian Police Act, along with the Punjab Police Rules, 1934, including Rules 1.4, 1.5, 2.26, and 14.15, which are also applicable to the State of Haryana. The appeal in question was submitted against a consolidated ruling of the Punjab & Haryana High Court concerning related cases. The respondents, who held various positions in the state of Haryana, contested their transfers to other districts and

ranges by the IG. The constables, head constables, and exemptee constables argued against the decision of being transferred outside the district, while the ASI and SI asserted that, according to the Punjab Police Rules, they could not be relocated beyond the designated range. The Division Bench of the Hon'ble Punjab & Haryana High Court upheld this contention. The hierarchy of constables and head constables at the district level, along with ASI and SI at the range level, should be preserved within the original district or range, regardless of any transfers. The Court highlighted that transfers are a standard component of service, asserting that judicial intervention in transfer orders should be limited, provided that such orders are not evidently unlawful. It is believed that the State authorities are most qualified to evaluate the administrative needs of the circumstances. The Apex Court expressed dissatisfaction with the High Court's decision, noting that upholding it would cause significant hardships for the State Government in carrying out necessary transfers.

Choteylal (2011) the Hon'ble Apex Court emphasized upon the need for revamping investigative techniques, in view of the directives passed in Prakash Singh's case (2006) and further to make suitable reforms in the justice delivery system and investigation. Few measures like modernization of scientific investigative tools, enhancing video conferencing capabilities, and ensuring the availability of sufficient infrastructure were suggested.

G. Anandan & Ors. (2012) the Hon'ble Madras High Court took note of the psychological problems faced by policemen and suggested the government to constitute a Commission to be led by a former High Court Judge to deal with the problems of the police personnel so that the aspect of indiscipline, desertion and other problems faced by the police could be tackled and the morale of the force be improved and efficiency is increased. Although, pursuant to the said directions, a Commission was constituted in 2019 to address the issues of the police personnel but the said Commission was headed by a retired IAS officer and other top-level officials in violation to the Board as per the G. Anandan Case. It was further opined that the problems faced by police personnel were at lower level viz. constable and inspector and therefore Commission ought to have a retired High Court Judge and representation from officials at lower level.

Ramveer Upadhyay (2013) in its deliberations, the Court examined the circumstances surrounding the allocation of police cover for a VIP, focusing on the underlying threat assessment. The determination of the necessity for such protection was fundamentally linked to the perceived risks associated with the individual's status. The protection must be constantly reviewed and continued only in case actual threat perception continues. It must be systematically reduced with reduction in threat perception.

T. Suneel Kumar, I.P.S (2013) the transfer and posting orders of senior police officials were contested due to the government's failure at the State level to comply with the mandate established in the Prakash Singh's case, which constituted a clear violation of the provisions outlined in the Police (Amendment) Act. The State had contended that although it had constituted Police Establishment Board (PEB) but since it was not making recommendations regarding posting and transfers of IPS Officers, therefore the State Government in order to make day-to-day administrative exigencies had made such transfers. The Hon'ble Court observed that although Sec. 4 of the Karnataka Police Act, 1963 gave the Government the Superintendence over the police force but Sec. 20B of the Act specifically provided that the Board would exercise the power relating to transfers, postings, promotions of Police Officers. Before the insertion of Sec. 20B of the Act, in terms of Sec. 4 of the Act, the Government was passing orders of transfer. It was the said action of the Government which was found faulty by various Committees and Commissions and thus in terms of mandate of Court, S. 20B was incorporated in order to put fetters on the powers of the State Government in making arbitrary promotions, postings and transfers. After the insertion of Sec. 20B, the power relating to transfer and posting was to be exercised only by the Board. The Court deprecated the practice of State Government that despite of its directions and the amendments to the State Police Act, the Government was not prepared to give up its power in making transfers of police officials which was in vogue. Since the transfers of the aforesaid police officials were not made in consonance with the Police Act and directives of the Highest Court, the transfer and posting orders were set aside to be illegal, null and void.

Lalita Kumari (2014) is the significant ruling lays emphasis on the necessity of law enforcement agencies to compulsorily document the First Information Report upon receiving information pertaining to the commission of a cognizable offence. The case highlights importance of adhering to the procedural requirement to ensure that proper legal action may be initiated against the perpetrator. It was emphasized that the condition essential for registration of FIR against the accused is the commission of cognizable offence and that preliminary enquiry may be conducted to a limited extent to ascertain whether the cognizable offence is made out or not.

Rina Kumari (2015) noted the crucial position of police institution as the foundation of the State's authority in upholding law and order. During the Colonial Era, the main responsibility of the police was to uphold law and order with their actions often directed towards quelling legitimate public demands. This portrayal of the Police Force projected a glorified image of the ruling Colonial State, which viewed the inhabitants of the country as subjects meant to be controlled and suppressed.

Joginder Singh Mann & Ors. (2015) in the instant case, challenge was made to the Haryana Ordinance No. 1 of 2015 which sought to amend section 4(2) by making provision for the direct appointment to various non-gazetted cadre which was supposed to be made through the Staff Selection Commission of State of Haryana and gazette post shall be made through Haryana Public Service Commission as per relevant applicable service rules, by adopting a transparent process. The amendment was also proposed to section 4A which provided for the Dissolution of State Level Recruitment Board vide Haryana Government, Home Department, notification No. S.O 52/H.A25/2008/S.4a/2013, dated the 15th May, 2013. The contention of the Petitioner was that the State had provided for State Level Police Recruitment or the District Level Police Recruitment Boards in terms of the draft Legislation circulated by the Government of India (in due compliance with the Prakash Singhs' Judgment on Police Reforms). Therefore, the method of recruitment could not be altered by the State Legislature. The Hon'ble High Court however, refused to intervene and held that the Supreme Court has not provided any specific guidance for the formulation of legislation in a particular way. However, considering the principle of separation of powers regarding the authority to legislate on

matters designated for the State Legislature in List II of the 7th Schedule of the Constitution of India, the Court determined that the contested Ordinance falls within the exclusive jurisdiction of the Legislature. Consequently, it cannot be challenged on the basis that it contradicts the model legislation disseminated by the Government of India or contravenes the directives of the Highest Court.

Rajinder Saini (2015) the Writ Petition had challenged the withdrawal of the personal security officer which was earlier given to the protectee by Punjab government. Around 14 officers were assigned for the personal safety and protection of the protectee. The petitioner who was the General Secretary of Punjab Pradesh Congress Committee and had participated in various elections was provided security earlier, which was subsequently withdrawn. The Court noted that politicians and party officials who seek security merely to display their power will not be granted upon mere asking. Security can only be provided if there is a genuine threat, in which case the relevant authority can assess the situation and recommend security measures to the Government.

Prakash Singh (2016) has highlighted the fact of non-implementation of the recommendations suggested by numerous Commissions and Committee set-up at State and Central level, for police reforms. India has failed to transform the police in inspiring trust and confidence amongst the public and in keeping the rule of law. In order to achieve the reforms in true sense, it is imperative to establish a clear distinction between law enforcement and investigative functions within the police force. This can be achieved through the formation of a State Security Commission to oversee the overall functioning of the police. Additionally, the creation of a Police Establishment Board would ensure transparency in the transfer and posting of police personnel. Furthermore, it is essential to establish fixed criteria for the selection of the Director General of Police (DGP) to ensure that the most qualified individuals are appointed to this crucial position. Moreover, guaranteeing a fixed tenure for the DGP would help in maintaining stability and continuity within the police force.

Randeep Surjewala (2017) in this case, the petitioner was aggrieved by his categorization in Y category security cover in the central list and moved the Court for including his name in the Y+ category security cover in the Central protectee list. The

Hon'ble High Court declined to grant Y+ security protection to the petitioner, who was serving as the Member of Legislative Assembly for the Kaithal Constituency at that time. The Court based its decision on the lack of specific evidence indicating a threat to the petitioner from any terrorist organizations, militant groups, or fundamentalist factions. Additionally, it took into account that the petitioner was already recognized as a categorized protectee by the Government of Haryana, thereby rendering his inclusion in the Central list in Delhi unnecessary.

Nara Chandra Babu Naidu (2019) the Petitioner had assailed the action of the State Government in scaling down his existing security cover on the ground of it being contrary to the principles of natural justice and was highly politically motivated. He further contended that being the Chief Minister of the State for many years he was exposed to life threats and thereby he and his family members were on the hit-list of left-wing extremists. Taking into consideration the contentions of the Petitioner, the Court ruled that the State Government/Union Territory administration bears the main responsibility for providing security to an individual and constitutional functionary. It emphasized that this responsibility cannot be reduced without ensuring that the protectee is granted an equitable opportunity to express oneself.

Paritala Sunitha (2019) laid down the importance of adhering to the guidelines prescribed for different categories of protectees. Specifically, the Court emphasized that the provision of categorized security should not be solely based on the existence of threats from professional rivals. It was noted that threats are not static rather dynamic in nature, evolving in dimension and form over time and across different locations.

Re: State of Assam, Case No. PIL (Suo Moto) (2019) is a significant step towards ensuring compliance of the directives of the highest Court as laid down in the "Prakash Singhs' case" on Police reforms. In this case, 791 officials of Assam Police were identified and ear-marked for the purpose of investigation duty with a bid to insulating investigation from law & order duty. Further emphasis was made to their training by higher officers of police and judicial academy. Similarly, 120 officials of Mizoram Police were identified for the purpose of investigation (80 for general offences and 40 for specific offences) that would undergo training with higher authorities and judicial

academy. On the same lines, the state of Arunachal Pradesh identified 75 police officials exclusively for investigation duty who would undergo training.

Ajjuguttu Ragunatha Reddy (2020) the Court had observed that “providing security cover to the individual citizen is nothing but a burden to the State and the State cannot be burdened with the liability of providing armed escort/gun-man to such of those persons who indulge in factions and group rivalry, unless it is clearly established that there is direct threat to their life from known and identified persons or group of persons”. Even then it would not be possible for the State machinery to provide adequate security to each and every individual who on their own conduct gets involved or implicated in criminal cases.

Chandra Shekhar Joshi (2020) the Court held that while needless restrictions should not be placed on vehicular movement, appropriate attention could be given to the fact that during the tourist season, the large influx of vehicles plying to and from Nainital, causes huge traffic congestions resulting in vehicles taking twice or thrice the normal time taken to travel between Nainital and Kathgodam. The duty to control and regulate traffic is entrusted to the police. The restrictions are placed on vehicular movement only for a few of those who hold constitutional posts and traffic restriction is imposed taking into consideration several factors including security cover to prevent any untoward incident. The Court opined that the number of VIPs to whom such a benefit is extended ought to be kept to the barest minimum to avoid needless inconvenience to commuters and to ensure that traffic restrictions are kept to the bare minimum to avoid inconvenience to the general public.

Paramvir Singh (2020) the Court had emphasized the need of transparency in the police station by fixing CCTV cameras inside the police station and interrogation rooms in order to rule out any human rights violations.

Bala Murugan (2020) the Court took note of the low rate of conviction and stressed upon the need for imparting adequate training to the officers in conducting investigations. It noted that in cases relating to theft, despite finger prints being available, the same were not taken. Even if they were taken, they were not sent for forensic examination. In the matter relating to homicide investigations, the vital call records were

not obtained from telecommunications companies and even if they were obtained, they were not presented before Court. Despite the numerous technological advancements in this modern age, law enforcement agencies are failing to utilize the available tools to identify the true perpetrator. The Hon'ble Court further relied upon the judgment in *Prakash Singhs'* case to state that in order to uphold the rule of law, the police must be free from any kind of interference both political as well as executive. The Court further observed that even though the Tamil Nadu Police Reforms Act was formulated in 2013, but it was not implemented in letter and spirit as per the recommendations and directions of Hon'ble Supreme Court in *Prakash Singhs' case*. The Court further referred the case of “*R. Rajendran v. State of Tamil Nadu [W.P.(MD)No. 15726 of 2019, decided on 16.07.2019]*”, where report was sought from the DGP regarding the implementation of the directions given in ‘*Prakash Singh's case*’, but till date, the State Government did not file any such affidavit in that regard.

Sk. Shanoor Islam (2020) it is essential to highlight that, although upholding law and order is a vital responsibility of the police, the integrity of the investigative division should not be compromised. The effectiveness of criminal cases is significantly hindered by inadequate investigations, highlighting the urgent need for police reforms within the State to separate law enforcement from investigative functions. In the current situation, the police faced challenges in locating a missing minor girl and repeatedly requested extensions for their investigation. On 10.12.2020, the SHO of the concerned police station submitted a report stating the inability of tracing the minor girl. The Court then observed that although law & order forms an integral part of the police duty, the investigating arm cannot take a back seat. The Hon'ble Court also issued orders for circulation of copy of the Order to CS and the Home Secretary of the State so that appropriate measures may be taken in terms of the “*Prakash Singh v. Union of India* judgment” highlighting the police reforms which were still pending for over a decade following that declaration.

Laxmibai (2021) there is dire requirement of training of police personnel to deal with socially sensitive cases such as inter-caste marriages etc. Training programmes must

be organized on regular basis to sensitize police personnel in the aforesaid aspect, so that proper investigation is carried out in sensitive matters.

Rajesh Kumar (2021) in this case, the Petitioner had filed the contempt petition against the State of Jharkhand for their willful and deliberate disobedience of the previous orders of the Court, by appointing interim/ acting DGP vide notification dated 11.02.2021. The Petitioner had also mentioned instances where there was reluctance on the part of UPSC for selecting the name and panel of DGPs as regular DGPs in the State. The matter is under consideration before the Hon'ble Supreme Court wherein notices have been issued to the State and UPSC for the failure to adhere to the directions of the Court.

Masillamani (2021) issuance of Mandamus to direct the respondents to increase the per capita police force in TN (Tamil Nadu); for filling up of vacancies for the ranks of constabulary and sub inspectors and to increase the pay of police officers, was sought in this case. The Court took judicial notice of the suicides and desertions amongst police force and particularly the fact that there is no redressal mechanism available to the cops. They work tirelessly without adequate rest as opposed to other Government counterparts who enjoy at least two weekly offs per week. Most police personnel lack in stress management skills, resort to alcohol and in extreme cases, commit suicide. Also, the diseases such as high blood pressure, insomnia, heart attack and increased level of destructive stress and mental disorder are generally noted in police personnel. On the salary and perks aspect, the Court observed that the salary paid to cops in TN is inadequate as compared to that of other States. Even compared to the Government Employees, the Elementary School teachers were drawing more salaries. Mostly their grievances remain unaddressed due to lack of Association by the Police Force. The Court answered to the series of questions posed to the government at state level. It opined that proper salary should be fixed for the police personnel at par with the other Government agencies. Large number of post remains vacant as a result of which the police personnel is facing undue work pressure affecting mental and physical health. The per capita police force must be increased. There should be a robust grievance mechanism to tackle with the day-to-day problems faced by the police personnel. Time bound promotions to improve

the morale and efficiency was suggested as there was stagnation in the post of SIs. The Court condemned the system of orderlies in the police department and further stated that despite the Government order passed in this regard the higher officials were still keeping constables as orderlies depriving them of their normal police function, which system should be stopped immediately. Although, the police officials are entitled to weekly off but due to the concept of giving remuneration for working during holidays, the police officials are hardly on rest, thereby affecting their efficiency and in order to vent out their frustration, they become violent. Therefore, it was suggested that the concept of giving remuneration in lieu of compulsory statutory holidays should be stopped. Adequate and proper medical facilities should be provided. Insurance cover should be increased and ex-gratia payment of at least 25 lakhs must be fixed in case of death and Rs. 15 lakhs in case of total disability. With regard to the working hours, the Court stressed that although eight hours work duty is allocated but the same is hardly adhered as police personnel work for 24 hours. Therefore, eight hours norm in 3 shifts was proposed and number of police personnel during the shift should be fixed. This would avoid mental stress and work pressure.

Gamken Bam (2022) a PIL was moved by a practicing lawyer wherein he drew the attention towards non-compliance of “Prakash Singh’s judgment” directives particularly relating to separation law & order from that of investigation. The Petitioner lamented that in majority of cases, the culprits are exonerated of the charges due to insufficient and shoddy investigation. In most of the cases, the acquittal was pronounced due to some non-compliance of the statutory provisions by the Investigating Officer.

Suresh Yadav (2022) the Court expressed its dissatisfaction and apathy in the existing state of affairs of police force in the State. It found that due to improper investigation, large number of convicts go scot free. The Court ordered the Judicial Academy, Jharkhand to prepare a productive Scheme and module to impart training to the police investigating officers so as to conduct the investigation in an effective and efficient manner.

Shakeel Ahmad (2022) relates to the case of mob violence, communal tension and riots. The present PIL was preferred on the account of the inquiry report submitted

pursuant to the Mumbai Communal Violence and Bomb Blasts during 1992-93. It was brought to the notice of Supreme Court that the intelligence wing of Police was inadequate as it failed to gather crucial information regarding religious meetings between two groups that led the communal violence. The number of police personnel were insufficient to curb the communal riots and even day-to-day problems. There was lot of political interference in police functioning and the inquiry report further suggested that a large number of police personnel were found lacking in physical fitness due to their long and arduous working hours, leaving them with no time to devote for physical fitness. The Commission further recommended that the working condition must be improved and proper and adequate housing facility should be ensured. Upon the said recommendation, the State Government incorporated the suggestions in a memorandum and assured for improving the working conditions within the police department. The Court considered the recommendations put forth by the Commission on reforms, which advocated for enhancements within the police force. It was suggested that professionalism needs to be introduced and much emphasis should be laid on the training and the physical fitness aspect of the police personnel. There should be improvement in the weapons provided to the police personnel and advanced communication system should be provided to the police. A need was felt for stopping the political interference in the routine police works. Necessary steps to be employed to boost the morale of the force by providing adequate housing facilities, reducing political interference. It was found out that most of the said recommendations were accepted by the State Government but the same were not implemented. It was observed that there was a dire need for improvement and modernization of police force.

Shivappa @ Shivanand Hittangi (2022) the Hon'ble Court issued a slew of directions to the DGP; Directorate of Public Prosecution and Registrar of HC for making necessary arrangements for training of their officers as regards receiving, handling, storage and use of electronic evidence. The Court reversed the conviction pronounced by the Lower Court as the investigation was lacking in terms of details and the chain of investigation failed to prove the culpability of the accused beyond any reasonable doubt.

Waseem (2022) a meeting of government officials was convened to discuss the necessary measures for reforming the investigation system for offences. It was observed that various infirmities were found in the manner of handling investigation by investigating officers such as provisions as S. 161(3) CrPC were not complied with in letter and spirit. The Government of the concerned state gave the assurance to the Court to comply with the directions within 2 months.

Om Prakash Soni (2022) the Court emphasized that the issue of security is not a fixed concept, but rather a continuously evolving process that requires regular reassessment. This involves evaluating the perceived threats to the individual under protection over time, utilizing intelligence gathered from both State and Central Agencies. Security cover should only be provided to those individuals who genuinely face a credible threat, based on realistic threat perceptions.

Rajesh & Anr. (2023) the Supreme Court was perplexed with the shoddy investigation done by the Police in one particular case which was entirely based on circumstantial evidence. It expressed regret in asserting that the fundamental principle of 'proof beyond reasonable doubt' should be prioritized, especially in situations that depend on circumstantial evidence. It is crucial to implement a standardized and dependable investigative protocol that requires law enforcement to adhere to a thorough procedure throughout their investigative processes. This would guarantee that individuals who commit crimes are not exonerated due to technicalities, a circumstance that often arises in our country.

Ashish Kapoor (2023) in this case, the Court had granted bail to a former Punjab AIG in 2018 custodial violence case on the ground that the role of the Complainant seemed to be dubious and an 'Orchestrated Attempt to Keep Him in Custody'.

Surender Koli (2023) the Court had acquitted accused persons primarily due to the inadequate investigation conducted by the Central Bureau of Investigation. The Hon'ble Court observed that the evidence submitted by the prosecution exhibited inconsistencies during the course of the investigation, ultimately placing significant reliance on the confession of the accused, Surinder Koli, while neglecting other crucial legal safeguards. The method by which the confession was documented raised significant concerns,

particularly as it took place after 60 days of remand, without a medical examination or the provision of legal counsel. Additionally, the disregard for specific allegations of torture referenced within the confession, along with the non-compliance with the requirements outlined in Section 164 of the Criminal Procedure Code, is deeply troubling. Furthermore, it was noted that the investigation was conducted inadequately, with essential principles of evidence gathering being significantly disregarded.

Dheeraj Garg (2023) dealt with the issue of engagement of retired police officials on contract basis on gazetted posts. The Court deprecated such practice of favouritism at the hands of ruling parties by appointing their patrons in crucial investigations required to be performed by serving members of police fraternity.

Manas Madar Godbole (2023) adequate training of police personnel is required to make them well acquainted with the criminal laws, so that the police are mindful of the provisions to be attracted while lodging FIR against the accused.

Karam Singh @ Salu (2023) police officers should be given dedicated training on the chapters of Fundamental Rights, so that they are made well aware about the rights and liberty of the citizen and to avoid their infringement. Exhaustive and extensive training modules must be organized by engaging appropriate faculty, who are experts in the field of Constitutional Law from any reputed University or are otherwise experts on the topic of Fundamental Rights.

Satpal Choudhary (2024) Cyber Law is an emerging field in which the investigating agency is not well equipped with necessary skills nor does it possess the requisite qualification to tackle cyber-related crimes. In case of delay in investigation of cyber related crimes, the police are not to be entirely blamed, as the cyber-crime is an evolving field, the investigation of which requires technical expertise and adequate training in the field of technology.

Utpal Mandal @ Utpal Mondal (2024) there is a need for training of police personnel and sensitization in crucial cases related to POCSO Act, to ensure that the investigation is conducted effectively. The identity of victim of sexual offence is not to be disclosed. The Court highlighted that S. 33(7) of the POCSO Act and S. 228 of IPC mandates that the identity of the victim must be hidden even at the time when her

statement is being officially recorded under S. 164 and 161 of the Cr.PC. Victim's identity must be protected in order to ensure that she does not face any hostile discrimination or undue harassment in future.

Sanuj Bansal (2024) statement of accused recorded during police interrogation cannot be included during charge-sheet as the same is inadmissible in law. Any statement that is deemed incriminating and made by an individual to the police is inadmissible in the eyes of law, and consequently, it cannot be incorporated into the charge sheet presented by law enforcement authorities.

Bhupender Singh (2024) the investigation probe of NDPS cases in Himachal Pradesh is far more superior than that conducted in Punjab & Haryana. The Court thus, directed the DGPs Punjab & Haryana to send police officers for training in Dharamshala. The Hon'ble Court noted that due to shoddy investigation in narcotic cases, serious lacunae were left behind at the time of conducting the investigation. It was further found that wrong provisions of law were attracted, causing immense loss to the accused, thereby it was observed that it is essential that police officers should receive sufficient and effective training to ensure they are well-prepared to handle their duties and responsibilities professionally and competently equivalent to that of the Police of Himachal Pradesh.

- **Committees and Commissions**

Committee Report of the Indian Police Commission (1902) was constituted under the president ship of Sir Andrew H.L. Fraser, to suggest reforms in police organization relating to its strength, recruitment, improvement in investigation; infrastructure. Slew of reforms were suggested in the committee report.

Gore Committee (1971) was establishment to address the issue of delivering training to law enforcement officers while taking into consideration the socio-economic context of the nation.

National Police Commission (1979-1981) NPC was constituted with the major aim to revamp the police administration in India. The reports submitted by the Commission delve into the intricacies of police organization and functioning, shedding light on issues

such as accountability, public perception, political intervention, misuse of power, performance evaluation, legislative framework, and legal protection of public servants executing their official responsibilities. The comprehensive nature of these reports underscores the Commission's commitment to addressing the multifaceted challenges faced by law enforcement agencies.

Vohra Committee (1993) was set up to deal with the problem of criminalization of politics and of nexus existing amongst the criminal, police, and bureaucrats in India.

Committee on Police Reforms (1998) popularly known as *Ribeiro* Committee was formed as per the directives given by the Court in Prakash Singh case. It was constituted to assess the progress made in executing the suggestions put forth by the NPC and Vohra Committee. Its primary objective being to propose strategies and methods for the effective implementation of these recommendations.

Padmanabhaiah Committee on Police Reforms (2010) was set up to suggest structural changes in the Police by recommending proper training, counseling of recruits, laying down minimum qualification and age limit for entry in the police, suggesting more appointment of Sub-Inspectors as well as limiting the working hours of the police.

National Human Rights Commission (2010) has analysed the specific do's and don'ts which are prescribed for police personnel while facing various live situations like arresting and detaining an individual, while protecting children, women, elderly and weaker sections of society, during terrorist attacks, while arresting a hardcore criminal and ways to avoid encounter killings. These guidelines are crucial to ensure that the human rights of individuals are upheld and that loss of life or injury occurs solely when no alternative solutions are available.

Malimath Committee (2013) was constituted for suggesting meaningful changes to the existing criminal justice delivery system. It gave various recommendations viz., strengthening of training infrastructure; establishment of forensic science laboratories; fingerprint bureaus; establishment of Central law enforcement agency; setting up new Police Act; insulation of investigation from law & order.

K.T Thomas Committee (2013) was constituted to examine the progress made pursuant to Court's orders in the “Prakash Singh’s case”, and it was observed that the execution of the directives fell short of expectations.

Committee on Reforms of Criminal Justice System (2013) was setup to devise effective solutions for the challenges encountered by the police force. It proposed separating the investigation wing from law and order duties; creating a National Security Commission and State Security Commission; forming Police Establishment Boards; enhancing the quality of investigations by appointing additional Superintendents of Police responsible for managing crime data and organizing specialized squads to address organized crime.

237th Parliamentary Standing Committee Report, Rajya Sabha (2022) emphasizes on the aspect of police training, modernization and need for reform in policing system. It was suggested that a good and well organised training module should be developed so as to bring about efficiency & effectiveness in the police department and boosting the morale of the police force with advancement in technology and communication, there is a need to equip the police personnel to adjust and deal with the socio-economic and technology related issues. The report further suggested that dynamic training rather than static training is the need of the hour. Online training, training to deal with cyber-crime, training to handle sophisticated weapons, to meet specific challenges was also focused with regard to modernization in the police system, need was felt for requirement of operationally operated vehicles, state of the art weapons and ammunitions, setting up forensic labs, improving the infrastructure of police buildings and police houses, improving the technology related equipments and making the police tech-savvy.

1.7.3 Research Gaps

There are some research gaps as far as this study and the studies already done are concerned. Therefore, through this study a sincere effort is being made to cover these gaps by way of writing the thesis. Following are the research gaps:

1. The socio-legal aspect of police personnel is a grey area. Although, much has been done to secure human rights of accused, prisoners, detainee and citizens. But the aspect of securing human rights of police personnel has remained unexplored.

2. Less empirical work is done focusing on the rights of police personnel.

1.7.4 Significance of the Study

Police holds a crucial role in upholding the principles of legal governance in a democratic setup but the problem faced today is that the institution of police is suppressed, dominated upon by politicians and an upright police official is neither given the independence nor proper infrastructure and dignity in the country which has led to low self-esteem of officers and lack of popular support. Because of this victimization, the Police Institution is not able to prove its worth and is not able to work with optimum efficiency. Despite various recommendations of reports, committees and commissions constituted for Police Reforms, the socio-legal aspect of aspect is completely ignored causing deterioration in the mental and physical well-being of the officials. Since the research would focus upon the aspect of bringing about socio-legal and structural changes in the institution of the police as a whole, therefore the proposed research would be beneficial to the entire society.

1.7.5 Objectives of the Study

1. To examine the growth and historical background of the Institution of Police.
2. To evaluate the role, responsibility and functioning of the police and challenges faced by the police in India.
3. To examine the international perspective of the human rights and institution of police.
4. To review the existing legislative provisions relating to the rights of the police and recommendations of the various Commissions and Committees set-up in India.
5. To examine the role of Judiciary in protecting the human rights of the police personnel.
6. To analyze the socio-legal aspect of the police administration and the challenges and problems faced by the police in the State of Haryana.

7. To suggest the suitable measures and suggestions for protecting the human rights of police personnel in the State of Haryana.

1.7.6 Hypotheses

1. That despite being the protector of human rights of the masses the human rights aspect of police personnel remains largely unaddressed.
2. The existing infrastructure is not properly equipped to meet the contemporary challenges and issues.

1.7.7 Research Methodology

This study is a doctrinal as well as empirical study. To pursue this research, primary as well as secondary sources are being used. Primary sources in the form of Bare Acts; Government Documents; Committees and Commissions set-up for devising Model Code for Police; Surveys published by Police Agencies; Human Right Organizations; NGOs are used. Secondary resources including books (including e-books) relating to the Police Reforms; Criminology, Penology and Victimology; Criminal Law and Constitutional Law; periodical reports and journals are used. Further reliance is placed upon various judicial pronouncements dealing with the issues relating to the challenges and problems faced by the police. The internet sources; journals; magazines and newspaper articles also form an integral part of research.

For the Empirical research, primary data is collected from three categories of respondents from the seven districts of the State of Haryana. The questionnaire method and personal interviews are employed for the purpose of primary data collection. The following categories of respondents are included in the research:

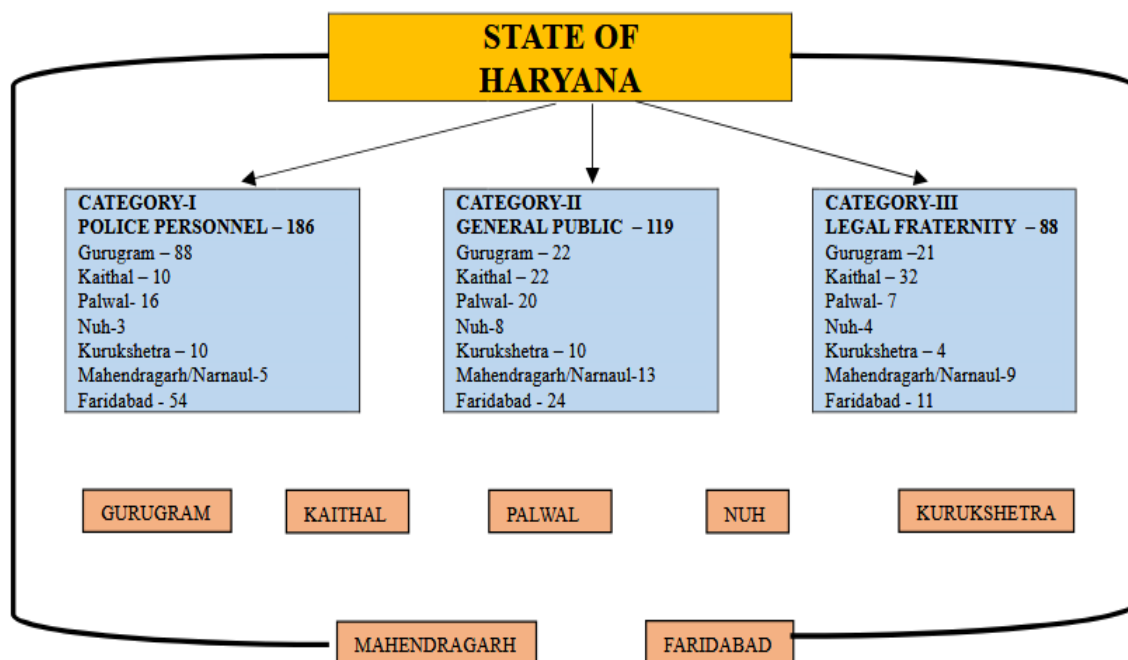
- A. Legal fraternity,
- B. Police personnel,
- C. General public.

1.7.8 Sampling

Since Police is an inherent part of society, care has been taken to include various stakeholders in the research to make it more meaningful and comprehensive. The

stakeholders thus include the police personnel from seven districts of State of Haryana, the General Public and the members of Legal Fraternity in the State of Haryana. The method of sampling employed in the research is Simple Random Sampling more specifically the Convenience Sampling Method. Universe of study is the State of Haryana.

- i. First type of respondents (Police Personnel of Haryana)
- ii. Second type of respondents (the General Public of Haryana)
- iii. Third type of respondents (the Legal Fraternity)
- iv. Names of the districts from where respondents have been chosen
Kurukshetra, Kaithal, Gurugram, Faridabad, Mahendragarh, Nuh and Palwal



1.7.9 Method of Data Collection

In this study “Questionnaire” method has been used to elicit information from the various categories of respondents such as Police Personnel, General Public as well as members of Legal Fraternity. Empirical study has been conducted by using questionnaire method and interview method for Police Personnel. For general public and legal fraternity, questionnaire method has been employed. The Districts ear-marked for the

said purpose are Kurukshetra, Kaithal, Gurugram, Faridabad, Palwal, Nuh and Mahendragarh (Narnaul). The questions framed in the questionnaire as well as those posed in personal and group interviews for the Police Personnel encompasses the various aspects of working conditions at workplace, the level of autonomy, the condition of housing, the physical and mental health, the duty hours, the standard of arms and ammunitions, questions on quality of life, promotional prospects, transfers and the level of work satisfaction to name a few.

For the general public category, questions were aimed at assessing the public perception on the police working, their behaviour, the type of work regime that police follows and whether they would encourage reforms for them to make their life better.

For the legal fraternity, questions were aimed at the issues relating to police which affects the criminal justice system, the conditions of police, their working pattern, the condition of police stations and overall infrastructure, the perception of public and suggestions and assistance which legal fraternity has to offer to make their conditions as well as the criminal justice system better.

Responses from total 393 respondents were obtained for the present study, out of which 186 were from category I which are police personnel; 119 from category II which is General Public and 88 from category III that are members from legal fraternity.

1.7.10 Data Analysis

Data collected from the respondents has been tabulated and analyzed by using standard statistical methods by using column charts and tables.

1.7.11 Limitations of the Study

1. A target of 200 police personnel was taken. However, the responses from 186 could only be received from seven districts out of twenty two districts in the State of Haryana.
2. The issue pertaining to Human Rights of police personnel is a universal issue. However, data is collected from the State of Haryana only.
3. Another limitation of this study was shortage of time and financial constraints.

1.7.12 Scheme of the Study

1. **Chapter-1 Introduction, Historical Background and Growth of the Institution of Police.** This chapter traces the evolution of police in India right from the time of ancient civilization till the promulgation of Constitution and to the modern police system in vogue. Further, brief introduction to the human rights and the socio-legal rights of police personnel has been given. The latter part of the chapter explains the significance of the research along with its possible contribution in the existing scenario. The chapter gives a short glimpse on the various important features of the research topic as objectives, research questions, research gap, hypotheses, significance of the study, sample size, limitations etc.
2. **Chapter-2 The International Perspective of Human Rights and the Institution of Police.** This chapter gives a broad overview of the concept of human rights and the various United Nations Conventions pertaining to human rights as well as law enforcement agencies; the standards of policing and the various notable features of police in various countries of the world. The chapter also deals with the evolution and growth of the institution of police in various other countries like United Kingdom, United States, France, Russia, Israel, China, South Africa, Sweden, Japan and Netherlands.
3. **Chapter-3 Recommendations of the Various Commissions and Committees Constituted in India.** This chapter aims to provide a bird's eye view on the various committees and commissions set up from time- to- time to suggest measures for improvement of conditions of police in India, such as the National Police Commission, Gore Committee, Ribeiro Committee, Malimath Committee, the Padmanabhaiah Committee, JS Verma Committee, Soli Sorabjee Committee along with the seven directives of the Hon'ble Apex Court in the case of Prakash Singh & Ors. v. Union of India & Ors.
4. **Chapter-4 Existing Legislative Provisions on the Role, Responsibility and Functioning of Police in India and the Role of Indian Judiciary.** The chapter gives meaningful insight on the various roles, duties, functions performed by the police in their daily regime such as effecting arrests, investigating crimes,

maintaining law and order in the society. Attempt has been made to analyse the legal framework within which the police perform these various functions. Besides, the new provisions pertaining to police under the new criminal laws are also briefly discussed in the chapter. Further, the chapter gives an overview of the proactive role played by the Hon'ble Courts in India to protect the Human Rights of Police Personnel in India.

5. **Chapter-5 An Analysis of Challenges Faced by Police in the State of Haryana.** The Chapter gives an insight into the various problems and challenges faced by the police personnel in the State of Haryana such as erratic duty hours, poor infrastructure, political and external interference, poor health, housing facility etc.
6. **Chapter-6 Conclusion and Suggestions.** In the last chapter, attempt is being made to conclude the entire thesis along with suggesting plausible solutions to the existing problem faced by the police in Haryana, with an objective of bringing about visible reforms in police and to ensure that their rights are adequately secured.

CHAPTER 2

THE INTERNATIONAL PERSPECTIVE OF HUMAN RIGHTS AND THE INSTITUTION OF POLICE

2.1 THE CONCEPT OF HUMAN RIGHTS

Human rights serve as fundamental standards that acknowledge and safeguard the inherent dignity of every individual. These rights dictate the manner in which individuals coexist within society and interact with one another, as well as the nature of their relationship with the State and the responsibilities that the State holds towards its citizens.¹ In other words, these rights constitute the fundamental rights and freedoms inherent to every individual globally, from the moment of birth until the end of life. These rights are universal entitlements that every person possesses solely by virtue of being a human.² They apply regardless of where an individual comes from, what he believes in or how he prefers to lead his life. They can never be taken away, although they can sometimes be restricted or curtailed - for example if a person breaks the law or in the interest of national security. These fundamental rights are grounded in common principles such as dignity, justice, equality, respect, and autonomy. These values are defined and protected by law.³

2.2 NATURE OF HUMAN RIGHTS

1. *Inalienable in nature*- as they are inherently devoid of any distinction as to caste, creed, religion, sex and nationality. Inalienable as they are not lost even after the person expires.
2. *Essential and necessary*- they are important for the well-being of an individual be it moral, physical, social and spiritual.

¹ Human rights, UNICEF, *available at:* <https://www.unicef.org/child-rights-convention/what-are-human-rights> (last visited on August 01, 2021).

² J. Donnell, *Universal Human Rights in Theory & Practice* 11 (Cornell University Press, London, 2003).

³ <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights> (last visited on August 01, 2021).

3. *Irrevocable*- as these rights originate with the social nature of man in society and they belong to a person merely because he is a human being.
4. *Essential for the fulfillment of purpose of life*- it implies those inherent aspects without which life and subsistence of an individual is not possible.
5. *Universal in nature*- they are accessible to everyone without prejudice or discrimination based on race, gender, colour, or belief.
6. *Human rights are not absolute*- not every act of human beings is justified. It is justified as long as it does not jeopardize the rights of other members of the society.
7. *Dynamic in nature*- there is no straitjacketed formula to define them. They are developed and recognized as per the need of a civil society in a particular period. They are therefore subject to socio-cultural and political developments prevalent within a particular state in a given period.
8. *Human rights pose limitations to state power*- this is due to the fact that being a member of the society, an individual has certain basic minimum guarantees which cannot be impinged upon by the State. These rights are so sacrosanct that they cannot be touched upon by the State in their acts.⁴

2.3 INSTITUTION OF POLICE IN OTHER COUNTRIES

2.3.1 United Kingdom

In UK, the first statutory Police Service was formed in Scotland in 1611 and they were known as the Constables of Edinburgh, tasked with patrolling the streets of Edinburgh to deter crime and apprehend offenders.⁵ The first professional police was set up in the city of Glasgow in 1800 with centralized police force being established in 1814 pursuant to the Peace Preservation Act. The Metropolitan Police Act, paved the way for setting up professional and a centrally organised police force for metropolitan areas in UK in 1822, which was later on extended to the entire country. In 1835, the Municipal

⁴ Nature of Human Rights, *available at*: <http://www.gacbe.ac.in/pdf/ematerial/18MHI42C-U1.pdf> (last visited on August 02, 2021).

⁵ Historical background of police in UK, *available at*: <http://www.police-recruitment.co.uk> (last visited on November 10, 2023).

Corporation Act was passed which required 178 Royal Boroughs for setting up professional police service. The police was issued unique identification number to facilitate their identification and ensuring accountability. The primary goal of the police was to deter criminal activity throughout the nation; the performance of the police was dependent upon public approval; there must be willing cooperation of public in voluntarily observing the rules and laws; impartiality in police service; use of physical use only when securing of law and order cannot be made through persuasion, warning and advise; development of healthy relationship between public; promotion of interest of community welfare; power should not transgress the power of judiciary; efficiency of police being dependent upon absence of crime in the area. The police was governed under the provision of Police Act, 1964 which emphasized upon the concept of independence of police, without any interference from the executive. The Police Reform and Social Responsibility Act, 2011 paved way for police accountability; governance; regulation of protests; issuance of warrant. The said Act transferred the control of police force from local authorities to elected police and crime commissioners.⁶

2.3.2 United States

The history of policing in the US could be traced back during the colonial period, where unofficial police system was in vogue to apprehend the runaway slaves and handing over to its master. The slave patrolling was slowly converted into policing units during the insurgencies which began after the Civil War.⁷ Police was used to protect the whites from the blacks. The Jim Crow law was passed to keep the white and black segregated.⁸ During the Civil Rights Movement, the police formed the pivotal role in controlling the riots/movement.⁹ But soon their actions came under public scrutiny which

⁶ Prakash Singh, *The Struggle for Police Reforms in India: Ruler's Police to People's Police* 305 (Rupa, New Delhi, 2022).

⁷ Olivia B. Waxman, "How the US Got its Police Force" *Time* May 18, 2017, available at: <http://www.time.com> (last visited on October 08, 2023).

⁸ Jill Lepore, "The Invention of the Police" *The New Yorker* July 13, 2020, available at: <http://www.the.newyorker.com> (last visited on October 09, 2023).

⁹ Kala Bhattar, "The History of Policing in the US and Its Impact on Americans Today" *UAB Institute for Human Rights* December 8, 2021, available at: <https://sites.uab.edu>. (last visited on November 10, 2023).

led to the setting up of President's Commission on Law Enforcement and Administration of Justice (Katzenbach Commission, after its Chairman, or the National Crime Commission) laying down slew of police reforms. Thereafter, the Violent Crime Control and Law Enforcement Act was passed in 1994 in order to curb the misuse of power by the police.¹⁰ Later on, the traditional policing system method adopted the concept of conflict resolution; community policing; evidence-based policing and civilian oversight of police work.¹¹

2.3.3 France

It has relatively long history of law enforcement, where the concept of night watchman was prevalent in 570AD. Now, the police is centralized agency at national level with local police called *police municipale* at local level.¹² The *Police Nationale* and *Gendarmerie Nationale* are two divisions of the national policing in the country.¹³ The Police Nationale is primarily responsible for police functioning in large cities and urban areas, whereas the Gendarmerie Nationale is the part of French armed forces which is tasked with the function of policing in smaller towns and rural areas.¹⁴ In addition to these, there is *General Directorate for Internal Security (DGSI)* tasked with intelligence gathering and surveillance. The *Directorate-General of Customs and Indirect Taxes (DGDDI)* for talking drug trafficking, counterfeiting etc. The *Judicial Tax Officier (OFJ)* and *Directorate-General of Public Finances (DGFIP)* is responsible for handling tax crimes, organized crime, and tax administration.¹⁵ The *National Forest Officers (ONF)* is the law enforcement division to fight crime against environment, pollution, forest etc.

¹⁰ Frank Olito, "History of Police in the US: How the Policing has Evolved since the 1600s" *Business Insider* April 26, 2021, available at: <http://www.insider.com>. (last visited on October 01, 2023).

¹¹ Prakash Singh, *The Struggle for Police Reforms in India: Ruler's Police to People's Police* 311 (Rupa, New Delhi, 2022).

¹² Clive Emsley, "The French Police in the 19th Century" 32 (1) *History Today* (1982) available at: <http://historytoday.com>. (last visited on October 09, 2023).

¹³ Howard C. Payne, "An Early Concept of the Modern Police State in Nineteenth Century France" 43 (3) *Journal of Criminal Law and Criminology* 377-381 (1952).

¹⁴ C. Journes, "Structure of the French Police System : Is the French Police a National Force?" 21(3) *International Journal of the Sociology of Law* 281-287 (1993).

¹⁵ Jacques de Maillard and Wesley G. Skogan, *Policing in France* 1-18 (Routledge, London, 2020).

The *French Office for Biodiversity (OFB)* is tasked with fighting and monitoring wildlife crimes.¹⁶

2.3.4 Japan

The professional police system was established in 1871 in Tokyo. The said system was based on the Continental police concept. The Major Police Authority of the Central Government was the Ministry of Home Affairs, to whom the Chief of Police Bureau was subordinate. The status of personnel of the Bureau was not police official but civilian administrator during their service in the Bureau. On the prefectural level, the Governor appointed by the Central Government was the highest police authority. The Prefectural Police Department functioned as the executive office of the Governor in police administration. The police officers above the rank of Police Superintendents were appointed or dismissed by the Central Government whereas the Chief and several Superintendents in the Prefectural Department were appointed from ‘Corps Prefectural’ as a rule. The routine management and law enforcement duties were performed by the Prefectural Police, which was the traditional Japanese Police. The ‘*Chief of the Police*’ of a city or town came under the control of Prefectural Police Department and thereby subordinate to the Governor. After the World War, the police law was enacted to decentralize and democratize the police. The Public Safety Commission system was introduced. The National Public Safety Commission was constituted and was headed by the Prime Minister. The basic idea of police system was to limit the nationwide influence of Central Government in Tokyo. The police activities revolved around preservation of public peace and order, the safeguarding of life and property, as well as the prevention and suppression of criminal activities; detection of crime and control of traffic.¹⁷ The Metropolitan Police Department is accorded with the special status and headed by superintendent general. The National Public Safety Commission (NPSC) and Prefectural Public Safety Commission (PPSC) are insulated from political interference. One of the

¹⁶ P.J. Stead, *Police of France* (Macmillan Publishing Co., New Jersey, 1983).

¹⁷ Hidenori Nakahara, “The Japanese Police” (46) *Journal of Criminal Law and Criminology* 583 (1955-56).

significant features of the Japanese Police system is to give special emphasis to maintain good relation with the community.¹⁸

2.3.5 South Africa

The South African Police Service (SAPS) had its origin after the Second Anglo-Boer war in 1902. During the outbreak of war in 1899, the Transvaal and Orange Free State Police forces were called to active service in the Boer Army, while the Cape Mounted Riflemen and Mounted Police, and the Natal Mounted Police were called to support the British. After the end of war, the Johannesburg and Pretoria areas were under the jurisdiction of the Transvaal Town Police, with the South African Constabulary (SAC) responsible for rural areas, thereafter, these units replaced with Transvaal and Orange River Police Force. In 1911, the police force was divided into two forces namely, the South African Police (SAP) and the South African Mounted Riflemen (SAMR).¹⁹ In 1992, the police was reorganized into three tier force, a national police force tasked with ensuring internal security and addressing serious criminal offences; autonomous regional units dedicated to crime prevention and the upkeep of law and order; and local police agencies focused on handling community-level crimes. Thereafter, the South African Police Service Act, 1995 was passed for bringing a democratically controlled police service.²⁰

2.3.6 Canada

The legal recognition of law enforcement agency dates back to 1651, when Quebec City adopted a watchman system on the basis of France. Ontario also adopted its own legal system with the establishment of constabulary and watch-and-ward system. But in 1759, the English system was imposed on French occupied areas of Canada. In the year 1835, Toronto established a police department based on the Metropolitan Police Act of England which was later on adopted by Quebec and Montreal. Finally, in 1867, the

¹⁸ Prakash Singh, *The Struggle for Police Reforms in India: Ruler's Police to People's Police* 315 (Rupa, New Delhi, 2022).

¹⁹ D.J. Potgieter, "South African Police Forces (SAPS)" (8) *Standard Encyclopedia of Southern Africa* (1974), available at: <http://sahistory.org.za> (last visited on November 11, 2023).

²⁰ Prakash Singh, *The Struggle for Police Reforms in India: Ruler's Police to People's Police* 318 (Rupa, New Delhi, 2022).

provincial police forces were set up for the Eastern Canada's rural areas. The Royal North West Mounted Police was established in 1873 by way of enactment. Its aim was to protect the Aboriginal people as well as to manage fires and disease/epidemic.²¹ During the 1970s the Royal Canadian Mounted Police Force functions expanded considerably to include VIP security, drug enforcement, controlling organized crimes, terrorism, economic crimes.²²

2.3.7 Germany

In Germany, every state has its own law enforcement agencies. The local and regional police (*die Polizei*) are divided into two types. The Serious crime like assault, murder, rape, theft are dealt with by *Kripo (Kriminslpolizei)*. The Kripo officials (detective) are usually in civil dress whereas the traffic offences and minor disturbances of peace are dealt with by *Schupo (Schutzpolizei)* who are the uniformed police. There is separate city police in each State like Darmstadt (*Kommunalpolizei Darmstadt*) in Hesse and Frankfurt am Main (*Standpolizei Frankfurt*).²³

2.3.8 Sweden

The Swedish Police Authority (*Polismyndigheten*) is the national police force.²⁴ The modern police force could be traced during the 19th century until 1965, when the police force was nationalized and centralized in 2005.²⁵ It is headed by National Police Commissioner appointed by the Government.²⁶ During 1600, in rural areas, the King's bailiffs (*fogde*) were responsible for public safety and security. There were numerous watchmen for patrolling duty. In 1500, in Stockholm, patrolling duties were tasked by special corps city guards who were assisted by civilian, military and fire patrolmen. In

²¹ M. Gouldhawke, "A Condensed History of Canada's Colonial Cops" *The New Inquiry* March 10, 2020 available at: [http:// www.thenewinquiry.com](http://www.thenewinquiry.com). (last visited on October 10, 2023).

²² Anderson College, "A Brief History of Policing in Canada for Police Foundations Students", available at: <http://www.andersoncollege.com>. (last visited on October 10, 2023).

²³ The Police, "The German Way & More" available at: [http:// www.german-way.com](http://www.german-way.com). (last visited on October 10, 2023).

²⁴ Richard Stassen & Vania Ceccato, "Police Accessibility in Sweden: An Analysis of the Spatial Arrangement of Police Services" 15 (2) *Policing: A Journal of Policy and Practice* 896 (2019).

²⁵ Kirsi Kohlstrom, "Professional development in the Swedish police organization: Police officer's learning pathways" 33 (4) *Human Resource Development Quarterly* 339 (2021).

²⁶ Iain Cameron, "The Swedish Police after the 2015 Reform: Emerging Findings and New Challenges" 15(1) *Policing: A journal of Policy and Practice* 277 (2021).

1776, the office of Police Commissioner (*Polismästare*) was set up. The first Police legislation was passed in 1925 (the Police Act) which codified the police.²⁷ The Sweden's justice system is often associated with less police abuse and lower crime.²⁸ The Sweden National Police Service is accountable to the Ministry of Justice and comprises of NPB(National Police Board); the NLFS(National Laboratory of Forensic Science) and 21 regional police authorities. The democratic oversight of security force is established to ensure people's rights are protected consisting of National Police Board; Office of the Parliamentary Ombudsmen; the National Audit Office and the Office of the Chancellor of Justice.²⁹

2.3.9 Israel

The Police was constituted in 1948 and primarily responsible for maintenance of public order; public security; securing public rallies; controlling riots; crowd controlling; investigation; handling of civil complaints. As per the Police Act, 1972 the responsibility for the prevention and detection of crime was assigned to the Israeli Police. They were also tasked with apprehending the criminals, bringing them to trial, maintaining law and order.³⁰ Prior to it, in 1920, the Palestine Police Force was organized and responsible for policing and public security.³¹ The Israel Police has additional workforce of part-time volunteers in helping the police. The Israel Police is divided into six regions namely Central, Southern, Northern, Judea & Samaria, Tel Aviv, Jerusalem and Coastal District Police. There are several units inside the police force viz., *the Security and Community Policing Branch* whose primary responsibility is maintenance of law enforcement task,

²⁷ Johannes Knutsson, "Organization of the Swedish Police and Social Order" *US Justice Programs* (1979)

²⁸ Yasmine Dahlberg, "Policing in America : Mixed Lessons from Sweden" *Columbia Political Review* November 10, 2020, *available at:* <http://www.cpreview.org> (last visited on October 08, 2023).

²⁹ Police Legislation Model Sweden, "Toolkit- Legislating for the Security Sector, Geneva Centre for the Democratic Control of Armed Forces (DCAF)" 2 (1985) *available at:* <http://www.dcaf.ch>. (last visited on October 09, 2023).

³⁰ Mev Hovav & Menachem Amir, "Israel Police: History and Analysis", *Police Study* (2) *Int. Rev Police Development* 5 (1979-1980) *available at:* <http://www.HeinOnline.org>. (last visited on October 10, 2023).

³¹ Shlomi Shitrit, "Researching the Past, Looking to the Future: The Israel Police History Department" *Research Gate* 30 (2014).

carrying out patrol duties etc. The *Israel Border Police (MAGAV)* is set up to protect the borders of Jerusalem and West Bank. It is also tasked with maintaining law enforcement in rural countryside and bringing about unrest. The *Yaman (Special Police Unit)* is responsible for counter-terrorism and hostage rescue. It is regarded as the most experienced and specialized unit. The *Yasam* is riot control Police unit which also participates in counter-terrorism operations. The *Yamas*, is counter-terrorist commando unit, whose officials are trained in conducting covert operations, going undercover etc. This unit works under the Israeli Internal Security Service. The National Traffic Police is the policing unit controlling the traffic enforcement. The Civil Guards are the part time volunteer officials. They are having limited police powers to carry out patrol. They are also trained to provide initial response in case of security threat until the official regular police force arrives. The *Lahav 433* is police unit for investigation of serious crimes and corruption; the *Police SIGINT* Unit is responsible for signals Intelligence (SIGINT). The *Seif* Unit is responsible for Israel Police Bomb disposal. For proper enforcement, each police officer is issued a pistol (handgun). The civil volunteers are also given M1 carbine.³²

2.3.10 Netherlands (Dutch Police)

The police force is called National Police, which is divided into various units, ten regional units, a central unit, the police academy, police service centre and national dispatch centre cooperation.³³ Besides these police units, the Netherlands has peace officers having Special Enforcement Officer (SEO) status and also tasked with the responsibility of detaining suspects; effecting arrest, issuance of fines. The Police in Dutch (Netherlands) started in 1581 after the formation of Dutch Republic. After the annexation of Dutch by Napoleon Bonaparte, the organized police force was set up in

³² Jewish Virtual Library, "Israel Society & Culture: Israeli Law Enforcement", available at: <http://www.jewishvirtuallibrary.org>. (last visited on October 10, 2023).

³³ Cyrille Fijnaut, "Police history, Police Reform and Police Education" (2) *European Police Science and Research Bulletin* 99 (2012) available at: <http://bulletin.cepola.europa.eu>. (last visited on October 10, 2023).

1810. After their independence in 1813, the *Corps de Marecaussee* was established.³⁴ During the Second World War, *Reichskommissar fur die Nederlande* was set up to restore normalcy and maintain public order. In 1994, *Gemeentepolite* (municipal police) and *Rijkspolite* (national police) merged into 25 *Regiokorpsen* (regional police forces) and *Korps Landelijke Politiediensten* (national police service agency).³⁵ However, in 2003, the police force merged into one organisation, namely *Korps National Politie* (national police corp) which was divided into ten *Regionale Eenheden* (regional units) and *Landelijke Eenheid* (national unit), a *Politieacademie* (police academy) and *Politiedienstencentrum* (police service centre).³⁶

2.3.11 China

The People's Police is the national civilian police force. The national police force is not only tasked with the ordinary functions of policing but is also responsible for maintenance of social security and stability in the country.³⁷ They come under the jurisdiction of Ministry of Public Security. This police was set up in 1949. The police is governed as per the Police Law of People's Republic of China, 1995. The primary function of the police is to safeguard state security, protection of citizen's safety and life, protection of public property, punishing the criminals, preventing illegal acts. It comprises of four main branches namely, the Public Security Police; State Security Police; Prison Police and Judicial Police.³⁸

2.3.12 Russia

During the 17th century, the police officers in large cities were called *Zemsky Yaryg*, who maintained safety and order in the cities. In Saint Petersburg, the police force was established in 1715. The function of police was not only confined to traditional

³⁴ W. Frackers, "Organization of the Dutch State Police and its Development" 8 (1) *Police Science* 1 (1980).

³⁵ Micheal Wintle, "Policing the liberal state in the Netherlands: The historical context of the current reorganization of the Dutch police" 6 (3) *An International Journal of Research and Policy* 181 (1996).

³⁶ F. Brink & JJ Bulthuis, "Dutch Police in Evolution", 2 (3) *Police Studies* 13 (1979).

³⁷ R. Phillips, "Chinese Police- A Look at the Role the Police Play in Modern China" 87 (4475) *Police Review* 1560-1562 (1978).

³⁸ Yue Ma, "A research note on the history of the Chinese police" (24) *International Journal of Comparative and Applied Criminal Justice* 115 (2000).

police duties but the officers were also tasked with the function of improvement of the city, paving street, draining swampy places, garbage collection etc. It was in 1866, for the first time that specialized police unit was established for the purpose of solving crimes and conducting inquiries. In 1879, the institution of police officers in rural areas was formed. In 1917, the people's militia was established.³⁹ But in 2011, significant reforms in police structure took place to enhance both the efficiency and effectiveness, curb corruption and improve the public image of police.⁴⁰ The Russian law enforcement agency *Militia* was replaced with Police (*Politsiya*); centralization of the police and decentralization of federal structure; reduction in the force. In Russia, there is Criminal Police Service; Logistic Service; Division for Internal Security, Control and Audit, Forensic Expertise, etc.⁴¹

2.4 INTERNATIONAL LAW AND HUMAN RIGHTS LAW

International Law comprises a collection of regulations that oversee the interactions among entities recognized as subjects of international law i.e. States and other legal entities. The Conventions, Customs and General Principles of Law recognized by independent nations are treated as the primary source of international law whereas the judicial decisions and teachings of jurists are recognized as secondary sources of international law. An international convention, which may also be referred to as a treaty or covenant, constitutes a formal agreement among States that is documented in writing and regulated by international law. These may be contained either in a single instrument or multiple instruments. Once the instrument has been signed or ratified by the States, it becomes a legally binding document. An international custom serves as proof of a widespread practice that is recognized as law.⁴² Jus cogens, also known as peremptory norms of international law, refers to those customary legal principles from which no

³⁹ Vladimir Sergevnin and Oleg Kovalyov, "Policing in Russia" *Handbook on Policing in Central and Eastern Europe* 191 (2013).

⁴⁰ Olga B. Semukhina and K. Micheal Reynold. *Understanding the Modern Russian Police* (Rutgers, Newark, 2013).

⁴¹ Olga B. Semukhina, "The Evolution of policing in post-soviet Russia" 51(3) *Communist and Post-Communist Studies* 215 (2018).

⁴² Statute of International Court of Justice, art. 38(1)(b) available at: <https://www.icj-cij.org/statute>. (last visited on October 10, 2023).

exceptions or deviations are permitted. Besides these sources, there exists soft law, which consists of non-binding instruments created through resolutions passed by the United Nations General Assembly.⁴³

The fundamental role of human rights law in society is to contest the prevailing laws, norms, institutions, and practices, with its application being contingent upon the particular societal context.⁴⁴

2.4.1 The United Nations

It was setup in 1945 for the purpose of promotion of international peace and security. It is an international organization which was set-up in the after-math of World War II, by 51 countries which were committed for maintaining friendly relations amongst the member nations promoting the international peace and protecting the human rights. The representatives of countries had gathered at the United Nations Conference on International Organisation in San Francisco, California to prepare the draft and sign the UN Charter for creating a novel international organization. The UNO (United Nations Organisation) was officially introduced on 24.10.1945.

2.4.2 Main Purposes of the United Nations Organisation

- i Firstly, to keep peace in the world;
- ii Secondly, to develop friendly relations;
- iii Thirdly, to help in the alleviation of poverty, illiteracy and to safeguard the rights and liberties of others;
- iv Fourthly, to become centre for harmonizing the said actions.⁴⁵

The UN Charter is the basic document containing provisions relating to human rights.⁴⁶ It was drafted with the basic aim of preserving the human race as the world had already witnessed two major world wars leading to massive destruction and loss of life, limb and wealth.

⁴³ International Rules and Standards for Policing, *International Committee of Red Cross* 10 (2015) available at: <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0809.pdf>. (last visited on May 10, 2023).

⁴⁴ Quirine Eijkman, "A Socio-Legal Perspective on Human Rights and Policing" *Netherlands Quarterly of Human Rights* 2 (2007).

⁴⁵ The UN Charter, art.1, available at: <http://www.un.org>. (last visited on September 13, 2021).

⁴⁶ The UN Charter, art. 55.

2.4.3 International Bill of Human Rights.

The “Universal Declaration of Human Rights (UDHR)”⁴⁷, “the International Covenant on Economic, Social and Cultural Rights”⁴⁸ and “International Covenant on Civil and Political Rights”⁴⁹ are the major international instruments dealing with the aspect of human rights and are collectively known as the International Bill of Human Rights.

The codification of these international instruments led to further drafting of various treatises and conventions at international level and also at regional level. The human rights provisions contained in these international instruments were later on codified in the national legislations of various countries. For example, the Constitution of India, had enacted various provisions relating to the human rights.⁵⁰

The significance of these international instruments attached to the inalienable human rights led to the drafting of various other treaties at international level. “The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)”; “Convention on the Elimination of All Forms of Discrimination against Women” (CEDAW); “Convention against torture and other Cruel, Inhuman or Degrading Treatment or Punishment” (CAT); “Convention on the Rights of the Child” (CRC).

All these international conventions and treaties are binding on the member states of United Nations. Even in India, the Constitution of India contains specific provisions for giving effect to the international treaties and conventions.

It is relevant to mention that the United Nations is assigned with the obligation of protecting and preserving human rights and it accomplishes the said task through its different organs and bodies. The Security Council of UN is the executive organ, aimed for international peace, harmony & safety. It comprises of 15 members.⁵¹ ‘The Economic and Social Council’ (ECOSOC), which is an organ of United Nations, has the power to

⁴⁷ Adopted by United Nations General Assembly in 1948.

⁴⁸ Adopted by United Nations in 1966.

⁴⁹ *Ibid.*

⁵⁰ Part III of the Constitution of India, known as the Fundamental Rights- Article 14 to Article 32.

⁵¹ Five permanent members (China, France, Russia, United Kingdom and USA) and ten other members elected by the General Assembly for a period of two years.

set up commissions for the promotion of human rights in economic and social fields, like ‘the Commission on Crime Prevention and Criminal Justice’; ‘Commission on Human Rights’; ‘Committee on Economic, Social and Cultural Rights’.

There is yet another subsidiary organ of the UN, known as ‘Human Rights Council’, consisting of 47 member states, which is entrusted with the task of reviewing the human rights situations in each member States and to redress the gross violations of human rights and other fundamental rights.

Further, ‘the High Commissioner for Human Rights’, is the chief human rights representative of the UN, which is engaged to prevent the human rights violations.

2.5 INTERNATIONAL STANDARDS FOR LAW ENFORCEMENT

The maintenance of law and order within the territory is the State’s primary responsibility, but their acts must conform to the international standard of protection of human rights. The primary responsibility of the State is to safeguard and uphold the human rights of its citizens. The State’s law enforcement agencies are primarily tasked with the said job. They have been given specific powers and responsibilities for the enforcement of law and order, namely arrest, detention, investigation, search, seizure, confiscation etc. But while performing the said functions, they must uphold the human rights of the individual. The police constitute a specialized and professional public institution that possesses the authority to employ force in the enforcement of the law.⁵² In a democratic framework, law enforcement personnel operate under the authority of the elected government. The framework for policing is established by the law, rather than by political authority.⁵³ Their primary purpose is to serve the community, which is why they are viewed as public servants rather than simply as individuals combating crime.⁵⁴

⁵² D.H. Bayley, *Patterns of Policing: A Comparative International Analysis* 7 (Rutger University Press, London, 1985).

⁵³ Quirine Eijkman, “A Socio-Legal Perspective on Human Rights and Policing” *Netherlands Quarterly of Human Rights* 5 (2007).

⁵⁴ *Ibid.*

2.5.1 Fundamental Principles

There are four fundamental principles which must be adhered to by every state:

Firstly, the **Principle of legality**, meaning thereby that all the actions should be done in conformity with the legal provisions, while following due procedure;

Secondly, the **Principle of necessity**, which implies that the human rights should not be restricted except when necessary;

Thirdly, the **Principle of proportionality**, to mean that the restriction in human rights should not be disproportionate; and

Fourthly, the **Principle of accountability**, which implies that there must be complete transparency and accountability for those who are carrying out the action.

The law enforcement agencies are tasked with the function of balancing the rights of victim and that of accused. The various international conventions and treaties stress upon the rights of accused, as they are the most vulnerable as their human rights are at stake. These rights include right to fair trial; right to know the ground of arrest; right to engage a lawyer; right against self-incrimination; right to privacy.

Further, the law enforcement agency is obligated to conduct the investigation in an impartial and unbiased manner. It should conform to the international standard that all persons are equal before law. Article 26 ICCPR specifically deals with the said aspect.

2.5.2 Universal Declaration of Human Rights

The law enforcement agency must not abuse its power, so as to cause violation of human rights. Torture as a means deployed in extracting information is highly discouraged. 'The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', defines torture, *'to mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person, information or a confession, punishing him for an act, he or third person has committed or is suspected of having committed, or intimidating or coercing him or third person or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in an official capacity. It*

does not include pain of suffering arising only from, inherent in, or incidental to lawful sanctions'.⁵⁵ It is the duty of law enforcement to redress such alleged abuse of power.

Some of the basic human rights which are relevant for the police whose responsibility is to uphold them as enshrined under Universal Declaration of Human Rights (UDHR) are:

- a. Article 3 of UDHR specifically mentions the right to life, liberty and security of a person;
- b. Article 5 of UDHR provides that nobody shall be subjected to torture or cruel , inhuman or degrading treatment or punishment;
- c. Article 7 of UDHR contains the basic principle of equality that all persons are equal before law and they are entitled to equal protection without any discrimination,
- d. Article 9 of UDHR provides for right against arbitrary arrest and detention,
- e. Article 11 of UDHR envisages the fundamental principle of criminal jurisprudence that a person is presumed to be innocent unless and until proven guilty by law in a trial in which all the guarantees necessary for his defence are provided,
- f. Article 19 of UDHR provides for the right to the freedom of free opinion and expression and
- g. Article 20 of UDHR states that every person shall have the right to freedom of assembly and to form association.

2.5.3 The various Conventions under the United Nations protecting the human rights

2.5.3.1 UN Code of Conduct for Law Enforcement Officials (1979)

The said universal convention was adopted vide General Assembly Resolution 34/169 dated 17.12.1979 dealing with the role and responsibility of law enforcement officials- who performs the important law enforcement role of arresting and detaining a

⁵⁵ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

person.⁵⁶ It states that the said officials must act in accordance with law and safeguard individuals from unlawful activities.⁵⁷ Due regard to the protection and maintenance of human rights of all persons and force must be used by the said officials when necessary under extreme circumstances.⁵⁸ Under no circumstances, the law enforcement official should prompt or bear any act of torture, inhuman or degrading treatment.⁵⁹ These officials should not misuse their authority and should not resort to unethical practices.

2.5.3.2 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)

It was adopted by the eighth United Nations Congress on Prevention of Crime and the treatment of offenders Havana, Cuba, on 07.09.1990 with the aim and objective of improving the working condition and status of law enforcement officials, in view of the threat to their life and for their safety and well-being. The said instrument stated that the law enforcement officials play significant role in protecting the life, liberty as well as security of persons; as such a need arose for setting out basic principles in ensuring and promoting proper role of law enforcement officials. The said instrument provided that the Government must implement rules relating to the use of force and firearms against the person by law enforcement officials. The law enforcement officials must be equipped with various types of weapons, arms and ammunitions so as to allow them to be used for differentiated use of force and fire arms. In appropriate cases, non-lethal weapons should be utilized. At the same time, the law enforcement officials must be well equipped with self-defensive equipments such as shields, helmets, bullet proof vests, and bullet proof means of transportations. To the extent feasible, non-violent means must be used by them and only under extreme situations force and firearms should be used with minimum danger, injury and restraint. The instrument further provides that the law enforcement officials should not use any weapon or firearm against any person except in the situation

⁵⁶ Available at: <http://www.ohchr.org>. (last visited on September 09, 2022).

⁵⁷ UN Code of Code for Law Enforcement Official, art. 1, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/code-conduct-law-enforcement-officials#:~:text=No%20law%20enforcement%20official%20may,threat%20to%20national%20security%2C%20internal>. (last visited on September 09, 2022).

⁵⁸ *Id.*, art. 3.

⁵⁹ *Id.*, art. 4.

of self-defence or defence of others against imminent threat of death or serious injuries and in extreme unavoidable circumstances,⁶⁰ after giving clear cut warning for the use of firearms.⁶¹ The said instrument also deals with the aspect of qualification, training and counseling of law enforcement officials. It envisages that the said officials must be selected after proper screening procedure giving regard to the moral, psychological and physical abilities for better performance of their function and to receive professional training from time to time. The fitness of such officials must be reviewed periodically.⁶² Those officials who are dealing with firearms should carry the same only after the completion of specialized training in this regard.⁶³ Special focus on issues relating to ethics; human rights while performing investigative functions with special regard to settlement of disputes peacefully, understanding the behaviour of the crowd, adopting the technique of mediation, negotiation and persuasion, with the minimal use of force and firearms. Such agencies must make endeavour to evaluate the training programs and operations periodically and in light of certain incidents.⁶⁴ Emphasis should be made to stress counseling.⁶⁵ The instrument further provides that the governments and law enforcement agencies must make sure that no criminal or disciplinary proceedings are initiated against any law enforcement officials, in cases when the official refuses to carry out an order to use force and firearms or when he reports such usage by other counterparts, in violation to the code of conduct and the principle set out in this instrument.⁶⁶ At the same time, the Government and the law enforcement agency must initiate appropriate proceedings against superior officer who knew that the law enforcement official under his authority is employing or have employed such force or

⁶⁰ UN Basic Principles on Use of Force and Firearm by Law Enforcement Officials, art. 9, *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement#:~:text=Law%20enforcement%20officials%20shall%20not,a%20danger%20and%20resisting%20their>. (last visited on September 09, 2022).

⁶¹ *Id.*, art. 10.

⁶² *Id.*, art. 18.

⁶³ *Id.*, art. 19.

⁶⁴ *Id.*, art. 20.

⁶⁵ *Id.*, art. 21.

⁶⁶ *Id.*, art. 25.

firearms without taking appropriate measures to prevent, suppress or report such use.⁶⁷ Mere obedience to the orders of the superior is no ground for defence when the law enforcement official knew that the use of force would result in death or serious injuries in violation of the principles and code of conduct.⁶⁸

2.5.3.3 UN Principles on the Effective Prevention and Investigation of Extra- Legal, Arbitrary and Summary Executions (1989)

The said instrument was suggested by ‘Economic and Social Council’ vide resolution number 1989/65 dated 24.05.1989 stating therein that the Governments must prohibit by law, extra-legal, arbitrary and summary executions. A comprehensive and impartial investigation must be conducted into all alleged instances of extrajudicial, arbitrary, and summary executions. The investigative body should be empowered to collect all pertinent information required for the inquiry, with the objective of determining the evident cause, manner, and timing of death, as well as identifying the individual accountable. The dead body should not be disposed of unless post mortem is conducted by medical practitioner, duly photographed and the said report must precisely illustrate all the injuries, if any, found on the body of deceased including evidences of torture and every endeavour should be made to bring the culprit to books (in accordance with law) in order to ensure justice to the family of the victim.⁶⁹

2.5.3.4 UN Declaration on Protection of All Persons from Enforced Disappearances (1992)

This Universal Instrument was enacted by the General Assembly vide Resolution Number 47/133 dated 18.12.1992 to protect the enforced disappearances of persons who are arrested, detained or abducted against their will and refusal on the part of the Government to divulge information relating to their whereabouts and refusing to acknowledge their personal rights and liberties. The said instrument considered the enforced disappearance to undermine deepest value of any civilian society. The said

⁶⁷ *Id.*, art. 24.

⁶⁸ *Id.*, art. 26.

⁶⁹ Available at: <http://www.ohchr.org>. (last visited on September 09, 2022).

instrument declared the act of enforced disappearance to be an act against human dignity.⁷⁰

2.5.3.5 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

This core instrument was enacted by General Assembly vide resolution number 39/46 dated 10.12.1984 with the purpose of making effective regulation against torture and cruel treatment. The said instrument defined the term torture to mean any action that deliberately inflicts severe pain or suffering, whether physical or psychological, on an individual. This is done for various purposes, including the extraction of information or confessions from the individual or a third party, or as a form of punishment for an act that the individual or a third party is believed to have committed or is suspected of having committed.⁷¹

2.5.3.6 UN International Covenant on Civil and Political Rights (1966)

This instrument was adopted by General Assembly vide resolution 2200 A(XXI) dated 16.12.1966 emphasizing upon the civil and political rights of the individuals. It asserts that every individual possesses an inherent right to life, which is safeguarded by law and should not be removed without just cause.⁷² It further prohibits cruel and inhuman treatment, slave trade, forced or compulsory labour, arbitrary arrest and detention. The instrument further provides that soon after an individual is arrested he must be produced before a judge and must be entitled to a fair trial. The victim of unlawful arrest or detention must be entitled to compensation. There must be separate treatment for accused and a convict; even juvenile must be kept separate from an adult

⁷⁰ The UN Declaration on Protection of All Persons from Enforced Disappearances, art. 1, *available at:* <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-protection-all-persons-enforced-disappearance>. (last visited on September 09, 2022).

⁷¹ The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, *available at:* <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>. (last visited on September 09, 2022).

⁷² UN International Covenant on Civil and Political Rights, art. 6, *available at:* <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

prisoner. It emphasized that all persons are equal before the Court. No person should be subjected to unlawful interference with his privacy, home and family.

2.5.3.7 UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (1988)

This Universal Instrument was adopted by the General Assembly vide Resolution No. 43/173 dated 09.12.1988 with an object to protect all persons in detention and imprisonment by treating them in a humane manner and with dignity.⁷³ The instrument provides that arrest must be made strictly in terms of law and only competent and duly authorized persons must carry out the same.⁷⁴ Utmost importance should be given to the human rights of the arrested.⁷⁵ The arrest must come under the scrutiny of a judicial authority supervising him.⁷⁶ Special status must be given to women, children, juvenile, sick and infirm and handicapped persons.⁷⁷ It also provides that under no circumstances use of torture or other cruel treatment should be meted out to the person arrested or detained.⁷⁸ The violation of the said principle should be duly conveyed by the officials to their superior authorities. Also, the person who is arrested must be made aware of the grounds of his arrest and he should be conveyed the allegations levelled against him.⁷⁹ An arrested person must be afforded an opportunity of being heard before the judicial authority with the right to defend him by taking assistance of counsel. Besides, a record should be prepared by law enforcement official regarding reason of arrest; time of arrest; place of custody; time of production before the judge and identity of the law enforcement agency. The said record must be duly communicated to the person detained /arrested.⁸⁰ The place of detention must be duly conveyed to the family member of such arrested

⁷³ UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, principle 1, *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention>. (last visited on September 09, 2022).

⁷⁴ *Id.*, principle 2.

⁷⁵ *Id.*, principle 3.

⁷⁶ *Id.*, principle 4.

⁷⁷ *Id.*, principle 5.

⁷⁸ *Id.*, principle 6.

⁷⁹ *Id.*, principle 10.

⁸⁰ *Id.*, principle 12.

person including any transfer from such place.⁸¹ The detained person must be given the right to be visited by his family members. Under no circumstances the person detained be compelled to confess or incriminate himself and no medical or scientific experiment detrimental to his health must be carried out without his consent.⁸² Adequate and proper medical examination must be given to the person detained at the time of his detention and thereafter. He must also be afforded reasonable quantity of educational, cultural and informational material in the place of detention.⁸³ Due supervision must be made by the competent authority of the place of detention to avoid any violation of the principle. Opportunity of making complaint regarding the inhuman treatment meted out to him must be afforded to the person detained.⁸⁴ In case of death or disappearance of person detained, judicial inquiry must be conducted to ascertain the cause of death or disappearance.⁸⁵

2.5.3.8 INTERPOL (*International Criminal Police Organisation*)

Criminality has become a global phenomenon in the modern computer age. The tremendous growth in the means of transport and inter-communications has brought in its wake new problems and criminality. Now-a-days, escape by air or sea is a common feature resorted to by criminals who operate on an international plane. The dangers of international crime have to be faced squarely by all the nations. Therefore, every individual country has its own international agency to tackle the problems of international crime. This agency is familiarly known as 'INTERPOL'.⁸⁶

The Constitution of the organization was adopted at the 25th session of the General Assembly (June, 1956 – Vienna) and came into force on June 13, 1956. The organization was established with the objective of fostering extensive collaboration among all criminal police agencies and to create and enhance institutions aimed at combating common law

⁸¹ *Id.*, principle 16.

⁸² *Id.*, principles 21,22.

⁸³ *Id.*, principle 28.

⁸⁴ *Id.*, principle 33.

⁸⁵ *Id.*, principle 34.

⁸⁶ N.V Paranjpe, *Criminology & Penology with Victimology* 451 (Central Law Publication, Allahabad, 2018) 451.

offences. The said organization lays the basis of functioning in terms of the parameters set up by UDHR.⁸⁷ Interpol provides support to national central offices in the areas of drugs; illegal immigration; organized crime; human trafficking; financial crime; terrorism and high technology.

2.5.3.9 European Police Office (EUROPOL)

This organization was established pursuant to the agreement in the Treaty of European Union, on Feb 7, 1992 and according to Convention of establishing European Police Office (European Convention). The organization's aim is to enhance and bolster the efforts of the relevant authorities within member states, fostering their collaborative actions to prevent and combat organized crime, terrorism, and other serious offences that impact two or more nations.⁸⁸ Its major function includes providing support to member states in collecting, analysing and disseminating information relating to crime and to coordinate operation; to aid in investigation by forwarding all relevant information to national unit, to coordinate investigation and constituting joint investigation teams, providing intelligence and international support in international events, threat assessment, identification of criminal activities committed through internet, development of specialist knowledge of investigative procedures, providing training and technical support between member states, advising and researching in various methods of crime prevention methods, technical and forensic methods, investigative procedures and providing financial support in European Counterfeiting.⁸⁹

2.5.3.10 European Police Chiefs Task Force (EPCTF)

It was established as a result of Tampere Council (15-16.10.1999) in order to fill gaps and strengthen the overall structure and mechanism of EU Internal Security by establishing a European Police Chiefs Operational Task Force to coordinate and co-

⁸⁷ INTERPOL, art. 2, *available at*: <https://www.interpol.int/en>. (last visited on October 01, 2023).

⁸⁸ EUROPOL, art. 3, *available at* :<https://www.europol.europa.eu/>. (last visited on October 01, 2023).

⁸⁹ EPCTF, art. 5, *available at*:https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vhv5djs3f4zf?ctx=vg9ho04h5oz3&v=1&d=28-06-2018&start_tab0=80. (last visited on October 01, 2023).

operate with EUROPOL; sharing and understanding best practices; dissemination of information on prevailing trends in cross-border crime and planning operative actions.⁹⁰

2.5.3.11 European Anti-fraud Office (OLAF)

It was setup pursuant to Commission Decision of April 28, 1999 with the aim of carrying out external administrative investigation for strengthening the fight against corruption, fraud and other unlawful activities affecting the community's financial interests.⁹¹

2.5.3.12 European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEx)

This agency promotes community policing of EU external borders and ensuring uniformity and high level of control of surveillance. Its main function involves co-ordination of operational cooperation in the field of management of external borders; training of national border guards; carrying out risk analysis; development and research; technical support; organizing joint operational returns.⁹²

2.5.3.13 European Police College (CEPOL)

The European Police College,⁹³ was established in order to contribute towards training of European Union Member states police officers in different disciplines viz., cross border organized crimes; non-military crisis management; development of electronic network; facilitating relevant exchange programs.⁹⁴

2.5.3.14 Southeast European Law Enforcement Centre (SELEC)

The International Organisation was set-up pursuant to the Convention of the South East European Law Enforcement Centre signed on December 09, 2009 in Bucharest with the purpose of enhancing co-operation between police and custom

⁹⁰ Available at: https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vhv5djs3f4zf?ctx=vg9ho04h5oz3&v=1&d=28-06-2018&start_tab0=80. (last visited on October 01, 2023).

⁹¹ Available at: <https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/european-anti-fraud-office/en>. (last visited on October 01, 2023).

⁹² Available at: <https://www.frontex.europa.eu/about-frontex/who-we-are/tasks-mission/#:~:text=Frontex%20is%20a%20centre%20of,trends%20and%20cross%2Dborder%20crime> (last visited on October 01, 2023).

⁹³ Set-up according to Council Decision-2005/681/JHA dated September 20, 2005.

⁹⁴ Korontzis Tryfon, "International Law Enforcement Cooperation" *European Scientific Journal* 363 (2014).

authorities in preventing cross-border crimes. The main aim and purpose of the said organization was to investigate and prevent crime in member state; exchange of information and criminal intelligence; providing strategic analysis and threat assessment.

2.6 UNITED NATIONS POLICING

The United Nations Police is a vital organ which thrusts upon maintaining peace and avoiding conflict. It is a vital component of the peace keeping and peace building endeavour of the United Nation.⁹⁵ As per the report of the Secretary General submitted in UN Resolution 2382(2017), the Secretary General while submitting the report opined that at the national or local level, policing, when undertaken effectively within the four walls of law, helps in maintaining peaceful and prosperous society. The Police perform the key function of maintaining peace by preventing and detecting crime, conducting investigation, protecting the rights of people, property and maintaining order in the society. The main thrust of policing is to mitigate violent conflicts. The Secretary General further reported that United Nations Police while performing their duties are frontline workers in giving assurance to the public. They contribute to achieve the objectives of the United Nations Organisation by assisting the police services of the host states by giving operational support, strengthening police capacities and undertaking executive police functions. Thus, the United Nations Police Force assists the State Police in performing the functions of protecting the civilians by extending help in prevention and detection of international crimes.⁹⁶

2.7 THE EUROPEAN CODE OF POLICE ETHICS, 2001⁹⁷

The European Code of Police Ethics seeks to establish a framework of principles and guidelines that govern the objectives, performance, and oversight of police forces in democratic societies that adhere to the rule of law, significantly shaped by the European Convention on Human Rights. The Code aims to articulate and delineate the necessary

⁹⁵ UN Resolution No. A/55/305-S/2000/809, Paras 29-47, *available at*: https://peacekeeping.un.org/sites/default/files/a_55_305_e_brahimi_report.pdf. (last visited on September 20, 2021).

⁹⁶ Secretary General Report No. S/2016/952, Para.8, *available at*: <http://police.un.org>(last visited on September 20, 2021).

⁹⁷ Adopted by the Committee of Ministers to Member State, Council of Europe, on 19/09/2001, *available at*: <https://rm.coe.int> (last visited on September 21, 2021).

requirements and arrangements that enable the police to effectively address the challenging, demanding, and sensitive responsibilities of crime prevention, detection, and the maintenance of law and order within a civil, democratic society. Although the recommendations are primarily directed towards governments, the guidelines are formulated in a manner that can also serve as a source of inspiration for individuals engaged with police and law enforcement issues at a more practical level.⁹⁸

Precisely, the main objectives of the police force in a society which is administered as per rule of law are *firstly*, to retain public tranquility and order in the society; *secondly*, to protect and uphold and give reverence to the individuals' basic rights and liberties especially those covered under European Convention on Human Rights; *thirdly*, to prevent and fight against crime; *fourthly*, to detect crime and fifthly to serve and assist the public-at-large. The said code specifically made a clear distinction between the police, prosecution, the judiciary and correctional system.⁹⁹ It specifically stated that the police pay high regards to the independence and impartiality of the judges and shall not perform any judicial function.¹⁰⁰ The Police shall enjoy sufficient autonomy from other state functionaries in conducting police functions.¹⁰¹ Law enforcement officers should be readily identifiable in public spaces, and each individual must take personal responsibility and accountability for their behavior and actions.¹⁰² It is their endeavour to promote good public relations and maintain cooperation with other departments. They shall uphold the human rights of the individuals and effective measures needs to be taken to prevent police corruption¹⁰³

⁹⁸ Council of Europe Committee of Ministers explanatory memorandum recommendation Rec (2001)10 on the Committee of Ministers to Member States on the European Code of Police Ethics (Adopted by the Committee of Ministers on 9 September 2001 at the 765 meeting of the Ministers' Deputies) 5, *available at*:<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804c1a0c#:~:text=The%20European%20Code%20of%20Police%20Ethics%20aims%20to%20provide%20a,European%20Convention%20on%20Human%20Rights>. (last visited on May 11, 2023).

⁹⁹ *Id.*, para 6.

¹⁰⁰ *Id.*, paras 7,8.

¹⁰¹ *Id.*, para 15.

¹⁰² *Id.*, paras 4,16.

¹⁰³ *Id.*, para 21.

In order to ensure human right safeguards, the police personnel at each level should acquire such skills and qualifications suitable with their aim and purpose.¹⁰⁴

Since the job of police involves dealings with civilians therefore, the police personnel should have such skills as good communication skills, leadership, management skills, sound judgment and maturity. Also, they should be well apprised of the social, cultural and community issues. Only then they would be able to cater to the individual in their daily dealings. Therefore, they should connect well with the subjects whose rights they need to protect.¹⁰⁵ Those people having criminal background should be disqualified from police work.¹⁰⁶

Efforts should be made to prepare an all-inclusive police force consisting of members of all ethnic groups, both men and women. The idea is that such inclusion would help assist the police better and serve the general masses in a more efficient manner. Also, there must be fair screening of candidates.¹⁰⁷

In order to achieve the objectives of protecting the fundamental rights and protecting the rule of law and values of democracy, adequate police training should be imparted to the personnel.¹⁰⁸

2.8 GUIDELINES FOR POLICE ACTION

The Code contains elaborate procedure regarding the police action/ intervention. The fundamental and basic principle is to protect the right to life/liberty of others.¹⁰⁹ Law enforcement agencies must refrain from committing any acts of torture or subjecting individuals to inhumane or cruel treatment.¹¹⁰ Use of force must be exercised under extreme circumstances to attain valid goals,¹¹¹ and incidental to the said provision, the police is required to execute the directives issued by their superiors; however, they must refrain from implementing any orders that are evidently unlawful and must subsequently

¹⁰⁴ *Id.*, para 22.

¹⁰⁵ *Id.*, para 23.

¹⁰⁶ *Id.*, para 24.

¹⁰⁷ *Id.*, para 25.

¹⁰⁸ *Id.*, paras 26-30.

¹⁰⁹ *Id.*, para 35.

¹¹⁰ *Id.*, para 36.

¹¹¹ *Id.*, para 37.

report such matters to higher authorities.¹¹² The police while performing their duty must be guided by the principles of impartiality, non- discrimination and fairness.¹¹³ Right to privacy is considered to be one of the essential human rights which must be protected and only under extreme circumstances the police should interfere with the said individuals' rights.¹¹⁴ Equally the use of personal data collected and stored during investigation should be strict and as per the international data-protection principles.¹¹⁵ In order to maintain public-police relationship, the officials needs to act with dignity and respect.¹¹⁶

The police intervention should match with their police status and professional identity. It implies that the conduct of police should be dignified, keeping in mind the stature of profession.¹¹⁷

It is incumbent upon the police personnel to oppose corruption in the police system. The personnel are duty bound to inform their superior officers of the corrupt practices within the system.¹¹⁸

Part B of the Code has elaborate guidelines which must be adhered by law enforcement agencies while conducting investigation and arrest.

2.8.1 Reasonable suspicion

The police must proceed with reasonable suspicion of actual/ possible crime.¹¹⁹

2.8.2 Innocent until proven guilty

The police is bound to follow this principle and that the innocence or otherwise determined by the Judge. The Police is also bound to secure certain rights of the person against whom accusation is made to be apprised of charges framed against him, so as to enable him to defend himself either in person or through a lawyer of his choice.¹²⁰

¹¹² *Id.*, para 39.

¹¹³ *Id.*, para 40.

¹¹⁴ *Id.*, para 41.

¹¹⁵ *Id.*, para 42.

¹¹⁶ *Id.*, para 44.

¹¹⁷ *Id.*, para 45.

¹¹⁸ *Id.*, para 46.

¹¹⁹ *Id.*, para 47.

¹²⁰ *Id.*, para 48.

2.8.3 Fair investigation and sensitivity towards certain sections of society

The police investigation should be fair. Besides, the police is also required to be sensitive to certain sections of the society such as women, children, minorities and other persons in vulnerable position.¹²¹ This again points out the fact that police is ultimately meant to serve the common masses and hence it is incumbent upon them to have compassion towards the people and should not exercise harshness while doing their duty.

2.8.4 Police interviews

The said guideline provides for fair interview with proper records to be maintained. People to be interviewed must be made aware of the reasons of the interview.¹²²

2.8.5 Witness protection

This is yet another area which needs special attention. During the conduct of investigation, the police should be guided by rules of witness protection and should be more vigilant in cases where there is threat of intimidation of witness.¹²³ This is important because the witness forms a vital role in criminal investigation. The fate of a criminal investigation and trial largely rests upon them and hence their protection, security and evidence given freely without any threat or coercion goes a long way in ensuring justice and punishing the wrong doer.

2.8.6 Support to victims

The police is also duty bound to support, assist the victims of crime without any discrimination or bias.¹²⁴ The aspect of the actual sufferers of crime is oft forgotten. Hence the committee of members has rightly pointed out the plight of these victims who have gone through and suffered physically and mentally. The member nations have gradually incorporated such provisions aiming at their protection, upliftment and making them financially stable.

¹²¹ *Id.*, para 49.

¹²² *Id.*, para 50.

¹²³ *Id.*, para 51.

¹²⁴ *Id.*, para 52.

2.8.7 Interpretation/ translation

The police is bound to provide translation facility as and when deemed necessary.¹²⁵ Many a times, a situation comes where linguistic barriers may hinder the entire investigation process. In that event, a fair investigation cannot be said to have taken place where the informant or other witnesses or persons examined do not understand the clear purport of questions put forth by the police. Hence this guideline becomes important both for the fate of the trial as well as the fate of the accused persons.

2.8.8 Guidelines while effecting arrest and detention are also stipulated under the Code.

2.8.8.1 Arrest only when necessary

The police is supposed to maintain proper records of custody. Arrest should be an exception and not a practice. Any arrest conducted must take into account the individual's dignity, vulnerability, and personal requirements.¹²⁶

2.8.8.2 Right to be informed

The reasons of detention and the charge against the detainee be informed to him and further to make him aware about the adequate procedure available for them.¹²⁷

2.8.8.3 Proper regard to health, hygiene in prison cell

The police should ensure proper hygiene, health, nourishing meal to the detainee and also ensure that the prison cells are properly lit, ventilated and are of reasonable size.¹²⁸

2.8.8.4 Legal assistance, medical examination of the detainee

A third party of the choice of the detainee should be disclosed about the reasons of his arrest. Besides, the detainee should be entitled to get himself medically examined so as to rule out any chances of ill treatment meted out to him. Further, the detainee must be allowed to seek the help of an advocate of his preference.¹²⁹

¹²⁵ *Id.*, para 53.

¹²⁶ *Id.*, para 54.

¹²⁷ *Id.*, para 55.

¹²⁸ *Id.*, para 56.

¹²⁹ *Id.*, para 57.

2.8.8.5 Segregation of hardcore criminals

The police must make endeavour to segregate habitual and hard-core criminals from other criminals so that the chances of the suspect intermingling with the hard-core criminals are minimized. As a corollary to the said rule, men and women must be kept separately and even the juvenile and adults must have separate cells.¹³⁰

2.8.8.6 Accountability

For the purpose of ensuring the accountability, the police action must be kept under vigil so as to minimize any atrocity and violation to the rule of law. They should be held liable and accountable to the public and their elected representatives. To perform their duties effectively, it is essential for an unbiased approach to be adopted. An efficient redressal mechanism needs to be adopted to address the grievances against the police. The code of ethics of police needs to be adopted in the nation legislation of the member states so as to give effect to the rules enshrined under the recommendations of the committee of ministers.¹³¹

2.8.8.7 Research and co-operation

In order to uphold the police ethics and prevent the violation of human rights of person, member states should endeavour to promote research and co-operation on the aforesaid aspect, and to give effect to the recommendations of the committee.¹³²

2.9 RIGHTS OF THE POLICE PERSONNEL

The “*police shall enjoy the same civil and political rights as is available to all the other citizens without any restrictions over the said rights, except under necessary conditions for the purpose of performing the functions of the police*”.¹³³ Equally the police is granted with the social and economic rights which are available to the public servants without any restrictions. As a corollary to the said rights, the police shall have right to form associations/ organisation and participate in them; right to receive adequate

¹³⁰ *Id.*, para 58.

¹³¹ *Id.*, paras 59 to 63.

¹³² *Id.*, paras 64 to 66.

¹³³ *Id.*, para 31.

remuneration, right of social security, right to adequate health and security measures, keeping the job profile of police into account.¹³⁴

Further, the public authorities would continue to support the police who became target of false accusations vis-à-vis., their duties.¹³⁵

All disciplinary proceedings initiated against the police would be scrutinized by an independent body or in a Court of law.¹³⁶

The Chapter has thus given a broad overview of the concept of human rights in an international perspective; genesis of police system in various countries such as US, UK, France etc., the international conventions pertaining to the law enforcement agencies and the code of conduct governing the police personnel while performing their duties.

¹³⁴ *Id.*, para 32.

¹³⁵ *Id.*, para 34.

¹³⁶ *Id.* para 33.

CHAPTER-3

RECOMMENDATIONS OF THE VARIOUS COMMISSIONS AND COMMITTEES CONSTITUTED IN INDIA

3.1 INTRODUCTION

The primary duty of the Police Department is to enforce the law and ensure the maintenance of peace within the community. It is tasked with the function of mitigating and identifying criminal activities. The police is given the power to arrest any individual without warrant and without any orders from the Magistrate in cognizable cases and this power of arrest is also available with regard to non-cognizable cases under warrants and orders of the Magistrate. In case the police officer serves notice upon any person but he deliberately avoids his presence, then such person may be arrested.¹ During the process of arrest, the police officer may enter at any place and cause arrest of the person.² He is also empowered to use necessary force in order to prevent the escape of an arrestee.³ The police is also vested with the power of searching the arrestee and to recover any incriminating weapon if any, from the possession of the arrested.⁴ Similarly, the police has power to get the medical examination of the accused in order to aid and facilitate investigation.⁵ Also, for the purpose of identification of an accused, the police has power to hold identification parade so as to establish the identity of the accused.

The State of Haryana has enacted a special police legislation i.e. the Haryana Police Act, 2007 which lays down the role, responsibility, powers and functions of Police Personnel working in the State of Haryana. It also lays down certain rights of senior police officers. Vast powers are entrusted to the DGP with regard to issuance of directions, orders and regulations relating to investigation of crime is to be conducted;

¹ The Code of Criminal Procedure, 1973, s. 41A.

² *Id.*, s. 47.

³ *Id.*, s. 49.

⁴ *Id.*, ss. 51,52.

⁵ *Id.*, s. 53A.

regulating the law and order situation, inspecting and evaluating the police organization, use of fire-arms, uniform, prescribing the place of residence, assigning of duties, intelligence gathering, maintenance of records, preparation of registers, to be maintained and training of the police force. Further, the SP of a District is entrusted with regulating the processions and assemblies; use of music and sound system in public area, regulating the use of public roads, thoroughfares, streets, placing barricades to check vehicles and occupants and taking action against those who obstruct in police works. The Act specifically provides for the Government to set up training-cum-instruction centers for the police in order to ensure their professional competency and to update their professional knowledge. The Act also envisages the appointment of Special Police Officers on honorarium basis. For ensuring proper superintendence and administration, the Act provides for setting up of State Police Board with the Chief Minister as its Chairperson among other members, which is tasked with framing of broad policies for promoting efficiency and better administration of police personnel. Further, the Act also enshrines setting up of specialized crime investigation units, for handling economic and heinous crimes. The police officers of such wing are to be selected and trained on the basis of their competence; aptitude etc., so as to tackle such kind of crimes. To help the police in cracking the crime scene, the Act provides for establishment of scientific and forensic laboratories by the State Government.

From the above it is evident that police performs multifarious functions. Since crime as well as needs of society varies from time to time, it becomes essential that the police institution should function as per the contemporary situation. To cater to the said issue, various Committees and Commissions have been constituted from time-to-time to deal with issues pertaining to arrest, search, seizure, exercise of powers by police while investigating crimes, training aspect of police, infrastructure and amenities ,condition of service, recruitment, training, modernization etc., to make the police institution more efficient. A gist of notable contribution of various Commissions and Committees is mentioned here-under.

3.2 VARIOUS COMMISSIONS AND COMMITTEES RELATING TO POLICE

3.2.1 Gore Committee 1971

The Committee was set up under the chairmanship of Prof. M.S Gore in order to assess the existing police training programmes and to recommend reforms thereto. It noted that the police work under tremendous pressure and under trying circumstances. The Committee also opined that the existing training system was unsatisfactory both qualitatively and quantitatively. It was found that the trainers were unwilling and ill equipped to instruct the performance of necessary drills and lectures. The importance of understanding the social and political environment in which police officers operate was highlighted, necessitating the incorporation of this aspect into the training curriculum. There was a need for a well-planned and co-ordinated efforts from the Centre and State to tackle the problem of police training, making it more adequate and effective. The training module must include those aspects which would increase the efficiency of police and would improve the police-citizen relationship. The training of the police officer must include knowledge and professional skills apart from developing appropriate attitude to do their work giving weight age to the science and technology. The Committee also dealt with the aspect of recruitment and emphasized that due to the nature of work, a police officer is required to exhibit outstanding skill, intelligence, and vigilance, along with a significant degree of physical bravery and endurance. It is essential for them to maintain honesty and impartiality in their duties. A psychological test must be administered at the time of recruitment. It laid down that for the recruitment of constable, minimum qualification should be high school examination with minimum age to be 18 years and maximum to be 20 years. Selection should be based on physical test and screening. For the recruitment of Sub-Inspectors, minimum qualification must be graduate degree with age limit between 20-23 years. The Committee was also of the view that re-orientation programs must be conducted on a periodic basis. The Committee further felt the need for re-organisation of police training institutions and recommended three kinds of institutions in the State for imparting training to the officers, firstly police training colleges for training of Deputy Superintendents, Inspectors and Sub-Inspectors; secondly police training schools for training of Constable and Head Constable and thirdly training centres

for Armed Police. The Committee also emphasized the need for a healthy police-citizen relationship as the police perform service-oriented function. Since the policemen remains in constant touch with the criminals, it tends to affect their attitude and outlook as a result of which the public is at the receiving end. Further, to improve the public image, it is necessary that steps should be taken to improve the image of thanas and re-orientation of the attitude towards the public. Corruption needs to be eradicated and professional efficiency needs to be improved for prevention and detection of crime. It is essential to establish furnished reception areas within the police station, equipped with additional amenities for the convenience of complainants and witnesses. The distribution of work of the police officers posted in the police station is quite excessive and there is a need for rationalization of increasing the strength of police station, staff. There is a need to take swift and immediate action upon receiving any information from the aggrieved party.⁶

3.2.2 National Police Commission (NPC) 1977-1981

This Commission was appointed in 1977, in the background of ‘emergency period’ by the Janata Party Government, after it came into power dethroning the Indira Gandhi’s Congress party. The main reason of setting up the Commission was that the police atrocities and flagrant misuse and abuse of police powers during the period of emergency were seen. This Commission, therefore, was set up with a view to study the role, functions, accountability aspect of the police, their relations with the general masses, to study the issues of misuse, excessive use of powers conferred upon them.

The Commission came up with eight detailed reports within the duration of 2 years i.e. between 1979-81 and suggested wide reforms in the then prevailing set up. The Government of India in the Ministry of Home Affairs, vide its Resolution No. VI.24021/36/77-GPA.I, dated 15.11.1977, appointed six persons to be part of the Commission with Sh. Dharma Vira (retired Governor) as Chairman; Shri N.K. Reddy (retired, Judge, Madras High Court) as Member; Shri. K.F. Rustamji (ex-IGP, Madhya Pradesh and ex-Special Secretary, Home Ministry) as Member; Shri N.S. Saksena (ex-IGP, UP and ex-DG CRP and member UPSC) as Member; Prof. M.S. Gore (Professor,

⁶ Government of India, “The Gore Committee Report on Police Training” (Ministry of Home Affairs, 1974) *available at*: <https://police.py.gov.in> (last visited on November 2, 2023).

Tata Institute of Social Sciences, Bombay) as Member and Shri C.V. Narsimhan (Director, CBI) as full time Member-Secretary of the Commission.

Thus, to analyse and study the problems of police and to make them function in efficient and unbiased manner, the National Police Commission was set up to comprehensively review the existing police system and devise ways and means to bring about reform in the current regime. The Commission while submitting its eight reports, recommended to conduct a thorough reassessment of the role and effectiveness of the police force in India. The Commission gave recommendations on variety of topics relating to housing problem, political interference, abuse of power, police-public relations, evaluation of performance and accountability. The reports were submitted to the Centre with the sole objective of implementation by the States. The gist of eight reports highlighting its significant features are mentioned herein below:

3.2.2.1 The First Report

It studied the entire police framework and recommended structural changes in the constabulary system by bringing qualitative and quantitative reforms. A need was felt to deploy numerous police constables to interact with the public and preserve law & order. At the same time, emphasis should be given on their training, as the constables constitute large majority having personal interaction with the public and thus they are the face of the police system. Hence, bringing meaningful police reform required structural changes in the constabulary system. The primary role and responsibility of a constable is to follow the instructions of SHO, perform beat duty, guard the police station etc., but, the police manual did not provide any discretionary role to the constables and they were directed to perform those duties requiring minimum or no discretion. However, with the passage of time, need was felt to train the constables, as they were substantially performing those duties which requires the exercise of discretion namely, patrolling, traffic management, gathering intelligence, assisting investigating officer, clerical work, inquiry into complaints etc. The Commission recommended for minimum educational qualification for constable to be matriculation. Further, opening up of promotional avenues for the constables was felt to ensure congenial environment and increase in the pay matrix of the constables in comparison to the onerous and hardworking duty being performed by them,

was also mooted. As such the commission was of the view that the constables should not merely perform routine and mechanical duties as were performed by them since pre-independence era, rather they should be equally trained to perform those roles and duties requiring the use of discretion. Further, the Commission looked into the working hours of constable only to find out their plight. The constables were seen performing duties for 14 hours continuously without any adequate rest. Therefore, need was felt to regulate their working hours and to compensate their duty with pay. Thus, increase in allowances including overtime allowance, qualification pay etc., was recommended, which would provide extra zeal in performance of their duties. Amongst the welfare measures recommended by the Commission were the solving of the housing problem of the constables by providing adequate housing facility to all the personnel. The system of orderly duties being performed by the constables was highly deprecated by the Commission, as the said system is against the self-esteem of the constable, therefore, the Commission recommended for its abolition.

With regard to the complaints against the police, it suggested that the inquiries need to be conducted both at departmental level and by an impartial agency. However, it was of the view that mostly the inquiries should be resolved by the supervisory authority, but in cases of custodial rape, custodial violence/death, deaths due to police firing, the complaints should be inquired by judicial inquiry authority consisting of an Additional Sessions Judge. The Commission further recommended for setting up a Police Complaint Board.

3.2.2.2 The Second Report

This report focussed more on the role and function of police, insulation of police from political and executive interference/pressures; welfare measures for the police and their family including pension/housing/gratuity etc; setting up police education fund; police welfare fund; police schools; group insurance; canteen and stores; welfare centre etc. to alleviate the working conditions of the police personnel.

The Commission redefined the roles and functions of police to include promotion and maintenance of public order; investigation of crime and arrest of criminals; prevention of crime through patrol duties; to aid the individuals who are in danger of

physical harm; maintenance of communal security; facilitation and ease of access for people and vehicle; intelligence gathering.

One of the major factors that contributed towards poor image of the police in India, was mainly due to excessive political and executive interference in the working of police. Interference in the functionality of police could be seen ranging from arrest or non-arrest of suspect; release on bail; foisting false cases; suppression of material evidence, preferential treatment, transfer, demotion etc. Such interference in the police department greatly impacted morale of the police, to believe that individual performance would not matter unless providing political favours. Thus, a dire need to insulate the political and executive interference was suggested in order to bring about transparency, efficiency, fearlessness amongst the police. Although, police being the State subject is under the direct supervision of State Government, however, it was suggested that in order to bring about independence and equality in the system, a State Security Commission should be set up for the purpose of evaluation of the performance of the police and to prevent indiscriminate transfers and posting of police. Security of tenure of Chief of Police was also recommended. It was further observed by the Commission that the political parties were recruiting their own persons in police in order to meet out their ideologies, such practice was observed to undermine the performance of the police system as a whole and the practice of association with any particular party for the purpose of meeting their ideologies was strictly deprecated. Even the practice of receiving oral orders from the superior including the political masters to do some illegal acts/actions were observed by the Commission and such practice was considered to be highly dangerous for efficient discharge of public duties. As such the Commission recommended that no police personnel would take any order from the superior except in writing for the discharge of their duties.

3.2.2.3 The Third Report

This Report focused upon the responsibility of the police personnel vis-à-vis weaker sections of the society by laying down parameters for defining a person coming within the purview of weaker section which finds mention in Art. 46 of the Constitution of India, which obligates the State to promote special care for the weaker sections of the

society in order to prevent social injustice against them. Women, children, aged, infirm and mentally retarded persons would fall within the category of physically weak persons whereas poor and indigent would fall within the category of economically weaker sections of the society.⁷ SCs and STs would also be categorized as weaker sections of the society.⁸ The Commission further opined that constitution of Special Courts for the protection of offences against weaker sections of the society would further achieve the object of social justice as enshrined under the Constitution. It referred to the stringent provisions of Protection of Civil Rights Act, 1976 which abolishes untouchability in any form and constitution of Special Court by State Government for trial of offences under the said Act.

The Commission observed that a comprehensive guideline should be laid down for the purpose of classifying the crimes falling within the category of atrocities against weaker sections of society so that proper recording and analysis could be made. The police must record all those offences which result in atrocities committed against individuals lest it would encourage further atrocities against weaker segments of society.⁹

A dedicated police unit is to be established in each State to oversee the advancement of cases related to the Protection of Civil Rights Act, as well as incidents of atrocities against Scheduled Castes and Scheduled Tribes. Such Special Cell should make inquiries and investigate into the offences and present evidence in the Court and further collect statistical data for reviewing the implementation of the aforesaid Acts and to collect actual data relating to scheduled castes and scheduled tribes and other weaker segments of the society so as to avoid their exploitation.¹⁰ In addition to the said Special Cell, a similar cell should also be set up at district level in order to look into the complaints made by members of weaker section of the society which not only relates to

⁷ Government of India, "National Police Commission- Third Report," Para 19.1 (January, 1980) available at: <https://police.py.gov.in/Police%20Commission%20reports/3rd%20Police%20Commission%20report.pdf>. (last visited on October 03, 2021).

⁸ *Id.*, para 19.2.

⁹ *Id.*, para 19.10.

¹⁰ *Id.*, para 19.10.

crime but lapses in administrative measures setup for their benefit.¹¹ The head of the said cell at District Level should be the officer of the rank of Sub-Divisional officer, whose work may be supervised by Committee headed by District Collector and District Superintendent of Police, District Social Welfare Officer and District Educational Officer as its Members.¹²

The major reason for distrust and dissatisfaction amongst the members of scheduled castes and other weaker segments of the society is that the police does not cooperate in cases where the atrocities are committed by the persons belonging to upper caste by pleading that the complaints are non-cognizable in nature. The Commission opined that police response to non-cognizable complaints should be enacted in law so as to protect the interests of weaker sections of the society and prevent breach of public peace.¹³ Further, the police must assist in giving possession of land to landless poor persons belonging to weaker sections of the society who have been allotted land by the State by formally handing them the possession of vacant land. The report further provides that specific training and orientation programs of police be conducted to deal and understand the problems of weaker sections.

The report stressed upon the fact that the village chowkidari system ought not to be abolished in toto, as one of the many functions of the police is to gather intelligence in a village and the village chowkidar is a helpful resource to the police who can disseminate the information relating to the inhabitant of the village. Abolition of this system would adversely affect the collection of material and useful information during the times of need.¹⁴

An effective mechanism of oversight and a system of checks and balances would help maintaining honesty and weeding out corrupt elements but the increased political intervention hinders the growth of honesty and promotes corruption as the superior officers find it difficult to take action against corrupt subordinates who have developed

¹¹ *Id.*, para 19.12.

¹² *Id.*, para 19.14.

¹³ *Ibid.*

¹⁴ *Id.*, para 20.4.

political links and seeks their protection. The Commission was of the firm view that there must be separation of the police system from political interference to eradicate corruption in the system. One of the methods to weed out the corrupt elements is to enable the superior officers to discharge their function of supervision over the subordinates in an impartial and effective manner and their right to punish the dishonest officer should not be limited.¹⁵ In this regard posting of police officials assumes importance. The exclusive responsibility of posting the SHO should vest with DSP and likewise the Chief of Police should be the person responsible for selection and posting of SP in each district.¹⁶ The service rules stipulate that officials must retire mandatorily after 20 years of service, and this provision should consistently be enforced to eliminate dishonest and corrupt police personnel, thereby preserving the integrity of the institution.¹⁷ Constant interaction with Chief of Police and Head of State Anti-Corruption Bureau should be held in order to identify those officers who have doubtful integrity so that appropriate action be taken against them including calling statements of assets maintained by the family members in order to find out any disproportionality in the income and asset gained after joining the service.¹⁸ The process of appointment of member of police force should be done within the police system itself without the involvement and interference of non-official of the Department other than the police.¹⁹ It is also equally important to protect the honest police officials and to see that they are not maliciously prosecuted on the private complaints of the accused with ulterior motives.²⁰

The police officials must be sensitized about the implication of arresting an individual. They must be made aware of the provisions of law that arrest is not at all mandatory while investigating a cognizable offence.²¹ In number of cases, arrest is not found justified. In this regard Sec. 170 Cr.PC. needs to be amended to remove the

¹⁵ *Id.*, para 22.8.

¹⁶ *Id.*, para 22.9.

¹⁷ *Id.*, para 22.10.

¹⁸ *Id.*, para 22.12.

¹⁹ *Id.*, para 22.13.

²⁰ *Id.*, para 22.33.

²¹ *Id.*, para 22.23.

impression that it is compulsory to arrest the accused in non-bailable cases rather the police may take appropriate security from accused without formally arresting him for the purpose of securing his presence.²²At the same time, the police official must take into consideration the fact that the hardened criminals should not be released and they ought to be arrested for the purpose of prevention of the further offence.

The use of handcuff should be avoided which leads to corruption, harassment and humiliation. Reports suggest that often police resorts to handcuffing in order to take revenge and to humiliate the arrested or with a desire to extort money. Only under exceptional circumstances, a person should be handcuffed in order to prevent his escape but in no circumstances a person charged in bailable offence should be handcuffed. Further, where accused is to be produced before the Court and he is a dangerous criminal with apprehension of escaping from custody, then the police must make representation to the Court and only after obtaining the approval from the Court he may be handcuffed. The police while handcuffing must make entry in the sentry relief book in this regard.²³

In order to aid and facilitate the detection of crime, modernization in police department is must and necessary. Priority must be given to acquire scientific equipments than constructing buildings out of the grant given by centre to the state. Central team must visit the state scientific bureaus in order to gauge the requirement of tools and equipments for modernization. For the security of state and police efficiency, police wireless network must be developed with independent multi channels. Simultaneously, tele-printer links should be made available and cryptographic machines should be made available for the purpose of classified information.²⁴

Police personnel should be encouraged with grants and loans at subsidized rates for the purpose of purchasing vehicles for transportation purposes.²⁵The use of typewriter and tape-recorder would not only save time but reduce the mechanical workload of the

²² *Id.*, para 22.26.

²³ *Id.*, para 22.31.

²⁴ *Id.*, para 24.17.

²⁵ *Id.*, para 24.37.

police.²⁶ There should be adequate supply of prescribed registers to be maintained by the police.²⁷ Control rooms must be provided with attendant patrol vans along with scene of crime vehicles.²⁸ The Commission further stressed upon the establishment and setting up of finger print bureau and forensic science laboratories for dealing with offences which involves scientific equipments for their detection.²⁹

3.2.2.4 The Fourth Report

This report dealt in detail the aspects relating to investigation; Court trial; prosecuting agency; industrial disputes; agrarian reforms; social legislation and prohibition. However, the current scope of study is mainly confined to the power of police and its role in criminal justice system. The report inter-alia, stated that the main grievances of public against the police relate to their refusal to register FIR against the culprits. Non-registration of complaint is the common malpractice associated with the police.³⁰ Often it is heard that the police tend to shield the goondas and other anti-social elements in the society and protect the rich and influential, get away from the procedure of law. The report highlighted several factors which lead to non-registration of complaints in the police station, including political and extraneous influence; workload; under-reporting of crime and statistics; to give false impression that crime rate is under control. Another aspect of non-recording of crime is that the police officers tend to evade their liability of recording the same, on the pretext of crime having been committed outside the jurisdiction, whereas the Code of Criminal Procedure, 1973, specifically lays down the mechanism for recording the FIR, in case of cognizable offence, without dealing with any jurisdictional aspect.³¹

²⁶ *Id.*, para 25.13.

²⁷ *Id.*, para 25.14.

²⁸ *Id.*, para 24.20.

²⁹ *Id.*, para 24.26.

³⁰ Government of India, "National Police Commission- Fourth Report" Para 27.3A (1980) *available at*:<https://police.py.gov.in/Police%20Commission%20reports/4th%20Police%20Commission%20report.pdf> (last visited on October 03, 2021).

³¹ *Ibid.*

The FIR being the report of the occurrence of crime, is given much weight age in the Court. Therefore, the police officers ought to report it in a detailed manner, being fully aware of the mental state of the informant. In this regard, the report suggested that the SHO (Station House Officer) must question the informant/complainant such necessary details which are material, relevant and clarify any point recorded in FIR, before the initiation of investigation.³²

To facilitate the lodging of FIR, it was opined that special police units be established in the form of police out-post, whose primary responsibility is to register the FIR as soon as the information is received qua the commission of cognizable offence. In addition to this, reporting centres may also be set up in urban areas, having members of the locality, who function in a civil defence set up may also be empowered to lodge the FIR.³³ The report further suggested to incorporate the aforesaid provisions in law, by making suitable amendments in Section 154 of CrPC, which deals with the registration of FIR.³⁴

Further, it is often seen that the police after reporting a case, makes visit of crime scene and record the statements of witnesses, inquires into the matter, and then does not conduct the investigation on day-to-day basis, result being that the offenders do not get arrested and in property related offences; the stolen property of complainant/victim hardly gets recovered. The major reason for this malpractice, is the inadequacy of the staff involved in the investigation of crimes. Apart from the investigative duties, the police is required to perform VIP duty, preventive duties, patrolling duty, law and order duty. In order to tackle the said aspect, there is a dire need for increase in the strength of investigating officers so as to handle the investigational work.³⁵ Also, the report suggested that for the facilitation and detection of crime, scientific labs equipped with tools and equipment must be provided, for the easy facilitation and aid in investigation.³⁶

³² *Id.*, para 27.4.

³³ *Id.*, para 27.5.

³⁴ *Id.*, para 27.6.

³⁵ *Id.*, para 27.7.

³⁶ *Id.*, para 27.8.

The report further recommended that police ought to be provided with the power to conduct test identification parade to aid in investigation in order to ascertain the individual involved in the offence. Although, the domain of conducting a test identification parade, is that of a Magistrate, but police should also be given such power. For this, there is requirement to make changes in Section 37 of the CrPC to incorporate the said aspect.³⁷

Another aspect dealt with by the report was that as per S. 160 CrPC, the police officer is authorised to examine the witness of crime. The practice of calling the witness to the police station frequently and making him sit in the police station, causes lot of harassment and inconvenience to the witness of crime. To facilitate easy recording and examination of the witness, the police need to record the statement of witness, near the place of occurrence or at the residence. This would further help in maintaining cordial public-police relationship.³⁸ While recording the statement of witness or accused, no one should be allowed to be present except the person who is to be examined, as such examination is only regarding those facts which are well within the exclusive knowledge of the person examined.³⁹ Further, in order to save time, discretion must be given to the investigating officer to record those statements which are relevant for the case. Unnecessary examination of witnesses and reducing their statement in writing would further burden the investigating officer.⁴⁰ Also, while recording the statement of witnesses, a copy of the same must be provided to them, in order to ensure that the investigation is clean and impartial.⁴¹

At the time of conducting search by police, he must adhere to the provisions of S. 100 CrPC, which specifically states that the search of the premises ought to be made in front of two respectable inhabitants of the vicinity, but the fact that they are made witness of the search and have to attend the Court proceedings, compels police to seek help from

³⁷ *Id.*, para 27.9.

³⁸ *Id.*, para 27.10.

³⁹ *Id.*, para 27.11.

⁴⁰ *Id.*, para 27.13.

⁴¹ *Id.*, para 27.18.

few members of the society, who invariable are called upon to become the witness of search. In order to prevent these ‘stock witnesses’ becoming part of the search, the report suggested that the witnesses of search should not be made to attend the Court proceedings in terms of Section 100(5) CrPC, so that more and more people from the public freely become witness to the search.⁴²

With regard to the custody of property seized at the time of investigation, ample power should be given to the police officer to return the same to the lawful claimant against proper security, if the same is not required for further investigation of the case,⁴³ as the case property if left in the police station, would not only consume space, but would be detrimental to its utility.

In so far as the arrest of the person is considered, the officer should endeavour to arrest only if the same is necessary.⁴⁴ Intimation of arrest must be given to the family members of the arrested person, without any delay.⁴⁵ In this regard, the report suggested amendment in section 50A, so as to incorporate the said provision, in order to provide safeguard to the rights of arrestee. The report further suggested that police must avoid third degree torture against the accused and in this regard, there must be regular inspection and visits by senior officials of the police in the police station to avoid the infliction of third-degree torture. In case, when the accused is produced before a Magistrate, he should be asked about the treatment, and in case the accused/arrested complains about the infliction of third-degree torture, he should be immediately subjected to medical examination.⁴⁶ This mechanism would go a long way in keeping a check upon the gross abuse or atrocities viz., brutal torture in police station.

Another material aspect dealt with by the commission, was relating to police remand. This report had analysed that in order to prevent the extraction of information from the accused by resorting to pressure tactics, while he remains in custody, it is necessary that

⁴² *Id.*, para 27.21.

⁴³ *Id.*, para 27.22.

⁴⁴ *Id.*, para 27.24.

⁴⁵ *Id.*, para 27.25.

⁴⁶ *Id.*, para 27.26.

police remand is granted to the investigating agency. As per CrPC, as soon as the accused is arrested, he must be taken to the nearest Judicial Magistrate, but not later than twenty-four hours. For thorough investigation and questioning of the accused, the police just have this limited time frame. Due to paucity of time, in verifying and extracting material information from the accused, often the police adopt third degree methods and resort to obtaining false confessional statements, so that their further custody is granted by the Magistrate. It was further suggested that if the police is able to obtain the remand of accused from the Magistrate, the tendency of their resorting to third degree torture would be minimized, as the accused is required to be taken to the Magistrate after the expiry of police remand. This would also serve another purpose, which is aiding the investigation, as the police would be able to secure much more time in conducting investigation and examination of accused. For achieving the said purpose, the report recommended amendment in Section 167 of CrPC, so as to delete the words ‘police remand must be granted in exceptional case’.⁴⁷ Further, in case there is law and order situation, in which the police have arrested large number of persons, suitable amendments could be brought in the Code, for their production before Executive Magistrate, for their custody, which would save lot of time of the police personnel, in taking the arrested persons to the Magistrate, in case he is at a far off place, whereas, Executive Magistrates are always available in the neighborhood.⁴⁸

The most debatable topic concerning the prestige of police officer is the effect of any confessional statement made before them. In terms of the Evidence Act, any confessional statement suffered by an accused in police station is not admissible in evidence.⁴⁹ It implies that the Courts do not rely upon the confessional statement made by accused before the police. The major reason being the use of malpractices and pressure tactics employed during extraction of information and recording confessional statement.

⁴⁷ *Id.*, para 27.27.

⁴⁸ *Id.*, para 27.28.

⁴⁹ The Indian Evidence Act, 1872, s. 25.

But this provision is not applicable to other enforcement agencies,⁵⁰ which are given wide powers under the code, including arrest, search and seizure. However, any confessional statement recorded by such enforcement agencies is relied upon by the Court. This discrimination in law, needs to be done away with, which not only demoralizes the police, but also puts a question mark on fair and impartial investigation. There is a dire need to incorporate specific provision in law, so as to make confessional statement recorded by the police, to be admissible in law, although with certain riders.⁵¹

In order to achieve the object of fair, effective and efficient investigation, it is necessary to have proper supervision by higher officers vis-à-vis., individual investigation. This approach would not only improve the investigation, but would also help in improving the public perception.

3.2.2.5 The Fifth Report

This report submitted in November 1980 focused upon the issues relating to the appointment of Constables and SIs, training of personnel; code of behaviour of police officers and public-police relations. As the police enjoy wide discretion, it was felt that the recruitment process must be impartial and free from extraneous considerations. It is generally seen that the promotional avenues from Constable to higher police level are very dim. Sometimes a Constable retires as a Constable without any rank promotion. The reason for this dilemma was recruitment at intermediate levels also, including, Asst. Sub-Inspector; SI; DSP; IPS. To eliminate this, the report suggested that only two-level recruitment should be provided. One at the Constable level and another at Indian Police Service level. This would help the police personnel in achieving their job satisfaction through promotion at various levels. To achieve this objective, it was recommended to phase out the intermediary level of recruitment in a gradual manner.

⁵⁰ Officials of Income Tax; Central Excise and custom Department; Directorate of Enforcement; Members of Railway Protection force.

⁵¹ Government of India, “National Police Commission- Fourth Report” Para 27.33 (1980) *available at*:<https://police.py.gov.in/Police%20Commission%20reports/4th%20Police%20Commissi> on%20report.pdf. (last visited on October 03, 2021).

There is a need to have intelligence; psychological tests for the recruitment of police personnel, so as to gauge their IQ, capability, personality, aptitude, attitude and overall personality of the person to be recruited. The minimum qualification level for the Constables should be High School or its equivalent.⁵² However, in order to provide incentive to those, who have attained higher educational qualification than the minimum prescribed, bonus marks need to be given to the candidate. Such minimum qualification was suggested to be alike even for backward classes.⁵³ The minimum criteria stipulated in case of Constables is eighteen years, whereas it is 17 years in case of Haryana, but upper limit is fixed ranging from 21 to 30 from State to State. However, the report suggested that the upper age-limit should be between 20-21 years. This was done in order to recruit best brains at every age and utilize their energy to the fullest capacity. Further, the minimum height should be 5'6''; chest measurement should be 78.70 cms. unexpanded and 83.82 cms. expanded and standard age-weight-height co-relation should be taken into consideration.⁵⁴ The physical fitness, stamina, appearance, effectiveness, of the police personnel should be maximum, in view of the nature of job a policeman does. The report further suggested that (one star) physical efficiency test must be cleared by the candidate for his recruitment as Constable.⁵⁵

Further, the report observed that there is no uniformity in the recruitment procedure for the Constables. No standard recruitment policy has been framed and the recruitment differs from State to State. It was also observed that police personnel were getting recruited through their political connection or giving bribe, which practice was highly deplorable.⁵⁶ Need was felt to eradicate corruption and malpractices from the recruitment process, as the same was plaguing the nation. To achieve this, the recruitment process of Constable should not be left open to States, there should be uniformity in the

⁵² Government of India, "National Police Commission- Fifth Report" Para 35.8 (November, 1980) available at: <https://police.py.gov.in/Police%20Commission%20reports/5th%20Police%20commission%20report.pdf> (last visited on October 03, 2021).

⁵³ *Id.*, para 35.9.

⁵⁴ *Id.*, para 35.11.

⁵⁵ *Id.*, para 35.13.

⁵⁶ *Id.*, para 35.15.

pattern of recruitment, and the same should be done at district level, with objective criteria followed by all the States.⁵⁷ Adequate publicity of recruitment should be made at all level, by way of notice board, print and visual media, newspaper, televisions etc., so that maximum number of candidates participate in the public service of enforcement. The DSP, should scrutinize list of candidates and eliminate those who are found ineligible and prepare the list of eligible candidates. The Selection Board consisting of DIG of Range, assisted by DSP, Superintendent of Police, Armed Police Battalion, a Sociologist or Head of Local School or Head of Police Training School should form the Selection Board, who would constitute the interview board to conduct interview of the candidate.

There is direct appointment of SI's in all States in general, except for Punjab & Haryana, where the recruitment is for Assistant Sub-Inspector. Sub-Inspectors play a very material role in the police functionary. They are clothed with the power to arrest without securing any arrest-warrants from the Court, to investigate without any warrants. Crime control, detection, prevention are some of their functions and they are SHO's of police station also. So, the qualification and educational training is slightly higher than that of the Constables. The minimum prescribed qualification is a graduate degree,⁵⁸ whereas the lower age limit should be twenty to twenty-three years with some relaxation for backward castes. However, since the physical function of a Sub-Inspector and Constable is more or less the same, the physical standard should be that of Constable. The mode of selection of Sub-Inspectors varied from State to State. There appears to be no standard practice followed in recruitment and selection of Sub-Inspectors. The report recommended that for the post of SI, a written examination should be conducted by the Public Service Commission of each State and due weight age need to be given to interview and physical efficiency test.⁵⁹ The interviews should be conducted by Service Selection Board consisting of IGP; Senior Police Officer in Charge of Training or Head

⁵⁷ *Id.*, para 35.16.

⁵⁸ *Id.*, para 35.24.

⁵⁹ *Id.*, para 35.30.

of State Training College; a Sociologist or Academician; a Personnel Management Expert/Scientist.⁶⁰

The report suggested that the District Magistrates' capability to control and direct the superintendence should be limited to subjective and individual situations and must be sparingly used. Although, DM exercises general control and superintendence over the police in the district but the said position is not conferred either under the Police Act or under the Cr.PC. Therefore, any excessive interference by District Magistrate over the police force would be nothing but exercise of over-reaching jurisdiction.⁶¹

The Commission further recommended that there ought to be a healthy public-police relationship and there is a need for greater interaction & cooperation of public in police work. The major reason for unpleasant police-public relation is due to various factors including police partiality; corruption; brutality; failure to register FIR and rude behaviour. Further the Commission was of the view that there is a dire need to ameliorate the living and working conditions of the police. It further recommended that adequate representation of women in the force should be given and they must play an integral part especially while handling women and child related offences.

3.2.2.6 The Sixth Report

This report pertains to the issues regarding police leadership; training and career development of IPS officers; police and student interface; communal riots and urban policing.

The first and foremost issue dealt by this report was the parity in conditions of service and pay between IPS and IAS vis-a-vis, pay, amenities, status etc.⁶² Further, there should be extensive training module for the police officers of IPS rank and at the time of their selection, the training period of such officers should be kept in abeyance in case they wish to pursue/write civil service examination again for joining other services, which would save Government's effort on training and its expenditure. The report also

⁶⁰ *Id.*, para 35.31.

⁶¹ *Ibid.*

⁶² Government of India, "National Police Commission- Sixth Report" Paras 44.14, 44.15 (1981) available at: <https://police.py.gov.in/Police%20Commission%20reports/6th%20Police%20Commission%20Report.pdf>. (last visited on October 03, 2021).

opined that for the purpose of national integration, the officers should be posted outside their home State, in order to bring about transparency and impartiality, and a facility of TA should be provided on lines with those of the Armed Forces.⁶³ The officers appointed in State Police Service should be given opportunity to work in Centre. An IPS officer ought to possess experience in managing a diverse range of responsibilities both within and outside the police organization to expand their perspective. The management of IPS cadre should be done by the police officers, at the Centre, with Central Police Establishment Board and similarly, set up the Board at State level, which should review the performance of State police; problems and need of cadre. The report further suggested that there should be two central IPS cadre constituted under Article 312 of the Constitution, one para-military, which includes BSF (Border Security Force); CRPF (Central Reserve Police Force); ITBP (Indo-Tibetan Border Police) and another comprising of IB (Intelligence Bureau); RAW (Research and Analysis Wing) and CBI (Central Bureau of Investigation).

Prior to their advancement to the positions of Superintendent of Police, Deputy Inspector General, and Inspector General, it is essential that all Indian Police Service officers undergo pre-promotion training programs- Junior Management Course, including examination and objective selection procedure.⁶⁴ Before the officer is appointed to the rank of SP, he should have completed at-least two years in sub-division and thereafter subjected to evaluation by the MHA, in the form of written examinations and upon completion of such examination, he should be posted as SP, in the District.⁶⁵ This method should be adopted in order to achieve the efficiency and effectiveness in the service. Further, the report suggested that after completing fifteen years in service, the IPS officer must be sent for Senior Management Course (five months course), in order to address the problems faced by them during their service and the officer must be asked to prepare detailed thesis, and after completing the course curriculum, the IPS officer should then be

⁶³ *Id.*, para 44.33.

⁶⁴ *Id.*, para 45.13.

⁶⁵ *Id.*, para 45.14.

considered for the rank of DIG.⁶⁶ Thereafter, those officers who have been promoted to the rank of DIG and have completed 23 years of service, should be sent for Top Management Course (three-months duration), to review the decision making; problem solving skill etc., and written examination should be conducted at the end of the course and only those who succeed should be promoted to the level/rank of IGP.⁶⁷ Similarly, those officers who are promoted to the IPS cadre should undergo six-month extensive training cum course to get well equipped with the role and challenges of Superintendent of Police.⁶⁸ The report further suggested that to meet the requirements of the aforesaid training-courses at various level, a separate Centre for Higher Police Studies should be established.⁶⁹

The police intervention in university and college campus should be highly minimized and as far possible the campus ruckus/problems relating to student indiscipline should be handled by the educational authorities themselves. The police should not intervene in campus related issues other than those involving crime or law and order problem.⁷⁰

In order to deal with situation relating to campus violence, group indiscipline, a separate Protection Force should be established for the safety and protection of the resident of the Universities/Colleges, which should be responsible for the prevention of theft, sabotage, ruckus, vandalism etc. The main purpose of such task force should be protection of the resident, prevention of crime inside the campus; dealing with local demonstrations by students, employees, staff-officials; information base; assisting in conducting searches; assisting the educational authorities at the time of examination, events, VIP visit etc.⁷¹ Such Protection force should endeavour to resolve dispute by way of persuasion and conciliation and they be adequately trained in civil defence; intelligence gathering; unlawful activities of students and employees etc. The police

⁶⁶ *Id.*, para 45.15.

⁶⁷ *Id.*, para 45.16.

⁶⁸ *Id.*, para 45.18.

⁶⁹ *Id.*, para 45.20.

⁷⁰ *Id.*, para 46.9.

⁷¹ *Id.*, para 46.15.

intervention should be limited to those cases of grave law and order problem/situation and at that time, the police should not resort to use of force, especially during student agitation. Specific directions be issued to the police, not to use lethal force against the students and they should intervene only upon the asking of educational authorities, when situation has resulted in grave law and order problem.⁷² Simultaneously, the police should have sound intelligence and information gathering system, so as to conduct search and raid of the premises in order to seize illegal firearms and ammunitions.⁷³

It is seen that during the event of communal riots, the situation gets tensed and there is failure on the part of police and administration to deal with the situation which goes out of control. There are several instances where the riots could have been controlled at the initial level, had there been proper and timely supervision and intervention, but the lackadaisical attitude of the officers avoiding to take responsibility of the situation results in helpless, headless and leaderless force. Due to this, the situation becomes more tensed and deteriorates further, causing violence amongst the police and public, in retaliation. This tendency of shirking with the responsibility by the officers in-charge should be curbed and stern action must be initiated against those who failed to take up the responsibility in controlling the situation rather than initiating enquiries against those who dealt with the situation at the time of communal violence. Further the report recommended that in such situations, the role of district administration becomes important and the police and district administration should work in tandem.⁷⁴

Further, in order to prevent such violence and clashes, data of population should be collected minutely and changes should be made in the relevant official records. A separate intelligence cell/agency should function in retrieval and collection of such data with strict day to day vigilance. Mock drills should be conducted in order to avoid communal riots. List of anti-social elements should be maintained and strict vigil should be kept on them, to prevent such violence. Senior police officers should deal with even minor communal problems, as it had been seen that minor dispute becomes major riots in

⁷² *Id.*, para 46.24.

⁷³ *Id.*, para 46.26.

⁷⁴ *Id.*, para 47.15.

fraction of seconds. There should be proper and adequate arrangement in conducting processions.⁷⁵ A control room is highly recommended to be set up in the places prone to communal disharmony.⁷⁶ For the purpose of reporting riot related crimes, the police should set up reporting centre at various places, rather than the victim going to the police station and risking his life to report the crime.⁷⁷ A special investigative squad should look into the investigation of the communal crimes, which should be done impartially, thoroughly and quickly.⁷⁸

3.2.2.7 The Seventh Report

This report deals primarily with the organizational structure of police; delegation of financial powers to the police officers; traffic regulation; ministerial staff and administrative work in the police department; role of Centre in planning, evaluation and co-ordination.

In the report it was stated that with a view to change the organizational structure of the police, the first and foremost requirement was to improve the conditions of the police stations. The police stations are the meeting place of the common person with the police. It is that place where the aggrieved person comes for addressing his issues by way of filing complaint or report about the commission of cognizable offence. There is a dire need to strengthen the police station both in terms of manpower and infrastructure. There is no uniformity in the structure of the police station, number of the personnel deployed in the police station. In addition to the police station, there are various outposts; however, the major drawback is that the said outpost does not cater to recording statement/complaints by the individual, which are still recorded in the police station. There is under-utilization of the staff of police station, as the police personnel deployed in the station are involved in bandobast duties, law and order in addition to investigation duties, as result of which the investigative and preventive work is hampered. There ought to be a separate sanctioned strength for VIP duties; law & order; investigation and even

⁷⁵ *Id.*, para 47.32.

⁷⁶ *Id.*, para 47.37.

⁷⁷ *Id.*, para 47.48.

⁷⁸ *Id.*, para 47.49.

outposts/ beat patrolling, so that there is no under reporting of the crime and every cognizable offence is reported and investigation is not delayed. This would further cater to the common issue of the public that the police do not register their complaint disclosing commission of cognizable offence and they keep on delaying the investigation.

The report was of the opinion that the police personnel have to spend long working hours, which further impact the investigative and preventive duties. The police station buildings are in a dilapidated and bad condition which lack basic amenities. Even the quarters/residences are in limited number and those available are sub-standard. The furniture and electrical equipments and fittings are scarce and in poor condition. Often there is shortage/scarcity of stationery and paper, crime register, which further leads to non-reporting of the matters. Upon inspection by the members of the Commission, it was seen that in some of the police stations, there were no lock ups available and the arrested were chained and handcuffed to window bars in room or corridors.

As such, the Commission was of the opinion that the police stations are most neglected wing and require considerable attention for proper and effective police administration. In order to diligently perform the duties of investigation and crime prevention, police stations need an over haul. The ranks of SI; Inspectors; DSP needs to be strengthened. In rural areas, the police stations are few in number and at a far distance having wide jurisdiction, which dilute the community relations with the police. In order to cater to this problem, there is need for civil police force to be available in proximate places in order to give the community a sense of security. Jurisdiction of police station should be limited so as to make it efficient and more effective. The jurisdiction of police station should be based upon the population; crime registered; pattern of crime and according to the report, an area of 150 sq.km for rural police station was found adequate for efficient functioning of the police station. For urban areas, the criterion of population density and crime reported should be used to determine the police station. There needs to be constant review of the jurisdiction of the police station.

The Commission had categorized the police stations in three categories. The first category deals with the bigger police stations where 900 cognizable crimes are reported, which should have 3 Inspectors; 15 Sub-Inspectors/Asst. SI and DSP or ASP as SHO.

The second category deals with the police station in cities/rural/urban areas where over 300 crimes are reported, in which the SHO should be the Inspector. The third category would form smaller police stations, headed by SI.

Further, there should be separate allocation of staff for investigating crime and law & order duties. This would in turn reduce the pressure on police station which may deploy its manpower resources in duties other than investigation and crime detection/prevention.

The report emphasized the need for beat patrolling in order to detect the crime. It was of the opinion that at least four hours of patrolling by day and four hours by night is required for prevention of crime. Their presence around the community would give the persons living there a sense of security and serve the purpose of deterrence.

For effective functioning of performance of duties and to achieve operational efficiency, it is important to provide adequate reserve for purpose of weekly day off; leave; training and emergent duties. The police station ought to be clean and building restructured. There should be rest rooms available with a standalone reception-cum-waiting room. The existing condition of police lock-ups should be improved and made such that the individuals/arrested could be kept there. The police building which have become quite old and dilapidated, should be replaced with new building, rather than re-modelling and wasting revenue.

In order to build good rapport with the public, it is necessary that the police redress their grievances by registering their complaints and taking prompt action. The only grievance with the public is that the police does not record/register their complaint and delays investigation. For achieving this objective, there is requirement of increasing the strength of investigating officers of the rank of ASI/SI/Insp. Further, the major strength of the police comprises of constables, in order to provide motivation, not only their conditions of service should be improved but they should be promoted to the ranks of ASI etc. and for this, direct entry into police service should be abolished and there should be two level entry, one at constabulary rank and other at Indian Police Service level.

3.2.2.8 The Eighth Report

The report was submitted in May, 1981 suggesting that the police is accountable to the people; law; and organization. The police is directly accountable to the people of the country and thus all its activities are to be performed within the four walls of law and each of its action must be in accordance with law. Likewise, the police is responsible for its performance to its respective organization. The police must realize that it is required to serve the nation and therefore accountable only to the people. The Report further suggested that the existing legislation relating to police has become old and anarchic and is not suited to the present times. It further noted that the authoritarian police work under an imperialist regime and the same cannot function in a vibrant, democratic society. The Commission thus laid down that a new Police Act needs to be drafted.

Despite clear cut recommendations and suggestions of the National Police Commission, the same were never implemented by the States and UTs for their own vested interests as the political masters were not inclined to give away their authority over the police nor was the bureaucracy willing to shed down its claws upon the police. Due to this lackadaisical attitude, the recommendations and suggestions had never seen the light of the day.

3.3 RIBEIRO COMMITTEE ON POLICE REFORMS (1998-1999)

It was constituted to suggest structural changes and reforms in the current police framework and to plug the loop holes, in accordance with the directives issued by the Apex Court, seeking the status of the implementation of the recommendations of National Police Commission (NPC), National Human Rights Commission (NHRC) and the Vohra Committee and to devise measures for effective implementation of impending recommendations.

The Committee recommended for setting up of Security Commission at State level, to monitor and assess the performance of the police while simultaneously ensuring their accountability to the law. The constitution of State Security Commission (PPAC) would ensure greater transparency, minimal interference and building public confidence. However, it may be seen that the NPC had conferred the statutory status to State Security Commission, whereas the Ribeiro Committee has given it the status of non-statutory

body having advisory jurisdiction. The Commission would look into the aspect of transfers of higher officials, in order to curb the frequent and indiscriminate transfers of higher officials at the behest of politicians. The Committee further recommended the need to set up an autonomous body which would deal with the aspect of complaints against the police viz., illegal detentions, violence during custody, arbitrary arrests, false cases etc. The Committee would be known as ‘District Police Complaint Authority’. The said body would further give its recommendation to PPAC for proper evaluation, which would ensure greater accountability. But, the power of initiation of any proceedings against the delinquent official was not given to the Authority. The Authority was made a recommendation body.

Further, to monitor the promotions, transfers, reward and punishment, other service- related issues, Police Establishment Board should be set up and appropriate rules should be framed in this regard. The Committee further opined the need for fixed tenure of DGP, who should be chosen from the list of names compiled by an independent committee, which would result in insulation of investigation wing from political intervention.

The Committee also highlighted the need for effective and efficient investigation of crimes by police and for the said purpose it recommended for imparting specialized training to the investigating officers including the scientific method of detection of crime. The officers conducting investigation should have fixed tenure and their services should be least utilized for law and order duties.⁷⁹

3.4 PADMANABHAIAH COMMITTEE ON POLICE REFORMS (2000)

This Committee was constituted by MHA (2000) for the purpose of examining the problems faced by police and suggest reforms. The Committee observed that there is excessive politicization and criminalization of police force. Corruption being the root cause of both politicization and criminalization of the police. In order to curb the growing trend of criminalization, it was recommended that the status of constabulary must be raised and their service and living conditions must be improved. There should be a new

⁷⁹ Commonwealth Human Rights Initiative, “Summary of Ribeiro Committee’s Recommendations”, *available at*: <https://humanrightsinitiative.org>. (last visited on 22 July, 2023).

departmental inquiry manual and a new code of conduct of police to be prepared. There is a need for filing of property returns both by the gazetted and non-gazetted police officers. Also there must be improved in-house vigilance within the police department and reviewing the record of arrest. It was additionally proposed that there should be an increased recruitment of sub-inspectors rather than constables, and that constables should be recruited at a younger age, receiving comprehensive training for a duration of two years. Furthermore, it was recommended that a Police Training Advisory Council be established at both the central and state levels to oversee training-related issues. The Committee laid down the eligibility criteria for appointment of sub-inspector to be twelfth standard pass with maximum age-limit to be twenty-one years. After their selection, they should undergo a rigorous training of 3 years. The career progression should be contingent upon the successful completion of the required training program and the passing of promotional assessments. Stress was also given to the aspect of Community Policing to be adopted by the police. The Committee further emphasized that lack of minimum tenure for posting and whimsical transfers by the executive/politicians need to be controlled so as to prevent excessive interference of government/political masters. Therefore, the Committee opined that Police Establishment Board must be constituted for deciding the transfers of officers above the rank of DSP having minimum two years tenure. The Committee further recommended that the head of the police should be appointed by a panel headed by Chief Justice, Chief Secretary of State and an eminent personality from the public. It was additionally established that due to the inability to organize police work on a shift basis, police personnel should be granted a weekly day off and be mandated to take their earned leave annually. It was also recommended that holiday homes-stay must be built for the police personnel. Another aspect dealt with by the Committee was exclusion of investigation from law & order. Additionally, it was suggested that essential modifications to the Evidence Act should be implemented to allow for the admissibility of confessions made to police officers holding the rank of Superintendent of Police or higher. The need was felt for Mobile Forensic Science Laboratory for each sub-division and investigation kit for every police station to improve the investigation of crimes. It was necessary to promote specialization within the field of

policing. There was need to encourage specialization in the aspect of policing. Every District must be equipped with a crime prevention cell. Training of police officials was required to deal with cyber crime effectively. The entire concept of personal security requires an overhaul as the VIP Security is misused grossly. An independent statutory Inspectorate of Police ought to be established to conduct annual evaluations of the police force, aimed at enhancing its efficiency and effectiveness. District Police Complaint Authority was required to be set-up to look into the complaints against the police for the purpose of bringing transparency & improving the public-police relationship. There was a need for establishment of permanent National Commission for Policing Standards. On the aspect of modernization of police force, a need was felt that the centre should release grants towards each State Government for the said process. Further need was felt to repeal the current Police legislation of 1861 and enact a new Police Act.⁸⁰

3.5 REPORT OF THE GROUP OF MINISTERS (GOM) ON NATIONAL SECURITY (2000-01)

This report inter-alia contained recommendation on the functioning of the State Police Organization. It recommended that the Ministry of Home Affairs must be actively involved in consultation with the State Governments in plugging the loopholes w.r.t. promotion, transfer and tenure of officials. It further recommended for replacing the existing Police Act. An efficient police organization must be maintained for keeping law & order in society. There is a need to strengthen the modernization of the police force and to maintain adequate strength of the police force. A specialized police force must be created. Proper, dedicated police lines must be established for providing safety to policemen and their families. There is a need for state-of-the-art forensic science laboratories in each state. The Ministry of Home Affairs must adequately monitor and supervise that the financial budget allocated to the State Government for modernization of their police force is utilized for the same purpose and the targets are achieved. A systematic approach should be established to determine the annual objectives for states

⁸⁰ Commonwealth Human Right Initiative, “Summary of Recommendations made by Padmanabiah Committee on Police Reforms”, *available at*: <http://www.humanrightsinitiative.org>. (last visited on 23 July, 2023).

regarding the enhancement and modernization of their police forces. There is a necessity to weed out corrupt police officials in order to maintain faith of public in police. It was recommended that a state-of-the-art training facility be made available to police personnel on a regular basis, encompassing contemporary policing trends. It was advised that State Governments implement a shift system to guarantee that police constables are not required to work more than eight hours per day and, on an average, six days per week. The creation of the police establishment board was also suggested. It was also suggested that the Ministry of Home Affairs (MHA) must develop a standardized recruitment procedure to enhance transparency in the hiring process. Furthermore, the responsibility for recruiting constabulary personnel should be assigned to the State Police Recruitment Board, with the minimum educational requirement for civil police constables set at the completion of the 10th grade and an upper age limit of 18 years. The selection process should commence with a physical assessment, which will be succeeded by a written examination conducted by the State Police Recruitment Board. The selected candidates must undergo two years rigorous training.⁸¹

3.6 MALIMATH COMMITTEE ON CRIMINAL JUSTICE SYSTEM (2003)

The Central Government had constituted this Committee in November 2000 under the Chair of Dr. Justice V.S Malimath to devise significant changes to the present Criminal laws. The Malimath Committee had submitted its report in April 2003. The Committee addressed multiple facets, including the enhancement of training infrastructure, the development of forensic science laboratories, the establishment of a fingerprint bureau, the introduction of a new Police Act, the creation of a Central Law Enforcement Agency, the division of the investigation unit from the law and order unit, and the formation of a State Security Commission.

The Committee observed that the foremost duty of the police is to safeguard the life, liberty and property of the citizens. The establishment of the criminal justice system is aimed at ensuring the protection of these rights, thereby placing significant responsibilities on the police. Among their various obligations, the principal role of the

⁸¹ Government of India, “Report of the Committee on Reforms of Criminal Justice System” (Ministry of Home Affairs, 2003) *available at*:<http://mha.gov.in> (last visited on August 23, 2023).

police includes the maintenance of law and order as well as the investigation of crimes. It is important to acknowledge that the police serve as guardians of the human rights of citizens. When an individual's rights are violated, it is the police which intervenes to provide assistance.

In spite of fulfilling the responsibilities, the hardwork of police often goes unacknowledged, with only the shortcomings being observed, emphasized, and condemned. It is essential to address these shortcomings while also recognizing the challenging role that law enforcement plays, often at great personal risk, in safeguarding the rights of citizens.

The Committee additionally highlighted the challenges encountered by law enforcement officers throughout the investigation process. These challenges encompass an overwhelming workload, lack of cooperation and assistance from the public, insufficient logistical and forensic resources, shortage of adequately trained investigative personnel, inadequate modern facilities, prevailing distrust between the police and judiciary, police engaging in non-investigative duties, excessive political and executive interference and disruptions in the investigative work.

The Committee after taking into consideration the reports of Bihar Police Commission (1961) and Punjab Police Commission (1961-62) noted that the standard of investigation remained poor and need was felt to make substantial improvement. It further noted that the police was burdened with multifarious commitments despite having inadequate investigating officials, thereby affecting the broader criminal justice framework.

It also noted that the investigating officer was devoting only 27 percent of his time in investigating the case, whereas in the remaining time he was performing other incidental works relating to law and order, VIP bandobast, petition inquiries, Court attendance, collecting information and performing various administrative tasks. All this leads to delayed investigation.

The Committee also observed the need for excluding investigation wing from law and order. The combined cadre of police officers performing both investigational and law and order duties need to be separated for the simple reason of bringing specialization in

investigation, especially of serious and heinous cases. The Highest Court has time and again emphasized upon the fundamental right to speedy trial and this goal could be achieved if the police carry out investigation of offence in an expeditious and effective manner. It is worth noting that detection and investigation of crime requires specialization, expertise and adequate training as in the said process the police brings out hidden facts in the form of evidence and place before the Court for its scrutiny and analysis.

By virtue of exclusion of investigation from law and order duties, the defect of undue political and extraneous interference could be cured leading to effective and efficient investigation in a speedier manner and at the same time developing good rapport with the public.

It concluded that in order to achieve the said purpose, there is a need to have crime police and law & order police. The crime police should investigate all serious crimes particularly those triable by the Court of Sessions, whereas the remaining crimes should be investigated by law and order police. Need was felt to have SHO of crime police in each police station and investigating officers in crime police should be at least the rank of ASI with minimum qualification of graduate having law degree and five-year experience in police. The serious offences ought to be investigated by superior police officer who has specialised intelligence, legal knowledge and expertise in handling such related situations.

For fair and impartial investigation, the tendency to frequently transfer cases from one investigating officer to another due to some lame reasons was highly deprecated. The effect of such transfers results in shoddy investigation and demoralizing the initial investigating officers.

As such, the Committee opined that there is a need to constitute National Security Committee at National level and State Security Commission at State level in order to bring about insulation in police force. Further, the Committee recommended constitution of PEB to look into the posting, transfer and promotions of police officials. The need was felt to make changes in the Police Act to delimit the ambit and scope of State Government exercising its powers upon the police. In order to improve the quality of

investigation, timely supervision over the progress of the case by superior police officials was called for as it would in turn curb the menace of the arbitrary/unfettered powers vested in the officers to the minimum and ensure zero tolerance for corruption. The Committee also opined that adequate training must be imparted to the investigating officers to hone their skills and carry out investigation in a skillful and expert manner. This requires adequate state of the art training centres being set up both at Centre and State levels for imparting proper training to officials.⁸²

3.7 THE REPORT OF THE REVIEW COMMITTEE ON THE RECOMMENDATIONS OF NATIONAL POLICE COMMISSION AND OTHER POLICE COMMISSIONS/ COMMITTEES ON POLICE REFORMS-2005 (MOOSHAHARY COMMITTEE)

The Committee examined various earlier Commissions and Committees on Police Reforms and found out that no comprehensive action or suitable measures were adopted to implement the recommendations of the said Committees and Commissions. Rather, a vague attempt was made by few States to implement some of the recommendations in a piecemeal manner. The Committee after analyzing various Committees recommended that firstly a fair system of recruitment should be adopted by each State where a new entrants are allowed to enter in a fair manner. Secondly, his salary with perks and other service conditions must match with the job he ought to perform and adequate care must be given to issues such as housing, rest, recuperation etc. Thirdly, the constables must be imparted regular training in order to improve their professional acumen. Fourthly, there is a requirement to pay attention on the conditions of police stations by improving the infrastructure; computerization; adequate man-power on scientific yardstick which would help the police personnel work in a conducive and congenial environment. Fifthly, it is essential to enhance the working conditions for constables, which includes fixing reasonable duty hours; reduction in the stress level which would help a long way in reducing the gap between the police and public by making them friendlier and increase their professional competence. Sixthly, Commissionerate system must be created in

⁸²

Ibid.

major cities and village police system must be strengthened. Seventhly, it is essential to distinguish the investigation process from law enforcement activities. Eighthly, adequate forensic science facility and training must be given for improving the standard of investigation. Ninthly, the legal framework governing the police must be replaced with a more comprehensive new Police Act by repealing the anarchic Police Act of 1961. Tenthly, it is essential to establish a robust institutional framework to address public grievances and evaluate police performance, which would assist in eliminating ineffective personnel. Eleventhly, it is necessary to put an end to the arbitrary appointment of Police Chiefs and the capricious reassignment of police personnel in order to enhance operational efficiency and boost the morale of the police force. Twelfthly, State Security Commission must be implemented so as to promote transparency and remove extraneous pressures. Besides, there is a need for constant support and assistance from the States so as to implement the recommendations for police reforms and therefore Inter-State Council must be set-up as police reforms have direct bearing on internal security of state.

The financial burden of police reforms must be shared by the Centre for promoting good governance. Also, an administrative mechanism must be evolved by MHA for effective implementation of recommendations.⁸³

3.8 SOLI SORABJEE COMMITTEE (2005)

The Committee was constituted by MHA in 2005 as a need was felt to replace the century old Indian Police Act (1861) with the purpose of making reforms in the police administration in terms of the recommendations and suggestions of various Committees and Commissions. This Committee was primarily constituted to draft Model Police Act, keeping in view the growing challenges to the policing. The Police Act Drafting Committee (PADC) was required to examine all the reports of the past Committees and Commissions and make a comparative analysis of policing in developing as well as developed countries. The PADC also obtained representations from all the sections of the

⁸³ Government of India, “Report of the Review Committee on the Recommendations of National Police Commission and Other Commissions and Committees on Police Reforms” (March 2005) *available at*: <http://www.mha.gov.in> (last visited on 22 July, 2023).

society in order to ensure that every aspect was dealt with at the time of enactment of the Model Police Act. The proposed Act (Model Police Act, 2006) would comprise of Sixteen Chapters, containing 221 Sections. The initiative was driven by the necessity of establishing a professional police service within a democratic framework that is both effective and efficient, addressing the needs of the citizens while remaining accountable to the rule of law. The Act provided for social responsibility of the police and ensured that the police would function with utmost fairness and impartiality and observe strict parameters of Human Rights norms by giving special attention to the minorities. The key aspects of the Model Police Act are outlined as follows:

1. The Model Police Act recognized that police being the instrumentality of State is accountable to the political executive and public-at-large. Therefore, a need was felt to give functional autonomy to the police by creating such a mechanism and process which would ensure that the police performs its duty and functions effectively and efficiently while also improving its credibility in the eyes of public. It was proposed that a State Police Board be established, chaired by the Home Minister and including the Leader of the Opposition, Chief Secretary, Home Secretary, Director General of Police, and additional independent members not affiliated with the Government. This board would be responsible for formulating policy guidelines for efficient policing and assessing the performance of the police service.
2. Another aspect dealt with under the Act was regarding the method of selecting and appointing the DGP. In order to ensure complete independence and allowing the police to work without any interference and free from fear and pressure, it was felt that the Police Chief ought to be selected without any interference from the executive. Therefore, the Model Act mandated that the DGP should be selected from amongst three senior-most police officers of the State empanelled by the State Police Board.
3. The appointment of DGP would be for atleast 2 years irrespective of his age of superannuation.
4. In order to provide security of tenure and to prevent frequent transfers of the

- police officers which hinders the police work and to enhance the professional efficiency, it was determined that a minimum tenure of two years is necessary for the positions of Superintendent of Police, Deputy Superintendent of Police, and Station House Officers.
5. To examine the issues related to the transfer and posting of police officers at various levels, as well as to address complaints against them, the State Government was required to establish a Police Establishment Committee. This Committee is to be Chaired by the Director General of Police (DGP) and will include four other Senior Police Officers as Members.
 6. The District Magistrate was expected to serve as a catalyst to facilitate the collaboration between the police and other entities within the District Administration.
 7. The civil police was to be given three promotions on merit-cum-seniority basis.
 8. The Model Act laid special emphasis on the aspect of accountability of the police both for the purpose of evaluation and their conduct. The constitution of State Police Board; Accountability Commission and District Authorities were major highlights of the Act to look into the said aspect. The Act also provided for imposing penalty for defaults committed by the police.
 9. The Act also laid down the provision with respect to improving the service conditions of the police personnel. It sought to systematize their working hours and made certain that the State Governments implement effective measures to guarantee that the average duty hours of a police officer do not surpass eight hours per day. Besides, provision should be made for providing one weekly off or compensatory benefits in lieu of the same. Creating Police Welfare Bureau to deal with the aspect of healthcare, housing, legal facilities and providing financial support in case of death in harness. The Model Act further provided that adequate insurance cover must be given to the police personnel and provision of special allowance to such officers who are posted in those areas involving high risk.
 10. The legislation established guidelines for law enforcement to address threats to internal security posed by militancy, insurgency, terrorism, and various forms of organized crime.

11. The State Government was to introduce Commissionerate System in Metropolitan Areas and Urban Areas whose population is more than 10 lakhs. It is essential for every village within a district to have a minimum of one village guard assigned by the District Superintendent of Police, with a required tenure of no less than three years.
12. It was necessary to establish guidelines concerning the formation of Citizen's Policing Committees in order to enhance community involvement.

3.9 PRAKASH SINGH & ORS. v. UOI & ORS.⁸⁴

It is one of the notable landmark judgments on police reforms delivered by Apex Court directing the States and UTs to comply with certain directives for streamlining and reforming the police administration. Despite various recommendations of Committees and Commissions on Police Reforms been made, nothing much was done to implement them so as to replace the archaic and century old police legislation and therefore a need was felt by the Court requiring implementation of its directives either through executive orders or by enactment of new police legislation. The Seven Directives passed by the Court were aimed at eradicating the problem of politicization, lack of accountability, systematic weakness and public dissatisfaction which was deep rooted in the police administration. Considering the gravity of the issue and the pressing necessity to uphold and reinforce the rule of law and uncertainty in police reforms, the Apex Court issued seven directives for immediate compliance by State and UTs. The seven key directives are outlined below:

1. Constitution of State Security Commission (SSC)- to guarantee that the State Government refrains from exerting undue influence or pressure on law enforcement, comprehensive policy guidelines have been established to ensure that the State Police operates in compliance with legal standards and adheres to the Constitutional framework. This Commission will also assess the effectiveness of the State Police. The Chairman of this Commission will either be the Chief Minister or the Home Minister, while the Director General of Police (DGP) of the State will serve as the ex-officio Secretary. Additional Members of the

⁸⁴ (2006) 8 SCC 1.

- Commission will be selected in a way that ensures its independent operation and freedom from governmental influence. The directives issued by the Commission will be mandatory for the State Government to execute. The primary role of the Commission was to establish the policing policy; specify performance standards and continuously assess police performance; challenges and requirements. Also, the evaluation of Police was to be done on qualitative and quantitative method.
2. Selection and minimum tenure of DGP- The Supreme Court established that the State Government is responsible for selecting the Director General of Police from among the three most senior officers of the Department, who have been chosen by the UPSC, taking into account their tenure, performance history and expertise. It was explicitly stated that upon the appointment of a Director General of Police, the individual shall serve a minimum term of two years, regardless of their age at the time of retirement.
 3. Security of tenure for Officers on Operational Duties- it has been noted that police officers engaged in operational duties in the field, specifically the Inspector General of Police in charge of a zone, the Deputy Inspector General of Police in charge of a range, the Superintendent of Police in charge of a district, and the Station House Officer in charge of a police station, shall have a minimum tenure of two years. Transfers within this period will only occur under exceptional circumstances.
 4. Separation of Investigation from Law & Order- it was deemed necessary to distinguish the investigative police from the law enforcement officers to facilitate prompt investigations, enhance specialized skills, and strengthen the relationship between the public and the police.
 5. Constitution of a Police Establishment Board in each District-it would determine the issues relating to transfers, postings, promotions and all the other service-related matters of officers below the rank of Deputy Superintendent of Police. The Establishment Board would comprise of the DGP and four other Senior Officers of the Department. There would not be any interference from the State Government and only under exceptional circumstances the State interference

- would be permissible. The Board will also provide its recommendations concerning the transfer and assignment of officers holding ranks higher than Superintendent of Police. The Board would also act as an Appellate Authority in disposing the representations relating to the promotion, transfer and disciplinary proceedings.
6. Establishment of a Police Complaints Authority at the District Level- to address grievances against police officers up to the rank of Deputy Superintendent of Police, a Police Complaints Authority shall be constituted which would be headed by a former District Judge from the list of names given by the Chief Justice or a Judge of a High Court who shall be assisted by 3-5 members selected by the State Government. In a similar manner, the Complaints Authority at the State Level will investigate complaints against officers holding the rank of Superintendent of Police and higher. The Authority will be Chaired by a former Judge from either the High Court or the Supreme Court, with the Chief Justice responsible for proposing the name of the Chairperson.
 7. National Security Commission- the said Commission shall be constituted by the Central Government at Union Level for preparing a panel for selection and placement of Chiefs of Central Police Organization having conferred a minimum tenure of two years. The said Commission would be headed by Union Home Minister and would comprise of the heads of CPOs and other security experts as Members.

3.10 K.T THOMAS COMMITTEE (2008)

This Committee was constituted pursuant to the directives issued in *Prakash Singh & Ors. v. UOI & Ors.*, in order to monitor the implementation of its directives in the aforesaid case. The Committee was tasked with the work of examining the affidavits furnished by the respective States and UTs.; advising the States and UTs where they were lacking in implementation of the directives; highlighting the problems faced by the States; examining the new legislations enacted by the State Government regarding the Police. Upon evaluating the aforementioned factors, the Committee reached a conclusion that none of the States had fully complied with the directives of the Apex Court in the

Prakash Singh's judgment. It was noticed that in a few states the legislation relating to the Police reforms was not enacted, only executive orders were passed diluting the object of the aforesaid judgment. The State Security Commission as recommended by the Prakash Singh's judgment was not adopted in letter and spirit. The selection of DGP was not based upon the directives. There was no uniformity relating to the fixed tenure of Police. It was observed that only executive order relating to separation of investigation from law & order was passed which remained on papers as there were no efforts made by the Governments of respective States to execute the said directives. The Police Complaint Authorities were not created by most of the States. Even in some states Police Bills were passed which were not in sync with the Model Police Act, 2006. The Committee further observed that despite constant reminders being issued to the States and the UTs, they remained largely indifferent in adopting the guidelines of the Prakash Singh's judgment.⁸⁵

3.11 J.S VERMA COMMITTEE (2013)

The Committee was set up under the guidance of Justice J.S Verma to address the immediate need for reforms post the heart rending *Nirbhaya Gang Rape* incident in Delhi which shook the very conscience of the entire society. There was a perception that the current legislation was not sufficient enough to cater to the issue and that more stringency is required to address such rape incidents as to cause a deterrent effect upon the rape perpetrators and other evil tendencies. Besides, changes in Juvenile Justice Act, the dire need for overhauling and reforming the police machinery was also discussed in depth so as to meet the demand of the current situation. It opined that merely drafting legislative provisions would not suffice. In fact, for a proper implementation of the existing legal provisions, a cordial relationship between civil society and police is also highly essential

It referred to the decision in *Vineet Narain v. Union of India & Anr.*,⁸⁶ which held that none is above the law and the governmental agencies must strictly adhere to principle

⁸⁵ Government of India, " K.T. Thomas Committee" (Ministry of Home Affair, 2007) constituted by the Supreme Court vide Order Dated 16.05.2008 Passed in W.P.(C) No. 310 of 1996, decided on 22.09.2006.

⁸⁶ (1996) SCC (2) 199.

of rule of law and to proceed against all influential as well as general public alike without any hesitation or reservation in order to comply with the mandate as provided in Art. 14, Part III of Constitution of India, which legal obligation is equally applicable to the police institution.

The Committee also mentioned that the mandate of the *Prakash Singh's* judgment was not followed in true spirit. It was of the view that there was dire need to implement the recommendations of the judgment as soonest as possible. To ensure that women, children as well as weaker sections are protected in the country, an efficient policing is all what is required. Despite the Home Minister in a letter to all State Governments quoting that time has come that the irregularities in the police institution be cured also that the popular perception is that all the evils in the Police System are mainly due to excessive political interference which should hence be done away with. The various earlier committees were also quoted which unanimously stated the urgent need of police reforms.

The case of *State of Uttar Pradesh v. Choteylal*,⁸⁷ was also referred wherein the Hon'ble Supreme Court pointed out the slackness in criminal justice system, the non-implementation of Prakash Singh's judgment directions. The Court was pained with the poor professional orientation and the outdated investigation techniques; the political interference which further worsens the situation and non-availability of adequate video conferencing techniques etc.

The Committee opined that the directives of *Prakash Singhs' case* were not followed by the States and UTs. It further noted that the Centre tried to modify the directive no. 1 pertaining to the State Security Commission by proposing the Central Committee for UT instead of State Security Commission which was against the mandate of the Apex Court and not including the members as depicted in the judgment. It was an attempt on the part of the Centre to bypass the directive. Further it was noted that a lame excuse was put forth by the Centre vis-à-vis. implementation of directive no. 2 for selection of DGP involving UPSC by stating therein that necessary amendment in the

⁸⁷ (2011) 2 SCC 550.

UPSC Charter was required, which was not the case as UPSC could change its rules and regulations. Further, with regard to the directive of minimum two years tenure fixed for the DGP, there was no requirement of any amendment in All India Service Rules. It was further observed by the Committee that the Centre was not inclined in even implementing the minimum tenure of 2 years on operational duties. It was also noted that the States and UTs failed to segregate investigation from law & order. Also, the Committee noted that to bring about transparency and accountability it was necessary that Police Establishment Board must be established so as to remove unwarranted political and extraneous influence in transfers and postings. Further, it opined that in order to improve the public-police relationship, Police Complaints Authority was a must to independently monitor the conduct of the police and investigate any lapses.

The Committee further noted that the non-implementation of the guidelines led to the deprivation of the much-awaited police reforms in the country. It expressed its anguish in not implementing the directives of the Supreme Court and waiting for the enactment of a new Police Act and stressed upon the fact that as an interim measure till the time the States and UTs do not enact a separate police legislation, the guidelines provided by the Supreme Court be implemented forthwith.

The Committee *inter alia* also dealt with the aspect of police stations to be equipped with CCTV cameras at the entrance, inside police station and in the interrogation room. Even all PCRs should have the facility of CCTVs. Care must be taken that the footage are not tampered with and are periodically examined. This would serve the dual purpose of protecting and implementing proper procedure in handling the complaints; treatment of public; lodging of FIR and curbing the instances of police atrocities. The Committee further recommended that it is the moral obligation of every police officer to help the victim of road side accident or other crime.

The report further suggested that basic amenities in the police station were required like separate lockups for men and women; separate bathrooms; separate waiting rooms. The Committee further suggested that adequate scientific training must be imparted to the investigating officers so that they could conduct investigation in a more

effective and efficient manner. The aid of technical and support services should be taken where necessary. The States must set-up forensic science laboratories in each district.

With regard to the performance and appraisal of the police, the Committee opined that not only a police officer be judged according to the number of cases disposed of but the quality with which he had conducted the investigation must also be a criterion for his appraisal. This would serve the purpose of boosting the morale of the investigating officers and would further go a long way in improving the investigation aspect. The Committee also expressed the opinion that a Police Welfare Bureau should be established, led by an officer of at least the rank of Deputy Inspector General of Police, so as to assist in the welfare measures including but not limited to healthcare, medical assistance, financial security, legal facilities etc. The Committee additionally recommended that to enhance crime prevention and detection, there should be an increase in the number of police officers deployed on the streets. The concept of community policing must be evolved so as to build a better public-police relationship.⁸⁸

The need for police reforms has been greatly felt time and again. The Committees and Commissions had greatly contributed in plugging the loopholes in the then prevailing conditions of police personnel in India and suggested series of reforms to make the life of police personnel better. They time and again deprecated the mindset of ruling Governments in controlling the Police and using it for satisfying personal vendetta; highlighted the need of preservation of rule of law at all costs; advocated for shift system for police personnel; proper housing facilities; training to keep them updated with the contemporary requirements; separation of investigation from law and order to ensure that justice is done to both and the police personnel are not unduly burdened.

⁸⁸ Government of India, “Report on the Committee on Amendments to Criminal Law” (January, 2013) available at: https://adrindia.org/sites/default/files/Justice_Verma_Amendmenttocriminalaw_Jan2013.pdf (last visited on November 03, 2023).

CHAPTER-4

EXISTING LEGISLATIVE PROVISIONS ON THE ROLE, RESPONSIBILITY AND FUNCTIONING OF THE POLICE IN INDIA AND THE ROLE OF INDIAN JUDICIARY

4.1 INTRODUCTION

“Police is one of the most ubiquitous organizations of the society. The policemen, therefore, happen to be the most visible representatives of the Government. In the need of hour, danger, crisis and difficulty, when a citizen does not know, what to do and whom to approach, the police station and a policeman happen to be the most appropriate and approachable unit and person for him”.¹

Since the evolution of humanity, safety and security of individuals in society has always been recognized as an issue of paramount importance. The growth of this institution has already been discussed in the preceding chapter in precise detail. However, to ascertain the importance of policemen in maintaining peace & harmony, the same is reiterated briefly. At times, group of youth were given the task of preserving of law & order. Later, with the advancement of time, this task was entrusted to the King so that his subjects could prosper and live fearlessly. In fact, the maintenance of peace and harmony came to be recognized as one of the primary indicators of harmony of a particular reign. The evolution of Police System could be traced back from the ancient times. Manu underscored the importance of a police force in upholding law and order, asserting that this responsibility should be assigned exclusively to individuals who possess a deep understanding of the local community and demonstrate a strong commitment to the protection of society.² During the Gupta Dynasty, the Chief of Police Force was called ‘*Mahadandadhikari*’ having number of subordinate officers called ‘*Dandadhikari*’ responsible for upholding the law and order situation. Similarly, during Mughal reign, the

¹ Functions, Role and Duties of Police in General, BPRD (Ministry of Home Affairs) available at: <https://bprd.nic.in/WriteReadData/userfiles/file/6798203243-Volume%202.pdf> (last visited on May 12, 2023).

² N.V Paranjpe, *Criminology & Penology with Victimology* 405 (Central Law Publication, Allahabad, 2018).

police official who was incharge of entire Police Force was called ‘*Fauzdar*’ and his subordinates were called ‘*Darogas*’ and ‘*Kotwals*’. Later, with the advancement of time and especially during the British Raj there came a full -fledged organization given the sole task of maintaining peace and security in the society and catching hold of anti-social elements of the society by way of enactment of a special legislation namely the Police Act, 1861.

The etymology of the word “*police*” can be traced back to the Latin term “*politia*” which implies ‘State’ or ‘Administration’.³ The Police Force is a wing of the State machinery devoted for ensuring law & order in the society. The function ranges from crime prevention, investigation, apprehending anti-social elements, conducting raids and searches. No other entity in the State is tasked with the statutory and Constitutional duty of safeguarding its populace and ensuring the adherence to the Rule of Law in the nation, except for the ‘Police’.

In *Daroga Singh & others v. B.K. Pandey*,⁴ the Court had noted that the police force is responsible for upholding law and order within society through the enforcement of laws designed to prevent and investigate criminal activities. The community views them as a structured group of civil servants operating under the authority of the government, dedicated to safeguarding law and order and promoting peace by implementing laws and combating crime.

In *Rina Kumari v. State of UP*,⁵ it was reiterated that the police serves as a fundamental pillar of the State's authority in enforcing the laws of the nation. The esteemed Court also noted that in the colonial period, the primary role of the police was restricted to maintaining peace and tranquility. During that time, the police force was utilized to quell the legitimate grievances of the public, projecting a glorified perception of the ruling Colonial State. Consequently, it viewed the citizens as subjects and consequently, endeavored to stifle their dissent against the reigning Empire.

³ Available at: <https://www.etymonline.com/word/police> (last visited on January 29, 2021).

⁴ (2004) 5 SCC 26.

⁵ 2015 (90) ACC 583 (All).

However, with the promulgation of the Constitution, the duties of the police in a welfare state have been increased manifold. Today, the nation is under the governance of the Constitution, a document gifted by the people of India to themselves which would operate in a manner that is 'of the people', 'for the people' and 'by the people'.

The reliance on the police force during times of crisis highlights the crucial role they play in maintaining public safety and providing feeling of safety for the community. It is essential for citizens to have trust in law enforcement agencies and to know that help is just a phone call away in times of need, by dialing 100.

4.2 POWER AND FUNCTIONS OF THE POLICE IN INDIA

As per section 23 of the Police Act 1861, a police officer is duty bound to obey and comply with the orders and warrants as issued by competent authorities from time-to-time; to collect and report to the authorities any intelligence which may cause detriment to the public peace and harmony; to work towards the prevention of offence; to check issues involving public nuisance ; to apprehend criminals; to enter without warrant such premises as drinking shop and similar places housing law breakers.⁶

4.2.1 Functions of State Police according to the Indian Police Act of 1861

1. Law enforcement agencies are required to adhere to and execute all orders and warrants that have been legally issued by any authorized entity.
2. They are responsible for gathering and sharing intelligence that impacts public peace.
3. The primary duty is to stop the occurrence of crimes and public disturbances.
4. Detecting and ensuring that offenders are brought to justice is a crucial task.
5. Apprehending of individuals who have legal grounds for arrest and for whom there are reasonable suspicions is part of the responsibilities.
6. The authority has the right to enter and inspect establishments such as alcohol shops, gaming houses, or any other locations known for loose and disorderly behavior.

⁶ https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00038_186105_1523266889428§ionId=46954§ionno=23&orderno=24 (last visited on January 27, 2021).

4.2.2 Functions of the Police as per the National Police Commission

1. To preserve and safeguard public order within the community.
2. To conduct thorough investigations into criminal activities, apprehending perpetrators as necessary, and to actively participate in legal proceedings related to such offences.
3. To proactively identify potential issues and circumstances that may lead to criminal behavior.
4. To minimize the likelihood of criminal activities through regular patrols and the implementation of appropriate law enforcement tactics.
5. To collaborate and support the relevant agencies to implement effective crime prevention measures.
6. To provide assistance to individuals facing physical threats or danger to ensure their safety and well-being.
7. To establish and maintain a sense of security and peace within the community.
8. To ensure smooth and organized movement of people.
9. To resolving conflicts, providing guidance, and fostering harmony among individuals (being essential aspects of the role).
10. To gather intelligence on various matters affecting public peace, including social and economic crimes (being crucial for maintaining national integrity and security).
11. To fulfill all duties as mandated by laws and regulations.

4.2.3 The Second Administrative Reforms Commission constituted in (2005-2009) had classified the functions of the state police into the following categories:

1. Crime prevention involves the process of collection of intelligence to anticipate and thwart criminal activities before they occur. By gathering information and analyzing potential threats, law enforcement agencies can take proactive measures to keep communities safe.
2. The investigation of crimes is a crucial aspect of police, as it involves gathering evidence, interviewing witnesses, and ultimately solving cases. Detectives and officers work diligently to uncover the truth and bring perpetrators to justice.

3. Maintaining public order is essential for a peaceful society, and law enforcement/police plays a key role in ensuring that laws are upheld and order is preserved. Through patrols, crowd control, and other measures, police officers work to keep communities safe and secure.
4. Assisting in criminal trials is another important function of police, as officers may be called upon to testify as witnesses or provide evidence to support prosecution. By working closely with the legal system, law enforcement helps ensure that justice is served.
5. Ensuring the protection of critical facilities and prominent individuals is a critical responsibility of law enforcement agencies, as they work to protect key infrastructure and individuals from potential threats. Through surveillance, patrols, and other security measures, law enforcement helps safeguard important assets and individuals.
6. The service related function includes
 - a. Responding to urgent responsibilities in the event of natural disasters,
 - b. Offering support to external organizations,
 - c. Aiding in the facilitation of electoral processes,
 - d. Managing traffic flow,
 - e. Confirming background information,
 - f. Supporting the implementation of regulations.

4.2.4 Soli Sorabjee Committee recommendations and Model Police Act

The role, functions, duties and responsibilities are enshrined under Chapter VI of the Model Police Act. More specifically in Sections 57-60.

4.2.4.1 Section 57

The role and functions of the police broadly includes the following:

- a. To administer and uphold the law without bias, ensuring the safeguarding of life, liberty, property, and the fundamental human rights and dignity of all individuals within the community.
- b. To uphold and safeguard public order within the community.

- c. To ensure internal security by preventing and managing terrorist activities, breaches of communal harmony, militant actions, and other threats to internal security.
- d. To safeguard public property such as roads, railways, bridges, and critical facilities from vandalism, violence, or any form of assault on top priority.
- e. To deter criminal activities but also to proactively minimize the chances of crimes occurring by taking preventive steps and collaborating with other pertinent organizations to enforce necessary crime prevention measures.
- f. To effectively record any grievances presented by a complainant or their representative, whether in person or through mail, email, or other methods, and to promptly take necessary steps in response, after duly acknowledging the receipt of the complaint.
- g. To document and examine all recognizable offences that come to their attention through such complaints or by other means, while providing a copy of the First Information Report to the complainant, and when necessary, to apprehend the perpetrators and provide necessary support in the prosecution of offenders.
- h. To establish and uphold a sense of safety within the community, while also striving to minimize conflicts and foster harmony to the greatest extent possible.
- i. To offer maximum assistance to individuals affected by both natural and man-made disasters, and to actively support other organizations in their efforts for relief and rehabilitation.
- j. To assist individuals who are at risk of physical harm to themselves or their belongings, while also offering essential support and relief to those experiencing distressing circumstances.
- k. To ensure the smooth and organized flow of both pedestrians and vehicles, as well as to manage and oversee traffic on roadways and highways effectively.
- l. To gather information pertaining to issues impacting public order, as well as various criminal activities such as social misconduct, communalism, extremism, terrorism, and other matters concerning the security of the nation, and distributing

- this information to relevant authorities, while also taking necessary action as required.
- m. To assume the responsibility, in the capacity of an on-duty police officer, for all unclaimed possessions and ensuring their secure storage and proper disposal in accordance with the prescribed procedures.

4.2.4.2Section 58

Describes the social responsibilities of the police and obligates that the police shall:

- a. Treat members of the public with respect and politeness, especially when interacting with senior citizens, women, and children. Showing courtesy and decorum towards others is a reflection of one's character and values, and it helps create a harmonious and respectful society.
- b. To offer guidance and assistance to those in need, such as senior citizens, women, children, the poor, and individuals with physical or mental challenges. Helping those who are vulnerable or in helpless situations demonstrates compassion and empathy, and it contributes to building a more caring and supportive community for everyone.
- c. To offer necessary support to individuals affected by criminal activities and traffic incidents, guaranteeing that they receive immediate medical attention without being hindered by legal procedures, and assist them in obtaining compensation and pursuing legal actions.
- d. To consistently adhere to principles of fairness and human rights standards, especially during periods of discord among various communities, social strata, castes, and political groups, with a focus on safeguarding vulnerable groups such as minorities.
- e. To secure dignity of women and children and protect them from stalking, and harassment in any manner in public places as well as public transport.
- f. To provide necessary assistance to public more specifically women and children; needy against exploitation by organized group of criminals.

- g. To communicate to the detainee, the legal aid schemes provided by Government; to make necessary arrangements for food, shelter etc. to detainee and intimate the concerned authorities about such detention.

4.2.4.3 Section 59

It states the duties of police in emergency situations:

1. The State possesses the power to appoint a specialized service. Government has the authority to designate a specialized service as essential to the community through an official gazette notification. This declaration can be made for a specific period and may be extended as needed through subsequent notifications.
2. When a declaration is issued under sub-section (1) and as long as it is in effect, every police officer is obligated to comply with any directive given by a superior officer regarding the specified service in the declaration.

4.2.4.4 Section 60

The Senior police officer performing duties of a subordinate officer:

This provision specifies that a senior police official has the authority to execute any assignment assigned by legal authority or a legitimate order to any subordinate officer. Additionally, the senior officer can assist, enhance, replace, or prevent any actions undertaken by the subordinate, whether through their own initiatives or those of individuals who are legally operating under their command or authority, whenever it is deemed necessary or expedient to ensure that law is fully implemented or to prevent any violation of it.

4.5 THE HARYANA POLICE ACT, 2007

The Role, Functions, Duties and Responsibilities of the Police are enshrined under Chapter VI of the Act.

4.5.1 Section 47- Role, Functions and Duties

These are broadly categorised as follows:

- a. To avert and identify criminal activities, prevent and detect crime.
- b. To safeguard lives and assets while ensuring the enforcement of laws and the preservation of public order.
- c. To maintain public order.

- d. To offer potential assistance to individuals experiencing distress or facing circumstances resulting from natural or human-induced disasters.
- e. To ensure the systematic flow of individuals and vehicles.

4.6 THE BROAD FUNCTIONS OF POLICE IN INDIA CAN BE CATEGORIZED AS FOLLOWS:

4.6.1 Patrolling and surveillance

It is one of the vital role of the police. Patrolling implies keeping frequenting tab on the general activities of persons falling within the area of a particular *thana*/police post. This is done to ensure that there are no anti-social elements dwelling in the area and in case there are some, a close watch can be made upon their activities. Also, by virtue of patrolling there is a constant threat among the criminals that their activities are under a strict watch. Additionally, by such frequent patrolling activities, the general public feels secure and can fearlessly approach the police and address the issues faced by them, if any.

Surveillance, on the other hand involves the act of monitoring the actions of those person in the society whose criminal activities are already registered in the records of the police so as to prevent them from repeating the offence. Surveillance means keeping a close watch on someone or something.⁷ According to Sec. 41C of CrPC, 1973, a Control Room is set up both at the level of the District and that at the State Levels whose primary duty involves maintaining and updating the database of arrested individuals, the charges brought against them, along with the administration of a database for public information.

4.6.2 Making arrests

It is the duty of the police force to ensure that order is maintained and that citizens are protected from criminal activities. It is also the responsibility of the police to ensure that those who have broken the law are apprehended and brought to justice in a timely manner. This duty includes making arrests and ensuring that the arrested individuals are presented before the Duty Magistrate within the specified time frame of twenty-four

⁷ Surveillance. Merriam-Webster.com.2021. *available at:*<https://www.merriam-webster.com/dictionary/surveillance>. (last visited on January 29, 2021).

hours of arrest.⁸ Arrest can be made without warrants from Magistrate in cognizable cases and with prior approval of Magistrate in case of non-cognizable cases.⁹

The term 'arrest' originates from the French word 'Arreter', which translates to 'to halt or remain in place'. In common parlance the word "arrest" refers to the act of apprehending or restraining an individual, thereby depriving them of their personal freedom. However, in legal terms, an arrest involves the lawful act of taking someone into custody by authorized personnel, either to answer to criminal charges or to prevent the commission of a crime. The key components necessary to establish a lawful arrest include the presence of an arresting authority acting within their legal jurisdiction, the actual physical restraint or detention of the individual, and the individual's awareness of the legal basis for their apprehension. These components work together to guarantee that an arrest is conducted in compliance with legal standards while safeguarding the rights of the individual being apprehended.¹⁰ The distinction between the ordinary meaning of "arrest" and its legal implications are crucial in upholding the basic tenets of justice and ensuring due process within the community.

The apprehension and incarceration of individuals from the community are not arbitrary actions. They are regulated by specific rules and principles that are established by the provision and must be adhered.¹¹

Rule 26.1 contained in the *Punjab Police Rules*, Vol. 3, deals with the provision outlined in S. 41 of CrPC which grants police officers the discretionary power to arrest individuals without a warrant. This authority is not mandatory; rather, it is contingent upon the likelihood of an escape from justice or the potential for undue delays that may arise if the police do not act promptly. In circumstances where such risks are present, the police is obligated to proceed with the arrest. However, in all other situations, the law

⁸ The Criminal Procedure Code, 1973, ss. 56, 57.

⁹ The Code of Criminal Procedure, 1973, s. 2(c) states that cognizable offence means an offence for which and cognizable case means a case in which a police officer may, in accordance with the First Schedule or any other law for the time being in force arrest without warrant. Section 2(l) non-cognizable offence means an offence for which and non cognizable case is a case in which a police officer has no authority to arrest without warrant.

¹⁰ *Roshan Beevi v. Joint Secretary to Government of Tamil Nadu*, 1984 CrLJ 134 (Mad).

¹¹ P. Ramanatha Aiyer's, *Code of Criminal Procedure* 182 (Modern Law Publication, Indore, 1999).

does not permit a police officer to seek a warrant or summons from a Magistrate as an alternative to immediate arrest.¹²

The authority to make an arrest must not be wielded capriciously, as it can infringe upon the dignity and freedom of an individual. Those who are arrested have the entitlement to be notified of the reasons for their arrest and to have a confidential discussion with a legal representative, as guaranteed by Art.21 & 22 (1) of the Constitution of India.

In *Joginder Kumar v. State of Uttar Pradesh*,¹³ slew of directives were passed by the Court, at the time of making arrest:

- (i) An arrested person being held in custody is entitled, if he so requests, to have one friend, relative or other person who is known to him or likely to take an interest in his welfare told, as far as is practicable, that he has been arrested and where he is being detained.
- (ii) The police officer shall inform the arrested person when he is brought to the police station, of this right.
- (iii) An entry shall be required to be made in the Diary as to who was informed of the arrest.

Similarly, in the landmark judgment of *D.K. Basu v. State of West Bengal*,¹⁴ comprehensive directives were issued to be adhered by the police while effecting arrest.

- (i) *Time, place and venue to be notified:* The time, place of arrest and venue of custody of an arrestee must be notified by the police.
- (ii) *Right of the arrestee to inform some close relative, friend of the fact of his arrest:* the person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
- (iii) *Details of the person informed to be mentioned in the Diary:* An entry must be made in the dairy at the place of detention giving all details, about the friend/relative or person informed.

¹² *Ibid.*

¹³ AIR 1994 SC 1349.

¹⁴ AIR 1997 SC 3017.

- (iv) *Major and minor injuries to be recorded:* The arrestee should, where he so requests, be also examined at the time of arrest and major and minor injuries, if any present on his/her body must be recorded at that time. The 'Inspection Memo' should be signed both by the arrestee and the police officer effecting arrest.
- (v) *Medical Examination:* The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody.
- (vi) *Memo of Arrest:* Copies of all documents including memo of arrest, should be sent to the Illaqa/Jurisdictional Magistrate for his record.

The aforementioned guidelines have now been reiterated into sections 41A-41D¹⁵ (Now Sections 35(3) to (6)- 38 BNSS). As per section 41B (now section 36 BNSS), it is enshrined that every cop, when making an arrest, must wear clear, visible and accurate identification displaying his name for easy recognition. Additionally, the officer must prepare a detailed memo of arrest, to be attested by a family member or a respected individual from the local community where the arrest took place. Furthermore, the person being arrested should be informed by the police officer of their right to have a relative or friend notified of the arrest, unless the memorandum is witnessed by a family member.

Similarly, Section 41D Cr.P.C. (now section 38 BNSS), states that when an individual is apprehended and questioned by law enforcement agency, they have the right to seek advice from a legal representative of their choosing during the interrogation, albeit not continuously throughout the entire process.¹⁶

4.6.3 Lodging of the First Information Report and other complaints.

FIR is a valuable piece of document. It constitutes the 'foundation' of the case. The first information refers to the information provided to the police first, which sets the law into motion, rather than the information chosen and recorded by the police as the first information. Any vague or indefinite information, however, cannot qualify as first information report.¹⁷

¹⁵ Inserted by The Code of Criminal Procedure (Amendment) Act, 2008 (No.5, Act 5 of 2009)

¹⁶ The Code of Criminal Procedure, 1973, s. 41D and The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 38.

¹⁷ *Soma Bhai v. State of Gujarat*, AIR 1975 SC 1453.

Lodging of the First Information Report implies that a crime has been committed and the incident is well within the notice of the police. The prime aim of F.I.R is to set the criminal law into motion. Once the F.I.R is lodged, the police becomes duty bound to proceed before the scene of crime and collect the evidence, conduct searches, effect arrests, and proceed with the investigation. Investigation process ends either with the submission of Final Report or with the submission of Charge-sheet. The former implies that after conduct of investigation, no such cogent evidence as could make out the case against suspects could be found and that the case should not proceed with the trial. Charge sheet on the other hand is an indicator that some cogent evidence against the suspect is found and it is sufficient for the Courts to proceed with the trial and pass a judgment in the case and decide the culpability of the offenders. However, it is the prerogative of the Courts whether or not to agree with the police reports. The Court may also direct the IO to carry out further inquiry or may take cognizance of the offence on material facts placed before him.¹⁸ The discretion rests solely on the Courts to decide the fate of the case investigated upon. The Magistrate is not bound to agree with the final report.¹⁹

First Information Report has been defined under Sec. 154 of CrPC and Sec. 173 BNSS. It is the first information disclosing the commission of offence which falls under the cognizable category. The main purpose of the initial information report, as perceived by the informer, is to initiate the process of criminal law enforcement. From the viewpoint of investigative authorities, the objective is to gather pertinent information regarding the suspected criminal conduct, enabling them to take appropriate measures to identify and apprehend the offenders. A crucial requirement for documenting an FIR is the existence of information that reveals the occurrence of a cognizable offence.

In *State of Orissa v. Dilip Kumar Chand*,²⁰ it was held that to set the law into motion, FIR is lodged with a view to kickstart the investigation, not to provide a

¹⁸ AIR 1991 SC 1260.

¹⁹ *Minu Kumari v. State* (2006)4 SCC 359.

²⁰ 1987 CrLJ 1242 (Ori.DB).

comprehensive account of the incident. Timely reporting of the first information is crucial in preventing any potential manipulation or distortion of the truth.

When information that pertains to a cognizable offence is brought before the officer-in-charge of the police station and meets the requirements outlined in Sec. 154 (1) of the CrPC, the officer is left with no choice but to document the substance of the information in the specified register maintained for this specific purpose.

The Court had repeatedly emphasized and condemned the behavior of law enforcement officers in refusing to file FIR, even when informed about the commission of a serious and cognizable offence.

In *Roop Ram v. State of Uttar Pradesh*,²¹ it was held that it is undeniable that a well-functioning and efficient police force is crucial for maintaining order in society and providing essential public services. It is widely acknowledged that individuals often face significant challenges when attempting to report serious crimes to the police, as the authorities frequently fail to recognize the trauma and distress experienced by victims. Despite the legal obligation to address such matters, the police often neglect their duty, causing unnecessary hardship for those seeking justice. The process of crime detection and adjudication are distinct yet interconnected components of the justice system, with the former falling under the purview of law enforcement and the latter being the responsibility of the judiciary. While the law does offer an alternative recourse for individuals to seek intervention from the Superintendent of Police and the relevant Magistrate, this additional step often exacerbates the suffering of those affected by crime due to the apathetic attitude of the police.

In *Lalita Kumari v. State of Uttar Pradesh*,²² several directions were issued regarding the duty of police officials with regard to investigation and registration of FIR.

- (i) *No requirement of preliminary inquiry*: Registration of a First Information Report is required as per Section 154 of the Code when the information indicates the commission of a cognizable offence, and no initial inquiry is permissible in such circumstances.

²¹ 2009 (66) ACC 870.

²² 2014 (84) ACC 719 (SC).

- (ii) *Preliminary inquiry when needed*: If the information received does not divulge a cognizable offence but suggests the need for an investigation, a preliminary inquiry may be conducted only to establish whether a cognizable offence has been disclosed or not.
- (iii) *Entry of closure of complaint to be supplied to Informant within one week*: The process of registering an F.I.R is crucial when a cognizable offence is uncovered, ensuring that legal action can be taken promptly. In instances where a preliminary inquiry leads to the closure of a complaint, it is essential that the first informant is promptly informed of this decision, with a clear explanation of the reasons for not proceeding with the case. This transparency in the closure process helps maintain accountability and ensures that all parties involved are aware of the outcome.
- (iv) *Provision of action against erring police officials*: It is imperative for the police officer to fulfill his duty by registering an offence when a cognizable offence is revealed. Any officer who fails to register a First Information Report (F.I.R) when presented with information indicating a cognizable offence must face consequences for their negligence.
- (v) *Limited scope of preliminary inquiry*: The purpose of a preliminary inquiry is not to determine the truthfulness of the information obtained; rather, it is solely to establish whether the information indicates the existence of a cognizable offence. This initial assessment is crucial in guiding subsequent investigative actions.
- (vi) *Relevant entries to be made in General Diary/ Station Diary*: It is crucial for the General Diary to contain a comprehensive account of all information received by the police station, especially in cases involving cognizable offences. By ensuring that all relevant details are meticulously recorded in the Diary, law enforcement authorities can maintain a transparent and accountable record of their actions. This practice not only facilitates effective investigation and inquiry processes but also upholds the principles of justice and fairness in the legal system.

Thus, once the information is received by the police disclosing the commission of an offence which is of the nature of cognizable category, then it is his statutory and

bounden duty to register FIR without undue delay in prescribed register and to supply forthwith the copy of the entry made therein to the informant.

4.6.4 Conducting Investigation

Investigation is a systematic approach that involves analyzing all available data, interviewing witnesses, and following leads to establish a clear understanding of the circumstances. Through this methodical process, investigators are able to piece together the facts and ultimately determine the accuracy of the initial claim or allegation. The vital role of the police is detection of crime and conducting thorough investigation in order to apprehend the culprits. This is the exclusive domain of the police, however, under exceptional circumstances, the Magistrates have been given the power to supervise the investigation in order to check and plug the loopholes. Investigation is defined under Sec. 2(h) CrPC (now sec. 2(1)(l) BNSS) as *“investigation includes all the proceedings under the Code for the collection of evidence conducted by a police officer or by any person (other than a magistrate) who is authorized by a magistrate in this behalf”*.

Investigation is the true ascertainment of facts to arrive at a correct conclusion as to who committed the crime. The major phases of investigation are:-

- (a) To determine and document the details related to the perpetration of a criminal act;
- (b) To ascertain the identity of the criminal and any potential accomplices;
- (c) To detain and capture the offenders;
- (d) To obtain, maintain, and assess evidence and
- (e) To submit evidence in a legally acceptable and organized manner in Court.

CrPC contains various provisions which relates to investigation done by the police including search and seizure, arrest of accused persons, conducting test-identification parades, obtaining specimen signatures/ handwritings, medical examination of victim and accused in sexual offences, examination of key witnesses, proper maintenance of case diaries and submission of final report/challan in Court. In the course of investigation, the IO is mandated to inspect the crime scene and obtain evidence at the spot.

Thus, the objective of the investigation is to distinguish between the essential and the trivial, aiming to uncover the truth amidst a landscape filled with partial truths, misunderstandings, falsehoods, and distorted narratives. This process is crucial for achieving clarity and ensuring that accurate information prevails over misleading representations. It is to isolate facts from fairy tales. An investigator is therefore, required to secure all facts, trivial or important, based upon oral or documentary evidence, in shape of physical traces and clues available from crime scene or other different sources, informers, suspects, accused and experts, with an impartial mind.²³ In *State v. Manindra Nath*,²⁴ it was observed by the Hon'ble High Court that the purpose of the investigation is and will always be to ensure that justice is served, not to obtain a conviction through any method necessary. The prime duty of the Investigating Officer is to thoroughly examine the case and determine whether there is enough evidence to identify and apprehend the perpetrator or perpetrators involved in the crime, ultimately leading to their prosecution. It is crucial to emphasize that it is not within the Investigating Officer's jurisdiction to create false information or manipulate evidence in order to build a case.

The investigation should always be completed as speedily as possible. Prompt investigation is necessary in the interest of prosecution as otherwise when the case comes for trial the very delay in investigation may make it difficult for the prosecution witness to remember the details, with the result that even truthful witness would bungle in cross-examination.

4.6.5 Interrogation of suspects

After arresting the accused, in order to ascertain the modus-operandi he is asked various questions which aid in investigation. Such questions which are posed to the accused for the purpose of facilitation of investigation are done through interrogation of suspects. To put it precisely, interrogation is a formal and systematic questioning of a person. However, such questioning needs to be done without resorting to any physical violence and abuse against the suspects. The Supreme Court has also framed guidelines

²³ Sukh Dev Kohli, *Crime, Prevention and Defence Investigators Guide* 57 (Bright Law House, Delhi, 2014).

²⁴ 1960 CrLJ 338 (Cal).

from time-to-time for carrying out interrogation of suspects and prohibited the use of third-degree torture as a mechanism for interrogating the suspects. In *Nandini Sathpathy v. P.L. Dani*,²⁵ case, it was held that any testimony extracted from a suspect directing towards the guilt of the suspect in an atmosphere of pressure, be it direct or indirect, psychological or mental would amount to compelled testimony and is well protected in terms of the provisions of Art. 20(3) of the Constitution of India. Further, the landmark judgment of *Paramvir Singh v. Baljit Singh & Ors.*,²⁶ has emphasized the need of transparency in the police station by fixing CCTV cameras inside the police station and interrogation rooms in order to rule out any human rights violations. This judgment caters to two-fold objective of protecting the police officials from frivolous and vexatious complaints of torture by suspects and also protecting the human rights of the suspects.

4.6.6 Search and Seizure

One of the important functions of the police which are ancillary to investigation is conducting search and seizure of articles so as to aid in investigation. However, it must be kept in mind that there must be a well-defined objective for conducting search of the premises. Search and Seizure may be conducted by the police official either after obtaining warrants or without warrants from the Court. As per Sections 165 and 166 of CrPC (now Sec. 185 & 186 BNSS), the investigating officer may conduct search of any premises in order to carry out further investigation and procuring evidence. According to Sec. 47 of CrPC.(now Sec. 44 BNSS), the police officer while effecting the arrest of an accused, can also search any premises and for that purpose he may break open the doors, etc., for effecting entrance of the premises for arresting/ apprehending the person. However, in case of search of any stolen article or objectionable articles (counterfeit currency, coins, stamps, forged documents, forged seals, obscene material), the search-warrants may be issued by DM, SDM or Magistrate First Class, and the police officer in whose name the search warrants are issued, can conduct the search of the premises. The

²⁵ AIR 1978 SC 1025.

²⁶ Special Leave Petition (Crl.) No. 3543 of 2020 decided on 2.12.2020.

search warrants should specify the police officer who would conduct the search; the place which is to be searched and reasonable time to conduct the search of the premises.²⁷

It is material to note herein that the power to conduct search is not unfettered and certain statutory guidelines must be adopted while conducting search and seizure.²⁸ *Firstly*, while effecting the search of a woman, it must be ensured that it is done by female police officer with strict regards to decency; *secondly*, the search and seizure must be made in the presence of at least two persons of the vicinity; *thirdly*, list of all the articles seized during the process must be prepared and the same should be attested by witnesses; *fourthly*, the person occupying the place to be searched should be allowed to witness the search; *fifthly*, appropriate proceedings may be initiated against the person refusing or neglecting to attend and become witness to a search, without reasonable cause or explanation;²⁹ *sixthly*, the investigating officer should reduce into writing the grounds of carrying out search in the premises; *seventhly*, officer, who wants to conduct the search of the house, should subject himself to search prior to entering the place which is to be searched; *eighthly*, place inside the house from where the article was recovered should be clearly mentioned in the memo and the case diary and other relevant record; *ninthly*, the sketch of the place of recovery or search or seizure should be invariably prepared along-with specific mention of the place from where the article was seized.³⁰ In other words, by way of such measures utmost regard is given to ensure privacy, sanctity of an individual being while at the same time the purpose of conducting search in a criminal investigation is not interfered with. Hence adequate checks and balances are duly established.

The primary objective of these procedural guidelines is to ensure the right to unrestricted access to closed premises upon request, contingent upon the presentation of a

²⁷ N.V Paranjpe, *Criminology & Penology with Victimology* 427 (Central Law Publication, Allahabad, 2018).

²⁸ The Code of Criminal Procedure, 1973, s.100 and The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 103.

²⁹ The Indian Penal Code, 1860, s.187 The Bharatiya Nyaya Sanhita, 2023, s. 222.

³⁰ Sukh Dev Kohli, *Crime, Prevention and Defence Investigators Guide* 242-244(Bright Law House, Delhi, 2014).

search warrant by a police officer. Additionally, these guidelines aim to guarantee that searches are conducted in a transparent and unbiased manner, thereby preventing the potential for police officers to introduce or plant evidence unlawfully.³¹

Further, search and seizure represent a transient disruption of the right to possess the premises that are being searched and the items that are being confiscated. This interference is not permanent and is subject to legal scrutiny and justification. Therefore, it cannot be stated that the same amount to infringement of the fundamental right as enshrined under Art. 19(1)(f) or Art. 20(3) of the Constitution of India. In the landmark judgment of *M.P. Sharma v. Satish Chandra*,³² the Hon'ble Supreme Court had held that search does not offend Art.19(1) (f) or Art. 19 (1)(g) of the Constitution of India, since the invasion of the right is temporary. Similarly, in *Rajmal Heeralal v. Manmal*,³³ it was observed that merely because the accused is made party to the search, it cannot be held that search and seizure amounts to testimonial compulsion, and thereby violative of the provision of Art.20(3) of the Constitution of India.

Although, as per general principle the search of premises and seizure of article must be conducted in presence of independent witness, but there is no such inflexible proposition of law which states that in the absence of impartial witness being associated with search, the seizure cannot be taken into record. But in such like cases, closer scrutiny of evidence would be necessary.³⁴ Further, honest and dedicated efforts should always be made for securing the presence of witness during search.³⁵ Merely, the panchnama witnesses not being from the same locality, is a minor irregularity which does not invalidate the legal process. Upon seizure of the article, the same should be kept inside the police malkhana and entry of the same should be made in the appropriate register.

³¹ Rattan Lal & Dhiraj Lal, *The Code of Criminal Procedure* 184(LexisNexis, Delhi, 2013).

³² AIR 1954 SC 300.

³³ 1989 CrLJ 1279 (MP).

³⁴ *State v. Navjot Sandhu* (2005) 11 SCC 600.

³⁵ *Rakesh v. State* 1994 Supp 3 (SCC) 729.

4.6.7 Conducting Inquest

Another important function ancillary to the investigation of the case is conducting inquest proceedings. The basic idea of conducting an inquest is to ascertain the likely cause of death and to determine whether the individual passed away under suspicious circumstances or as a result of unnatural causes. This legal inquiry serves to clarify the circumstances surrounding the death and to provide answers to any uncertainties that may exist. Sec. 174 and 175 of CrPC (now sec. 194 & 195 BNSS) governs the proceedings pertaining to inquest inquiries in case of death under suspicious and mysterious circumstances. The cases in which the police officer is authorized to conduct inquest inquiries have been mentioned in Section 174 of the Code (Sec. 194 of Sanhita) viz., death by suicide, accident or any other circumstances when death is not natural death. Upon receiving the information regarding death, the police must proceed to the place of occurrence so as to carry out the initial probe in presence of respectable members of the locality. While conducting the aforesaid inquiry, the police officer is supposed to prepare an inquest document specifying the details of the incident, cause of death, reference to any wounds on the body of deceased viz., fracture, injuries etc., recording the statement of witnesses, and stating the weapon or instruments used.³⁶ As per Sec. 175 of CrPC (Sec. 195 of BNSS), the police officer is empowered to summon anyone who is aware about the case for the purpose of recording their statements. The inquest report so prepared by the police officer should invariably disclose the injuries found on the deceased person's body.³⁷ The question regarding the details of the assailant and who caused injuries to the deceased are alien to such inquiry.³⁸ As such the scope of inquiry under Sec. 174 of CrPC (now Sec. 194 BNSS), is very limited. Inquiry under Sec. 174 of CrPC, is limited to the identification of the apparent cause of death and does not extend to other aspects of the case. It is solely concerned with determining the nature of the death and the manner in which the injuries were inflicted. The ultimate goal is to provide

³⁶ The Code of Criminal Procedure, 1973, s.174 The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 194.

³⁷ R.V. Kelkar. *Criminal Procedure* 196 (Eastern Book Company, Delhi, 2008) 196.

³⁸ Rattan Lal & Dhiraj Lal, *The Code of Criminal Procedure* 704 (LexisNexis, Delhi, 2013).

clarity on the circumstances surrounding the death and the possible involvement of external factors.³⁹ The inquest report should be prepared with utmost precision, as the same is to be submitted to the board of doctors, who would be conducting the post-mortem examination upon the body of deceased.⁴⁰

4.6.8 Maintenance of Registers (Rule 22.45 of Punjab Police Rules, 1934)⁴¹

Another primary function of the police personnel is to make entries in relevant register prescribed for the particular purpose, in order to ensure smooth function of the system. Appropriate maintenance of official record by the police facilitates easy detection and prevention of crime. There are various types of registers which are required to be kept at police station and whose proper maintenance and upkeep is the sole responsibility of the Station House Officer.

(a) Register No. I (Rule 22.47)

This register is called First Information Report Register. The purpose of this register is to make entries of FIR in the register. It should be duly paginated and must bear the serial number of case. Every cognizable offence is entered in this register.

(b) Register No. II (Rule 22.48 read with Section 44 of Police Act)

It is known as Daily Diary Register and is maintained by means of carbon copy process. Rule 22.49 of Punjab Police Rules, contains the list of matters which are to be entered in the register. Sec. 44 of Police Act, 1861 enshrines that it is the responsibility of each police station officer to maintain a general diary in a format specified by the State Government, where all complaints, charges, names of arrested individuals, complainants, offences, confiscated weapons or property, and witness names are recorded. The Magistrate of the district has the authority to request and review this diary.

The said register contains the entries pertaining to information disclosing non-cognizable offences; the names of arrested person and their details of remand and arrest; the hour of arrival and departure of police personnel and nature of their duty; every

³⁹ *Radha v. State*, AIR 2006 SC 951.

⁴⁰ R.V. Kelkar, *Criminal Procedure* 196 (Eastern Book Company, Delhi, 2008).

⁴¹ The Punjab Police Rules, 1934, 3 (22) 598-610 (State of Punjab, 1980) available at: <https://punjab.xp.com/wp-content/uploads/Punjab-Police-Rules-III.pdf> (last visited on February 24, 2021).

officer returning from any investigation shall record his arrival qua the investigation conducted, places visited, property seized; all case property received and seized from Police Malkhana; the exact time of receipt and of service or execution of processes; report regarding properties in malkhana (Store Room).

(c) Register No. III (Rule 22.53 Punjab Police Rules)

This register contains all the standing orders issued by CP, ACP and DCP respectively. In addition to this, it shall also include the circulars and orders pertaining to instructions issued to the police personnel.

(d) Register No. IV (Rule 22.54 Punjab Police Rules)

This register contains the names of all absconders and deserters. As per the provisions of Sec. 82 of CrPC, once proclamation has been issued against the accused regarding his presence and the person is declared proclaimed person by the Court, then entries of such person is made in this register.

(e) Register No. V (Rule 22.55)

The police station is required to keep a Correspondence Register which will include a concise summary of all reports, orders, letters, and communications received at the station. Additionally, this register will also contain records of summons and warrants that have been received.

(f) Register No. VI (Rule 22.56)

It is miscellaneous register containing entries of all Kalandra (Complaints), list of persons of security, carbon copies of all inquests.

(g) Register No. IX (Rule 22.59)

This register is called the Village Crime Register. It contains the record of crime registered in the area of each police beat. It also contains the details of criminals of the area who are residing in the area of beat and those who have been arrested or suspicious of being involved in criminal activities. Furthermore, the database should contain details about individuals of dubious reputation and descriptions of prominent locals who aid or profit from criminal acts or harbor fugitives. It should record the activities of criminal

organizations in the region, as well as conflicts between individuals, families, and communities. Moreover, it should compile a roster of respected community members who are able to provide information about proclaimed offenders. It should also contain the entries of convicts as per Rules 22.60.

(h) Register No. X (Rule 22.61)

This register is called the Surveillance Register. It contains the list of persons who have been declared as proclaimed persons/proclaimed offender as per Sec. 83 of CrPC, as well as all released convicts in regard to whom an order under Sec. 356 of CrPC is made alongwith all convicts whose execution has been suspended; habitual offenders.

(i) Register No. XI (Rule 22.62)

It is called the Index Register and it contains the details of history sheet and index files.

(j) Register No. XII (Rule 22.63)

It is the Information Sheet Dispatch Register for determining the backgrounds of individuals who reside in a different police precinct and it is a crucial aspect of law enforcement investigations. By thoroughly investigating the antecedents of these persons, authorities can gather valuable information that may aid in solving cases or preventing criminal activities. This process involves conducting thorough research and analysis to uncover any relevant details about the individuals in question. This register is required to be kept in terms of Rule 23.17 of Punjab Police Rules. The information sheet of arrested persons is required to be prepared at the time of arrest; at the end of investigation and trial.

(k) Register No. XII-A (Rule 22.63)

Upon receipt of information sheet, the SHO shall make an entry in the register in terms of Rule 23.17(6) of Punjab Police Rules.

(l) Register No. XIII (Rule 22.64)

The Minutes Books Register is to be maintained for the purpose of recording the remarks of Gazetted Officer visiting any thana(police station).

(m) Register No. XIV (Rule 22.65)

The File Book of Inspection Reports Register contains the inspection reports by Gazetted Officers.

(n) Register No. XV (Rule 22.66)

Vital Statistics contained in the records of municipal bodies are recorded in this Register. It contains details of entries in death and birth register, deaths due to plague etc.

(o) Register No. XVI (Rule 22.67)

It contains entries of police officers of a particular police station with their appointment and transfers and should be maintained in terms of Form 22.67 (B) along with the Government property in use and on the charge of the police station.

(p) Register No. XVII (Rule 22.68)

This is known as the Register of Licences, containing entries of all persons having Arms Licence under the Arms Act; licenses under the Excise Laws, Explosive Act, Petroleum Act, Poison Act; list of hotels, sarai, guest houses etc. It should be kept strictly in accordance with Form 22.68.

(q) Register No. XVIII (Rule 22.69)

This register contains entries of the weapons which are deposited, seized or recovered and taken to the police station.

(r) Register No. XIX (Rule 22.70)

All items stored in the store-room must be recorded in the register, and any removal of these items should be documented in the corresponding column of the register. This register is required to be kept in terms of Form 22.70. All case properties, articles of personal search, properties seized and released are to be entered in the register. The entries of properties seized and kept in the malkhana should be attested by the Malkhana Moharar and Investigating Officer.

(s) Register No. XX (Rule 22.71)

The Accounts Register contains entries pertaining to cash receipts and disbursement of pay, travelling allowance etc.

(t) Register No. XXI (Rule 22.72)

The Road Certificate Register contains entries of all sums of money, articles of Malkhana and Challans of cases sent from the police station. Each Certificate is required to be numbered serial wise and should be kept in accordance with Form 10.17.

(u) Register No. XXII (Rule 22.73)

The Printed Receipt Book is required to be maintained in each police station in terms of form 10.14. All sums of money received in the police station must be recorded in the receipt book and signed by the SHO or Station Clerk.

(v) Register No. XXIII (Rule 22.74)

Police Gazette and Criminal Intelligence Gazette are maintained in this register.

(w) Register No. XXIV (Rule 22.75)

The copies of Police Rules are kept in this register.

(x) Register No. XXV (Rule 22.76)⁴²

This is called the Confidential Register, in which the SHO should write all confidential notes, upon his transfer, for the benefit of new incumbent. It may contain important information pertaining to character and capacity of member of staff; residents who are useful to the police; special factors affecting crime.

4.7 DUTIES OF POLICE

The Criminal Law in India follows the principle of “due process of law”. All actions carried out by individuals, the Executive, Legislature, or Judiciary must adhere to the legal framework. The police, as enforcers of the law, fall under this jurisdiction as well. In their role of upholding law and order, as well as in the investigation and prosecution of cases, the police interact directly with the public. The powers granted to the police are meant to facilitate the efficient execution of their duties, not to be abused for personal gain or to demonstrate authority or arrogance.⁴³ In line with the rule of law concept, various legislations have stipulated the duties of police.

⁴² *Ibid.*

⁴³ Functions, Role and Duties of Police in General, 343 BPRD (Ministry of Home Affairs) available at: <https://bprd.nic.in/WriteReadData/userfiles/file/6798203243-Volume%202.pdf> (last visited on May 12, 2023).

As per *Section 22 of the Police Act, 1861*, each police officer is to be regarded as constantly on duty and can be utilized as a police officer in any area of the overall police district at any given moment. This provision highlights the fact that the job requires an officer to be 24*7 on toes, alert and vigilant.

Further *Section 23⁴⁴* lays broad & general duties of police personnel to inter-alia include:

- (i) Obedience to orders and warrants as issued by higher authorities;
- (ii) Collection of evidence and intelligence of issues likely to affect public tranquility;
- (iii) Prevention of crime and nuisance;
- (iv) Detecting & apprehending offenders;
- (v) Entering and inspecting without warrant drinking shops, gaming house or other similar places.

The duties of police are also mentioned under the *Model Police Act, 2006*. *Section 57* of the Act enumerates the various role, functions and duties of police to include as under:⁴⁵

- (a) *Protection of life, dignity and upholding of law*: to maintain and implement the law without bias, while safeguarding the life, freedom, property, human rights, and dignity of all individuals within the community;
- (b) *Public order*: to uphold and maintain public order;
- (c) *Protection from issues affecting internal security, terrorism and communal riots*: in order to safeguard internal security, it is necessary to take measures to prevent and manage terrorist activities, breaches of communal harmony, militant activities, and other incidents that may impact internal security;
- (d) *Protection of public property*: safeguarding public assets such as roads, railways, bridges, critical infrastructure, and facilities from vandalism, violence, or any form of assault;

⁴⁴ The Police Act, 1861, s. 23.

⁴⁵ Available at: https://www.mha.gov.in/sites/default/files/ModelAct06_30_Oct_0.pdf. (last visited on February 23, 2021).

- (e) *Preventive action*: in order to deter criminal activities, police agency should take proactive steps to minimize opportunities for crimes to occur. Additionally, they should collaborate with other pertinent organizations to effectively implement crime prevention measures;
- (f) *To register complaints and perform requisite follow-up*: it is essential to thoroughly document all grievances presented by a complainant or their representative, whether submitted in person, via postal service, email, or other methods, and to take immediate follow-up actions after formally acknowledging the receipt of the complaint;
- (g) *Registration of F.I.R and assistance in prosecution of offenders*: the police is required to register and look into all cognizable crimes reported to them through complaints or other means, and to provide the complainant with a copy of the First Information Report. They should also apprehend the perpetrators when necessary and provide necessary support in prosecuting them;
- (h) *Prevention of conflicts in community*: to establish and uphold a sense of safety within the community, while striving to minimize disputes and foster harmony;
- (i) *Assistance in case of distress situation*: the primary objective is to offer immediate assistance to individuals affected by natural or man-made disasters, as well as to collaborate with other organizations in relief efforts. Additionally, the goal is to support those at risk of harm to themselves or their belongings, and to provide essential aid to those in distress;
- (j) *Regulation of traffic*: to ensure smooth flow of people and vehicles, as well as to manage and oversee the movement of traffic on streets and expressways and to supervise and govern the flow of traffic on streets and highways;
- (k) *Collection of intelligence*: gathering information pertaining to issues impacting public order, as well as various criminal activities such as social misconduct, communal violence, extremism, terrorism, and other national security concerns, is essential. This information is then shared with relevant authorities and necessary actions are taken accordingly;

- (l) *Custody and disposal of unclaimed property*: it is the responsibility of the police officer on duty to assume control of all unclaimed property and to proceed with their safekeeping and disposal as outlined in the prescribed procedure.

Social responsibilities: The social responsibilities have been enshrined under *Section 58 of the Model Act, 2006*,⁴⁶ which are as follows.

- (i) *To behave warmly and respectfully with public*: it is important to treat the members of the public with respect and proper behavior, especially when interacting with senior citizens, women, and children;
- (ii) *Guidance and assistance of persons in need*: to provide guidance and support to individuals in need, including senior citizens, women, children, the impoverished, and those with physical or mental disabilities, who are found in vulnerable situations on the streets or in public areas, and require assistance and safeguarding.;
- (iii) *Assistance of road accident victims*: to offer comprehensive support to individuals affected by traffic incidents, ensuring that they receive immediate medical attention without regard to medico-legal procedures, while also aiding them in obtaining compensation and pursuing other legal claims;
- (iv) *Special attention towards weaker sections and minorities*: it is crucial to guarantee that the police consistently adhere to the principles of impartiality and human rights norms, particularly in times of conflict among communities, classes, castes, and political groups, while also prioritizing the protection of vulnerable groups such as minorities;
- (v) *Women and children must be safeguarded from sexual harassment*: the safeguard encompasses stalking, making offensive gestures, signs, remarks, or any form of harassment;

⁴⁶ Ritika Sharma, “Who is Police. What are powers and Duties of Police?” *Law Times Journal* Dec. 27, 2019, available at: <http://lawtimesjournal.in/who-is-police-what-are-powers-duties-of-police/> (last visited on February 23, 2021).

- (vi) *Protection of public from criminal exploitation*: to provide all necessary support to the general public, especially women, children, and impoverished individuals, in order to protect them from criminal exploitation by individuals or organized groups;
- (vii) *Proper facilities to persons in custody and to ensure legal aid facilities*: to ensure that all individuals in custody receive legally permissible food and housing, and inform them about the legal aid programs offered by the Government. Additionally, to notify the relevant authorities about these matters.

4.8 GOVERNMENT OF INDIA CODE OF CONDUCT FOR POLICE

Code of conduct for police in the country which was adopted at the Conference of the Inspectors General of Police in 1960,⁴⁷ which is as follows:

1. *Allegiance to Constitution*: it is imperative that the police maintain unwavering loyalty to the Constitution of India and honour the rights of the citizens as protected by it;
2. *Absence of bias, fear and favour*: it must uphold all laws that have been properly enacted, without questioning their validity or necessity. It is their duty to enforce the law fairly and without bias, showing neither fear nor favoritism, malice nor vindictiveness;
3. *To not usurp the powers of other functionaries*: police must acknowledge and adhere to the boundaries of their authority and duties. It is imperative that they refrain from overstepping or appearing to overstep the responsibilities of the judiciary by presiding over cases to seek retribution for individuals and penalize the culpable;
4. *To resort to minimum force*: when ensuring compliance with the law or preserving order, law enforcement should, to the greatest extent possible, employ persuasion, guidance, and caution. If the use of force becomes necessary, only the absolute minimum force necessary for the situation should be utilized;
5. *Duty to prevent crime and disorder*: it is the foremost responsibility of the police

⁴⁷ Government of India, The Ministry of Home Affairs, Letter No. VI-24021/97/84- GPA.1, dated 4.7.1985 and 10.7.1985, available at: https://www.humanrightsinitiative.org/publications/police/police_organisations.pdf.

- to deter crime and maintain order, and they should understand that their effectiveness is measured by the lack of both, rather than the observable evidence of their intervention in addressing these issues;
6. *Police also an integral part of the society*: to acknowledge that they belong to the community, albeit with the added responsibility of dedicating their full time to tasks that are typically expected of every individual for the benefit of society;
 7. *To retain public respect and confidence*: the police must understand that the effectiveness of their work hinges on the level of cooperation they receive from the community. This, in turn, is contingent upon their capacity to gain public approval for their behavior and decisions, as well as to establish and maintain public trust and confidence;
 8. *Welfare of people to be the priority*: the police must prioritize the well-being of the public, show empathy and understanding towards individuals. They should be prepared to provide personalized support and build relationships, offering help to everyone regardless of their financial status or social position;
 9. *To place duty before self*: it is imperative for law enforcement officers to prioritize their responsibilities over personal interests, exhibit composure in challenging situations, and be willing to make the ultimate sacrifice to safeguard the lives of others;
 10. *Courteous and well mannered*: they are expected to exhibit courtesy and good manners at all times, to be reliable and unbiased, to demonstrate dignity and bravery, and to build trust and character among the community;
 11. *High Level of integrity*: the utmost integrity serves as the cornerstone of the police's esteemed reputation. Acknowledging this principle, law enforcement officers are required to maintain impeccable private lives, cultivate self-discipline, and uphold truthfulness and honesty in both their personal and professional conduct. This commitment ensures that the public perceives them as model citizens;
 12. *Discipline, faithful performance, loyalty to the force*: the police must acknowledge their capacity to serve the State to the fullest. This can be guaranteed through upholding a strict code of discipline, carrying out duties faithfully within the boundaries of the law, obeying orders from higher ranks, showing unwavering loyalty to the force, and consistently engaging in training to stay prepared;

13. *To promote harmony and spirit of common brotherhood:* in their capacity as representatives of a secular and democratic state, the police must consistently endeavor to overcome personal biases and foster unity and a sense of shared brotherhood among all citizens of India, regardless of religious, linguistic, or regional differences. Additionally, they should reject any practices that undermine the dignity of women and marginalized groups within society.⁴⁸

4.9 CHANGING ROLE, POWER AND FUNCTIONS OF POLICE UNDER THE NEW CRIMINAL LAWS

The three new criminal laws were introduced on 01.07.2024 which replaced the existing Criminal Laws. The Bharatiya Nyaya Sanhita (BNS) came in place of the Indian Penal Code, 1860 to be the substantive law which deals with crimes and punishment for criminal acts. The Bharatiya Nagarik Suraksha Sanhita (BNSS) has replaced the Code of Criminal Procedure, 1973. BNSS is the procedural law governing various aspects relating to arrest; search; seizure; confession; investigation; trial etc. The Bharatiya Sakshya Adhiniyam (BSA) came in place of the Indian Evidence Act, 1872 and is dealing with the aspect of admissibility and reliability of evidence in Courts. The New Criminal Laws have either introduced some new provisions or retained the existing provisions either completely or with minor amendments. Some of the key highlights of the new Legislations are mentioned herein below:

4.9.1 Concept of Zero FIR

For the first time, the concept of zero FIR has been introduced in the criminal laws. It implies registration of FIR irrespective of jurisdiction. Earlier, the FIR could only be lodged at the police station having the territorial jurisdiction, but with the introduction of New Criminal Laws, the concept of territorial jurisdiction has been done away with.

⁴⁸ Government of India, Ministry of Home Affairs, Letter No. VI-24021/97/84-GPA.1, dated 04.07.1985 and 10.07.1985, available at :<https://police.py.gov.in/MHA%20-%20Model%20Code%20of%20Conduct%20-%20Indian%20Police.pdf>(last visited on February 03, 2021).

Under Sec. 173 (1) BNSS, FIR can be registered at any police station irrespective of the area, where the offence is committed.

4.9.2 FIR through electronic means

With the advancement of information technology, the new laws have introduced the concept of E-FIR. As per Sec.173 (1) (ii) of the BNSS, it allows the facility of institution of E-FIR without visiting the police station physically. However the same has to be signed by the informant within 3 days, so as to ensure its veracity.

4.9.3 Preliminary inquiry

Preliminary Inquiry prior to registering FIR in cognizable cases punishable with 3 years to upto 7 years, is a new provision added under the new laws, which did not find mention in CrPC. According to Section 173(3) BNSS, certain conditions for conducting preliminary inquiry have been mentioned. This section provides that the Officer in-charge of the police station may with the permission of Deputy Superintendent of Police conduct preliminary inquiry to ascertain whether there is any *prima facie* case, for proceeding in the matter. However, such preliminary inquiry must be completed within 14 days.

4.9.4 Forwarding Daily Diary Reports to Magistrate once in 14 days

As per Sec. 174, BNSS, the Officer in charge of Police Station must forward the daily diary reports of information regarding non cognizable cases once in 14 days to the Magistrate. This specific timeline was not stipulated under CrPC.

4.9.5 Recording of statements of Rape Victims:

Specific provision has been incorporated under Sec.176 BNSS, in relation to the offence of rape, for the purpose of recording of the statement of victim, which is to be conducted at the residence of victim or at the place of her choice, particularly, by a woman police officer in the presence of her parent or guardian or near relative or social worker of the locality. Further, this provision provides that such statement may also be recorded by audio-video electronic means including mobile phone. Similar provision is provided for recording statement of victim of sexual assault, under Section 180 BNSS.

The aspect of recording statements of rape victim or victim of sexual assault through mobile phone was never dealt with under the CrPC.

4.9.6 Women, persons above 60 or with acute illness not bound to attend Police station

As per Section 179 BNSS, no male person under 15 years or above 60 years of age; no woman or mentally/physically disabled person and person with acute illness, shall be personally called to police station for the purpose of getting their statements recorded. But, in case the said person is willing to attend the police station he or she may be permitted to do so.

4.9.7 No arrest of aged or infirm person without permission of Dy. SP in offences punishable with less than 3 years imprisonment

Sec. 35 BNSS, specifically enumerates that in case of offences punishable with less than 3 years of imprisonment no arrest of a person, who is infirm or above 60 years of age shall be made without the prior permission of Deputy SP. The said provision was absent in the CrPC.

4.9.8 Appointment of Designated Police Officer in every Police station for maintaining the record of arrested persons and displaying it in digital mode

As per Section 37 BNSS, an officer, not below the rank of ASI, shall be appointed as Designated Police Officer in every Police station, who shall maintain and display, in digital mode, the information regarding name, address, nature of the offence of the arrested person at Police Station and District Headquarter.

4.9.9 Information of arrest to Designated Police Officer

Section 48 BNSS specifically provides that the police officer effecting arrest is required to inform about arrest of person firstly to the relatives or friends of arrestee and also to the Designated Police Officer.

4.9.10 Arrest by private person

Section 40 of BNSS states that where an arrest is made by a private person, the arrested person must be handed over to the police within 6 hours of arrest. The stipulated time period was missing under the CrPC.

4.9.11 Handcuffing

Although, the Supreme Court has deprecated the practice of use of handcuffs by the police, but the BNSS allows the police to use the handcuffs against the arrestee under certain cases. Sec.43 (3) BNSS permits the use of handcuffs on accused person who is a habitual or repeat offender; person who has escaped from custody; person accused of organised crime, terrorist act, drug related crime, illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children or offences against State.

4.9.12 Medical Examination

Earlier, under the CrPC an application for the medical examination of accused could be moved only by a police officer of the rank of SI, but now under BNSS, Sec. 51 and 52 any police officer can move an application for the medical examination of accused.

4.9.13 Medical report of Victim in Rape cases to be submitted within 7 days

Section 184 BNSS enjoins a duty upon the Medical Officer to forward the Medico-Legal Report (MLR) to the investigating officer within a period of 7 days, and further the IO is duty bound to forward the report to the Magistrate alongwith the Police Report.

4.9.14 Medical examination report of accused to be given without delay

Sec. 52 BNSS enshrines that the Medical Officer would, without any undue delay forward the Medico-Legal Report (MLR) to the investigating officer.

4.9.15 Remand

Significant change in seeking police remand has been introduced under BNSS. Earlier, according to the CrPC, the police could seek police remand only during the initial 15 days from the date of arrest. However, as per Sec. 187(2) BNSS, it has given ample power to the police to seek the remand of the accused even after the initial 15 days. It provides that the police remand may be sought within first 40 days of arrest in cases where the offence is punishable with less than 10 years imprisonment and within first 60

days of arrest in cases where the offence is punishable for more than 10 years imprisonment. But the period of remand remains the same, which is 15 days.

4.9.16 Search

Under the BNSS, recording of search and seizure through audio-video electronic means has been introduced. Sec. 105 and Proviso to Sec. 185 (2) BNSS deals with the said provision. The Officer In-charge of Police Station or IO shall record the whole process of search by any audio-video electronic means preferably by mobile phone. The audio-video recording of search is to be sent to DM, SDM or JMJC without any delay and within 48 hours. The IO is duty bound to forward the copies of the following record within 48 hours to the competent Magistrate:

- a) Reasons for conducting search;
- b) Reason for not conducting search in person and deputing subordinate police officer in case someone else is deputed by IO to conduct search;
- c) The details of search proceedings.

4.9.17 Attachment, Forfeiture or Restoration of Property

Sec. 107 BNSS introduces the procedure for attachment of property of criminals, derived from criminal activity and its distribution. The BNSS gives ample power to the Investigating Officer, who, with the approval of Superintendent of Police or Commissioner of Police, can move an application before the competent Magistrate for the attachment of property made from criminal activity or from the commission of any offence.

4.9.18 Inquest Report

The BNSS lays down the timeline for submitting the Inquest report. Sec. 194 to 196 BNSS deals with the provision relating to Inquest proceedings. It provides for forwarding the inquest report to the SDM within a period of 24 hours. It also enshrines that the inquest report ought to be signed by Officer Incharge/IO and other persons, and the same is to be forwarded to the DM or SDM by police within 24 hours. It is relevant to state that no such timeline was provided under CrPC.

4.9.19 Investigating Officer to supply the copies of Police report through electronic means to Magistrate

The BNSS has taken note of the advancement in information technology and incorporated a provision for submission of copies of police report alongwith other documents duly indexed to the Magistrate, through electronic means. Sec. 193(8) BNSS deals with the said provision. Upon receipt of the police report, the Magistrate shall supply those documents to the accused and victim as required in terms of the provision of Sec. 230 BNSS.

4.9.20 Trial in-absentia of Proclaimed Offender

The BNSS has introduced a specific provision for conducting trial in-absentia of Proclaimed Offender, under Sec. 356 BNSS. This section allows the trial and pronouncement of judgment even in the absence of the accused, which was not provided earlier under CrPC. Section 356 of the BNSS mandates the Court to proceed with the trial in-absentia when a person, declared as a Proclaimed Offender, has absconded to evade trial, and there is no immediate prospect of arresting him. It also specifies a mandatory waiting period of ninety (90) days from the date of framing of the charge before commencing the trial. A peculiar distinction between the BNSS and CrPC is that the latter allowed evidence to be recorded in the absence of the accused under Sec. 299 CrPC, but did not provide for trial to be completed or for judgment to be pronounced against Proclaimed offender

4.9.21 Forensic aid in heinous crime investigation

Sec. 176 (3) of BNSS mandates the collection of forensic evidence at the crime scene by a forensic expert for offences punishable by imprisonment of 7 years or more. However, the said provision is to be implemented within 5 years during which such capacity is to be developed by the State Government and the State Government would also notify regarding utilization of forensic facility of any other State until State develops such facility.

4.9.22 Minimum SP rank officer to be Special Executive Magistrate

In the Commissionerate area, the officer of the rank of Superintendent of Police may be appointed as a Special Executive Magistrate, in terms of Sec. 15 BNSS.

However, under the CrPC, Dy.S.P/A.C.P rank officer could be appointed as a Special Executive Magistrate

4.9.23 E-Service of Summons:

The BNSS provides for effecting the service of summons through electronic communication, in terms of Sec. 64(2).

4.9.24 Summons to produce document or other things

Sec. 94 BNSS, provides that any Court or office In-charge of Police station can demand production of electronic communication including communication device, which is likely to contain digital evidence. The earlier code, CrPC did not contain any specific provision for summoning the electronic record.

4.9.25 Plea Bargaining

The BNSS has prescribed the timeline for plea bargaining by the accused. Under Sec. 290(1) BNSS, an application for plea bargaining can be made by the accused, in the Court, where trial for said offence is pending, within a period of 30 days from the date of framing of charge and not thereafter. However, no timeline was prescribed under the old code, in terms of Sec. 265-B (1) CrPC, which stated that the accused could apply for plea bargaining even after framing of charge or during prosecution evidence.

4.9.26 Immunity while following orders of Executive Magistrate:

Under the BNSS, police officials have been given a layer of immunity in cases of dereliction while carrying out duties on the orders of an executive magistrate to disperse unlawful assembly. In such cases, police officers cannot be prosecuted without the sanction of the government.

4.9.27 Preventive action of Police:

Section 172 BNSS provides that the people must conform to the directions of the police issued in the course of preventing the commission of a cognizable offence. The said provision allows a police officer to detain such person and produce them before a magistrate or, in petty cases, release the person as soon as possible within 24 hours.

4.9.28 Production of arrestee before any Magistrate :

As per Sec. 58 of the BNSS, police personnel can now produce an arrestee before any Magistrate within 24 hours even if the Judicial Magistrate does not have jurisdiction. The said provision was absent in the old code, CrPC.

4.10 ROLE OF JUDICIARY IN PROTECTING HUMAN RIGHTS OF POLICE PERSONNEL IN INDIA

The Hon'ble Courts have time and again highlighted the plight of police personnel in India and have issued series of directions to ensure that human rights of police personnel are adequately addressed and protected. In numerous cases, the Hon'ble Courts have touched upon the various facets of police functioning such as investigation, level of autonomy, working conditions, status of mental and physical health, training, level of redressal mechanism at workplace, VIP protocols and standard means to ascertain the need for a security cover etc. to name a few and issued necessary directions. In most of the cases, the Hon'ble Courts highlighted the dire need of police reforms in the country.

4.10.1 Prakash Singh & Ors. v. UOI & Ors.⁴⁹

This is one of the landmark judgments in the Indian History which brought to light the plight of the police personnel and recommended significant reforms in the police system in India. The case is significant also on account of reason that the person moving Public Interest Litigation and seeking justice for police personnel was none other than a retired DGP of UP and Assam Police. Taking note of the precarious situation, a slew of directions were issued by the Hon'ble Apex Court which ultimately culminated in the enactment of new police legislations.

The Seven Directives are briefly mentioned below:

1. Constitution of State Security Commission (SSC) ;
2. Selection and minimum tenure of DGP;
3. Security of tenure for officers on operational duties;

⁴⁹ (2006) 8 SCC 1.

4. Separation of investigation from law & order;
5. Constitution of a Police Establishment Board in each District ;
6. Establishment of a Police Complaints Authority at the district level and
7. National Security Commission to be constituted by the Central Government at Union Level.

4.10.2 Political interference at workplace

In *Robin Tirkey v. State of Jharkhand*,⁵⁰ the Petitioner had assailed the Government Notification relating to appointment of constables in Jharkhand Police Force wherein it had lowered the minimum education qualification from class X to class VII and without giving any adequate weightage to higher education qualification. It was held that the question relating to the recruitment of constables was dealt with in the reports of Committee of Police Reforms by K Padmanabhaiah wherein it had recommended that for constables, minimum educational qualification should be X Standard. Even the National Police Commissions' (5th Report) contained similar recommendation and provided for additional weightage for higher educational qualification. The Court held that with fast technological development giving rise to new dimensional crimes in the form of cyber-crimes, IT-related crimes, e-commerce related crimes, IPRs, a need is felt in the society to have well qualified and sophisticated policing to deal with such new crimes. Further, the Court was surprised by the act on the part of the State of Jharkhand to drop down the minimum educational qualification for recruitment of constables despite large number of well qualified, unemployed youth being available. Accordingly, the provision regarding lowering the educational qualification for appointment of constable and not giving bonus marks for enhanced educational qualification was struck down.

In *Bihar Policemen's Association & Anr. v. State of Bihar & Ors.*,⁵¹ the Court had invalidated the modification in the recruitment of the Constables where the State of Bihar had lowered the minimum educational qualification of candidates from Standard X to Standard VII as the same was contrary to the recommendations of Commissions on Police Reforms.

⁵⁰ W.P. (S) No. 1458 of 2004 decided on 30.03.2005 (Jharkhand) Law Finder Doc Id # 543199.

⁵¹ 2000 (1) BLJR 121.

4.10.3 Revamping of investigative techniques

In *Utpal Mandal @ Utpal Mondal v. State of Orissa*,⁵² it was observed by the Court that there is a dire need for sensitization of police personnel in cases related to POCSO Act/ sexual offences, so that the perpetrators could be booked. The Court further stated that in such like matters, the identity of victim ought not to be revealed by the police. Again, in *Manas Mandar Godbole v. State of Maharashtra*,⁵³ the Court had advocated for adequate training of police personnel so as to make them well acquainted with the latest provisions of criminal laws. Further, in *Karam Singh @ Salu v. State of Punjab*,⁵⁴ it was observed that dedicated training should be given to the police on the chapters of Fundamental Rights, in order to ensure that the same are protected. Again, in *Bhupender Singh v. State of Haryana*,⁵⁵ the Court while lamenting upon the shoddy investigations in NDPS case had directed the DGPs of Punjab & Haryana to send the police officers for extensive training in Dharamsala, Himachal Pradesh and to learn the skills of investigation in drug related cases. Even, in *Laxmibai Chandaragi B. v. State of Karnataka*,⁵⁶ it was observed that there is urgent need of training of police personnel to deal with socially sensitive cases such as inter-caste marriages etc.

Due to lack of proper training amongst the police personnel, the provisions of criminal law are sometimes not adhered to. The police transgress its power at the time conducting investigation. In the case of *Sanuj Bansal v. State of UP & Anr.*,⁵⁷ it was held that the confessional statement recorded during police interrogation cannot be included during charge-sheet.

Further, in *Bala Murugan v. State of Madras*,⁵⁸ the judicial notice of the low rate of conviction was taken and it stressed upon the need for imparting adequate training to the officers in conducting investigations. It was noted that in cases relating to theft, despite finger

⁵² SLP No. 8058 of 2024, decided on 12.05.2023(SC).

⁵³ (Crl.) W.P. No. 2920 of 2021, decided on 20.2.2022 (Bom).

⁵⁴ 2023:PHHC:156041.

⁵⁵ 2024 : PHHC:025290 (DB).

⁵⁶ LL 2021 SC 79.

⁵⁷ SLP (Crl.) 10536 of 2023 (SC).

⁵⁸ Crl. A (MD) 39 of 2015, decided on 8.9.2020 (Mad).

prints being available, the same were not taken. Even if they were taken, they were not sent for forensic examination. In murder related investigations, essential call records were either not obtained from service providers or, if they were, they were not presented before the Court. Despite the advancements in scientific methods available to identify the true perpetrator, the investigative agencies have failed to implement these techniques. The Hon'ble Court further relied upon the judgment in *Prakash Singhs'* case to hold that there must not be any political and executive interference, for upholding the rule of law. It was further observed that even though the Tamil Nadu Police Reforms Act was enacted in 2013, it was not implemented in letter and spirit as per the recommendations and directions of Hon'ble Supreme Court in *Prakash Singhs'* case. The Court also referred to the case "*R. Rajendran v. State of Tamil Nadu*"⁵⁹, where report was sought from the DGP regarding the implementation of the directions given by the Apex Court in *Prakash Singh's case*, but till date, the State Government had not filed any such affidavit in that regard.

In *Sk. Shanoor Islam v. State of West Bengal & Ors.*,⁶⁰ the Hon'ble High Court remarked that while the maintenance of law and order is a crucial responsibility of the police, the integrity of the investigative branch must not be undermined. The efficacy of criminal investigations is significantly hampered by inadequate inquiry processes, highlighting the dire need for police reforms in the State to separate law enforcement from investigative duties. In the present case concerning the search for a missing minor girl, the police failed to locate her and repeatedly requested extensions. The Station House Officer submitted a report indicating his inability to find the minor. The Court reiterated that, despite the importance of upholding law and order, the investigative function must remain intact. Furthermore, the Hon'ble Court directed that this Order be communicated to the Chief Secretary and the Home Secretary of the State to ensure appropriate actions are taken in accordance with the *Prakash Singh & Ors. v. Union of India & Ors.*, ruling, noting that police reforms have been pending for over a decade following that decision.

⁵⁹ W.P. (MD) No. 15726 of 2019, decided on 16.07.2019.

⁶⁰ W.P. 5395 (W) of 2020, decided on 2.6.2020 (Cal).

Further, in *Gamken Bam v. State of AP & Ors.*,⁶¹ in this case a PIL was moved by a practicing lawyer wherein he drew attention towards the non-compliance of Prakash Singhs' judgment directives particularly of separating law & order from investigation. The Petitioner lamented that in most of the cases, the culprits are exonerated of the charges due to insufficient and shoddy investigation. In most of the cases, the acquittal was pronounced due to some non-compliance of the statutory provisions by the Investigating Officer.

Similarly, in *Suresh Yadav v. State of Jharkhand*,⁶² expressing its dissatisfaction and apathy in the existing state of affairs of police force in the State, the Court found that due to improper investigation, large number of convicts go scot free. The Court ordered the Judicial Academy Jharkhand to prepare a productive scheme and module to impart training to the police investigating officers so as to carry out the investigation in an effective & efficient manner. Also, in *Shivappa @ Shivanand Hittangi v. State of Karnataka*,⁶³ slew of directions were issued to the DGP, the Directorate of Public Prosecution and HC Registrar to make arrangements for necessary training of their officers as regards receiving, handling, storage and use of electronic evidence. In this case, the Court reversed the conviction pronounced by the Trial Court as the investigation was lacking in terms of details and the chain of investigation failed to establish guilt of the accused beyond reasonable doubt.

Furthermore, in *Waseem v. State of Uttar Pradesh & Another*,⁶⁴ the Court had instructed the government officials to hold a meeting to discuss the necessary measures for reforming the investigation system. The Hon'ble Court observed that there were various infirmities found in the manner of handling investigation by investigating officers such as provisions of Section 161(3)CrPC were not been followed by the investigating officers in the true sense. The State Government assured the Allahabad High Court to implement the directions in 2 months.

⁶¹ PIL No. 9 of 2022, decided on 23.08.2022 (Gau).

⁶² B.A. No. 3910 of 2022, decided on 2.5.2022 (Jhar).

⁶³ *Crl. A No. 100187 of 2017, decided on 4.11.2022 (Kar).*

⁶⁴ *Crl. Misc. No. 16103 of 2022, decided on 26.07.2022 (All).*

In re State of Assam,⁶⁵ a significant step was taken towards ensuring compliance of the directions in the Prakash Singh case on Police reforms. In this case, 791 officials of Assam Police were identified and ear-marked for the purpose of investigation duty with a bid to detach the investigating branch from law enforcement branch/duty. Further, emphasis was made on their training by higher officers of police and judicial academy. Similarly, 120 officials of Mizoram Police were identified for the purpose of investigation (80 for general offences and 40 for specific offences) that would undergo training with higher authorities and judicial academy. On the same lines, the state of Arunachal Pradesh identified 75 police officials exclusively for investigation duty who would undergo training.

Further, in *Rajesh & Anr. v. State of Madhya Pradesh*,⁶⁶ the Court expressed profound concern regarding the inadequate investigation conducted by police in a matter solely reliant on circumstantial evidence. The Honorable Court noted with regret that the paramount principle of "proof beyond reasonable doubt," particularly in cases founded on circumstantial evidence, must take precedence. It may be imperative to establish a uniform and reliable framework for investigation, complete with obligatory and comprehensive procedures that the police must follow throughout their investigative processes, ensuring that individuals guilty of offences do not escape justice due to technicalities, which occurs too frequently in our nation.

4.10.4 Poor working conditions of police personnel

In the case of *Masillamani v. The Chief Secretary, Chennai & Ors.*,⁶⁷ the writ petitioner had sought the issuance of Mandamus to direct the respondents to increase the per capita police force in Tamil Nadu; to fill up the vacancies in the post of constable and sub inspector and to increase the pay of police officers. The Hon'ble Madras High Court viewed the fact of suicides and desertions within the police force seriously, particularly the fact that there is no redressal mechanism available for the police personnel. The

⁶⁵ PIL No. 2 of 2019, decided on 24.05.2023 (Gau).

⁶⁶ *Criminal Appeal No. 795 of 2022.-2023 (SC)*.

⁶⁷ *W.P. (MD) No. 17648 of 2020, decided on 19.08.2021*.

Hon'ble Court was of the view that police personnel work tirelessly without adequate rest as opposed to other Government counterparts who enjoy at least two weekly offs per week. That most police personnel lack in stress management skills, resort to alcohol and in extreme cases, commit suicide. Also, the diseases such as high blood pressure, insomnia, heart attack and increased level of destructive stress and mental disorder are generally noticed in police personnel. On the salary and perks aspect, the Court observed that the salary paid to cops in Tamil Nadu was inadequate compared to those of other States which is disheartening. Even compared to the Government Employees, the Elementary School Teachers are drawing more salaries. Mostly their grievances remain unaddressed due to lack of association by the Police Force. The Court opined that proper salary/ pay should be fixed for the police personnel at par with the other Government agencies. Large number of post remains vacant as a result of which the police personnel is facing undue work pressure affecting mental and physical health. The per capita police force must be increased. There should be a robust grievance mechanism to tackle with the day-to-day problems faced by the police personnel. Time bound promotions to boost the morale and efficiency was suggested as there was stagnation in the post of SSIs. The Court condemned the system of orderlies in the police department and further stated that despite the Government order passed in this regard, the higher officials were still keeping constables as orderlies thereby depriving them of their normal police function, which practice should be stopped immediately. Although, the police officials are entitled to weekly off but due to the concept of giving remuneration for working during holidays, the police officials are hardly on rest, thereby affecting their efficiency and in order to vent out their frustration, they become violent. Therefore, it was suggested that the concept of giving remuneration in lieu of compulsory statutory holidays should be stopped. Adequate and proper medical facilities should be provided. Insurance cover should be increased and ex-gratia payment of at least Rs. 25 lakhs must be fixed in case of death and Rs. 15 lakhs in case of total disability. With regard to the working hours, the Court stressed that although eight hours work duty is allocated but the same is hardly adhered as police personnel work for 24 hours. Therefore, eight hours norm in 3 shifts

was proposed and number of police personnel during the shift should be fixed which would reduce mental stress and work pressure.

Again, in *Shakeel Ahmad v. Union of India*,⁶⁸ the Hon'ble Apex Court had the opportunity to examine the issue relating to the various facets of police while dealing with situations relating to mob violence, communal tension and riots. The instant PIL was preferred on the account of the inquiry report submitted pursuant to the Mumbai Communal Violence and Bomb Blasts during 1992-93. The attention of the Hon'ble Court was drawn towards the fact that the intelligence wing of police was inadequate as it had failed to gather crucial information regarding religious meetings between two groups that led to the communal violence. The prevailing strength of the police was insufficient to curb communal riots and even day-to-day problems. There was lot of political interference in police functioning and the inquiry report further suggested that a large number of police personnel were found lacking in physical fitness due to their long and arduous working hours, leaving them with no time to devote for physical fitness. The Commission further recommended that the working condition must be improved and proper and adequate houses should be constructed for the police personnel. Upon the said recommendation, the State Government incorporated the suggestions in a memorandum and assured for improving the working conditions within the police department. The Court also took into account the recommendation of the Commission on police reforms suggesting improvement in the police force. It was suggested that professionalism needs to be introduced and much emphasis should be laid on the training and the physical fitness aspect of the police personnel. There should be improvement in the weapons held by the police personnel and advanced communication system should be provided to the police. A need was felt for putting a check on the political interference in the routine functioning of the police. Necessary steps to improve the morale of the police force by providing adequate housing facilities, reducing political interference should be taken. Although, the Hon'ble Court concluded that most of the said recommendations were

⁶⁸ SLP (Crl.) No. 4634 of 2014 decided on 27.07.2022(SC).

accepted by the State Government, the same were not implemented. The Court further observed that there was a dire need for improvement and modernization of police force.

4.10.5 Poor health of police personnel

In *G. Anandan & Ors. v. State of Tamil Nadu*,⁶⁹ the Hon'ble Court took note of the psychological problems faced by police force and suggested the concerned Government to constitute a Commission to be Chaired by a Retired Judge of High Court to deal with the problems faced by police personnel so that the aspect of indiscipline, desertion and other problems faced by the police could be tackled and the morale of the force be improved and efficiency be increased. Although, pursuant to the said directions, a Commission was constituted in 2019 to address the problems faced by police personnel but the Commission was headed by a retired IAS officer and other top level officials in violation to the Board constituted as per *G. Anandan Case*. The Hon'ble Court observed that the problems faced by police personnel were at lower level viz., constable and inspector and therefore Commission ought to have a retired High Court Judge and representation from officials at lower level.

4.10.6 Misuse of Security Cover to VIPs:

In *G. Subas Reddy v. State of Andhra Pradesh and Anr.*,⁷⁰ the Court had deliberated upon the issue of security cover extended to persons in need of such cover. The Hon'ble Court also laid down guidelines in this regard. The Hon'ble Court stated that as regards the Constitutional functionaries, the State is bound to provide security, out of the funds of the State Exchequer; the State also has the bounden duty to protect the property of the State out of States' exchequer. As regards the statutory functionaries, the State may take a policy decision based upon the threat perception and the expenses of such cover would be made out of the State Exchequer. Regarding the individuals or persons apprehending threat to their life and property, an application may be moved before the Authority designated at the District level, requesting for security cover. In event of rejection of the application, the Senior Authority may be approached for the purpose. In event of grant of the request, the entire expenses are to be borne by the

⁶⁹ W.P. No. 93 of 2008, decided on 2.07.2012 (Madras).

⁷⁰ 1997 CrLJ 1296.

concerned person. Further, any individual apprehending any danger from Government or its agents etc. may approach the Court of Magistrate. In event of rejection of request, the same applicant may move the Hon'ble High Court for judicial review. In *Katasani Rami Reddy v. Government of Andhra Pradesh*,⁷¹ the Hon'ble Andhra Pradesh High Court made a very pertinent observation on the threat aspect. It held that threat to ones' life may not exist at all times in which case continuous security may not be needed. The same thus needs a thorough review by the Superintendent of Police. In case the S.P opines that the individual is no longer under threat, the said cover may be consciously removed. Further, in *L/Nk V.H.K. Murthy v. Special Protection Group and Ors.*,⁷² the Hon'ble Delhi High Court had discussed the genesis of the constitution of the Special Protection Group. The assassination of Smt. Indira Gandhi, the Prime Minister of India led to the constitution of a special high-powered Committee under the Chair of Sh. Birbal Nath. The Committee was given the task of deeply analysing the various aspects of VIP security and suggested necessary measures. The fruitful result of the recommendations was the Constitution of SPG under the aegis of Cabinet Secretariat, 1985 with an object of shielding and protecting the Prime Minister as well as his immediate family members of the country. The assassination of Sh. Rajiv Gandhi in 1991 led to amendment of the SPG Act. With the said amendment, the SPG had been extended to the Prime Minister and his immediate family members for a period of 5 years from the date of demitting his Office. The Court also observed that the SPG does not have a regular force of its own. It draws fine officers from various organizations on deputation basis for a given period who are later repatriated once the period gets over.

Further, in *Rajinder Saini v. State of Punjab & Ors.*,⁷³ the Hon'ble Court expressed its dismay over the practice of politicians seeking security cover on superficial grounds such as the status symbol or show of strength. The Court thus directed the concerned authorities to do a thorough due diligence and recommend the Government to extend security cover only

⁷¹ 1998 CrLJ 3897 (AP).

⁷² 2000 (57) DRJ 157 (Del).

⁷³ CWP No. 19453 of 2015, decided on 16.09.2015 (P&H).

when actually required. Similarly, in *Randeep Surjewala v. Union of India and Ors.*,⁷⁴ the Hon'ble High Court refused to provide Y+ security cover to the petitioner, who was at that time the Member of Legislative Assembly in Kaithal Constituency, on the ground of absence of threat from terrorist or anti-social groups and considering the fact that he is the categorized protectee of the Government of Haryana. As such inclusion of his name as categorized protectee in the Central List (Delhi) is not warranted. Again, in *Paritala Sunitha v. State of Andhra Pradesh*,⁷⁵ the Hon'ble Court had examined the aspect of threat perception. It opined that threat is not a constant phenomenon but a dynamic one which implies that it is dependent on time, place, situation, nature of activities performed by an individual and to the decision-making capacity of an individual in a given time. The Hon'ble Court went on to observe that providing security cover to a person casts burden on the State Exchequer. Thus substantial care must be taken while extending and continuing such security cover.

Furthermore, in *Chandra Shekhar Joshi v. State of Uttarakhand and Ors.*,⁷⁶ the Court ruled that the number of VIPs to whom such a benefit is extended ought to be kept to the barest minimum to avoid needless inconvenience to commuters and to ensure that traffic restrictions are kept to the bare minimum to avoid inconvenience to the general public.

The police personnel works incessantly so that peace is maintained in the country and the Constitutional guarantees are preserved. The police is required to perform a variety of functions which includes patrolling and surveillance; effecting arrests; investigating crimes; conducting inquests; etc. The police personnel are duty bound to ensure that rule of law is maintained in the country. The new Criminal Laws have introduced certain measures which are aimed at ensuring justice at all costs. In a way, they have conferred some convenience to the police personnel by allowing them facility of sending e-summons instead of visiting the place personally etc. Other provisions include mandating of video recording of all vital evidences to ensure transparency and fair play. A police personnel is duty-bound to register FIR irrespective of jurisdiction i.e. a zero FIR which may be instituted at any place. As regards the role of Judiciary, it is

⁷⁴ CWP No. 13266 of 2016, decided on 10.03.2017 (P&H).

⁷⁵ W.P. No. 16540 of 2019, decided on 21.11.2019 (AP).

⁷⁶ W.P. No. 29 of 2020, decided on 28.02.2020 (Uttarakhand).

evident that the Hon'ble Courts have duly recognized the plight of police personnel in India and have issued guidelines and directions to the Government and senior police officials to secure their rights. The guidelines aim at preserving the autonomy of police personnel in India; making available adequate infrastructure and securing their human rights and dignity.

CHAPTER- 5

AN ANALYSIS OF CHALLENGES FACED BY POLICE IN THE STATE OF HARYANA

5.1 INTRODUCTION

Haryana attained the status of a distinct State within the federal structure of the Indian Republic in 1966. Comprising merely 1.37% of the total land area and accounting for less than 2% of the country's population, Haryana has distinguished itself significantly over the last thirty years. In sectors such as agriculture, industry, canal irrigation and rural electrification, Haryana has advanced towards modernization at an impressive pace. Currently, the State proudly holds the distinction of being the first in India to have provided electricity, paved roads, and access to safe drinking water for all its villages within an unparalleled timeline. It ranks amongst the wealthiest states in India, featuring one of the highest per capita incomes in the nation.¹

It is a State in the northern region of India with 22 districts and is the nation's seventeenth most populated State. The State shares its northern boundaries with Punjab and Himachal Pradesh, while Rajasthan lies to the west and south. The eastern boundary is delineated by the Yamuna River, which separates it from Uttarakhand and Uttar Pradesh. Additionally, Haryana encircles Delhi on three sides, constituting its northern, western, and southern borders. As a result, a significant portion of Haryana is incorporated within the National Capital Region.

Haryana is predominantly an agricultural region, with nearly 80% of its land dedicated to cultivation. The state's total geographical area spans 44,212 square kilometers, accounting for 1.3% of the overall geographical area of India.²

¹ Haryana, *available at*: <https://haryana.gov.in/about-haryana/#:~:text=Haryana%20emerged%20as%20a%20separate,during%20the%20past%20three%20decades>. (last visited on November 14, 2023).

² *Available at*: <https://sbb.haryanaforest.gov.in/about-haryana>. (last visited on November 14, 2023).

The Mission of Haryana Police is to “help the common man, to provide him security and to create a peaceful and law-abiding community with his cooperation”. The Haryana Police is dedicated to upholding the Rule of Law, preventing criminal activities, and ensuring the maintenance of law and order. The primary mission is to safeguard the vulnerable and marginalized members of society while serving the community at large. To foster a more approachable police force, enhance public trust, and combat corruption, they prioritize transparency throughout all levels of their operations.³

The State of Haryana was established on November 01, 1966, from the regions of Punjab. Initially, it included one police range and six districts, with a total personnel strength of 12,165. Currently, the State is organized into 22 districts; five ranges and five police commissionerates viz., Gurugram, Faridabad, Panchkula, Sonapat and Jhajjar (Jhajjar Police Commissionerate was announced as a new Commissionerate in 2024).

As of January 2, 2023, the Haryana Police has a total sanctioned strength of 73,391 personnel, which includes 470 Gazetted Officers, 1,086 Inspectors, 3,680 Sub Inspectors, 6,182 Assistant Sub Inspectors, 12,778 Head Constables, and 49,195 Constables.⁴

It is observed that the common masses are generally dissatisfied with the working of police. The common complaints are that the police is cruel, inhuman, and barbaric, never respond on time, reaches only after the crime is committed, and listen to only those who are wealthy and powerful. However, fewer attempts are made to analyze the root cause of such complacency and behavioral issues of police. Hence endeavour has been made to bring out the various issues faced by Police in Haryana and suggest remedial measures with a view to ensure that their human rights assume equal importance and protection as that of other common masses.

5.2 FIELD REPORT

Empirical data has been collected by employing questionnaire method aimed for three categories of Respondents. The first category comprising of the Police Personnel

³ Available at: <https://haryanapolice.gov.in/Mission> (last visited on November 14, 2023).

⁴ Available at: <https://haryanapolice.gov.in/History> (last visited on November 14, 2023).

from the State of Haryana i.e. the ones whose status of Human Rights were to be ascertained; the second category comprising of the General Public i.e. the ones for the protection of whom the Police Personnel work day in day out and the third category comprising of members of the Legal Fraternity i.e. with whom the law enforcement and Criminal Justice System functions.

The Universe of the Research being State of Haryana and the Districts chosen for the research are as under:

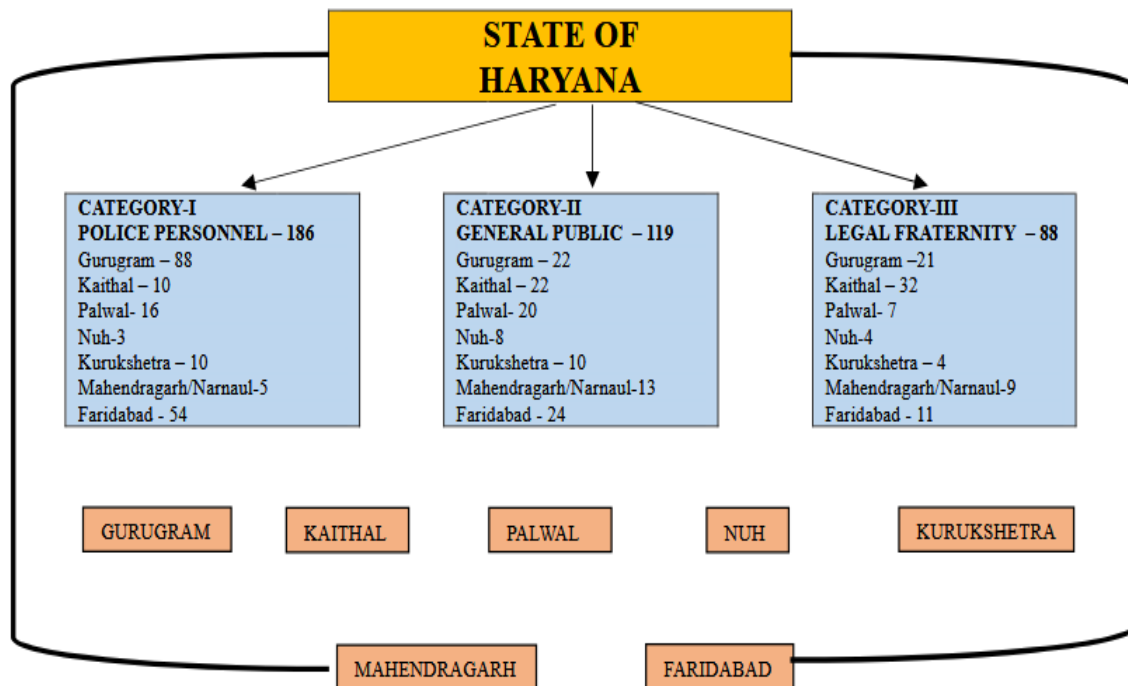


Diagram-1

Empirical Data is collected in order to gain an insight into the real working of the police in Haryana and also to analyse the challenges faced by them while at work. For this purpose, interviews as well as questionnaires were floated amongst the police personnel in Haryana from the districts of Gurugram, Kaithal, Palwal, Nuh, Kurukshetra, Mahendergarh (Narnaul) and Faridabad. A target of 200 respondents was proposed. However, response from 186 police personnel has been collected and analyzed.

Personal visits to the police stations (thanas) and police posts (chowkis) were also made wherein certain vital observations were made regarding the practical challenges faced by the police personnel at work be it in Police stations or while on field duty. The problems

were manifold as it was observed that the basic infrastructure was missing; the personnel were facing psychological and physical health issues, also observed that they lacked autonomy and decision-making and there was overall unhappiness and discontentment.

Besides, the lack of adequate time spent by them with their families, leads to dissatisfaction amongst family members which is a great contributory factor in frequent instances of quarrel and difference of opinion. At the same time, the police personnel face a serious backlash from the society as owing to paucity of time and truck loads of work they often fail to match the expectations of the people. Many a times, due to lack of autonomy at work, they are not able to work independently and are forced to listen to the political masters as against the rule of law which they are expected to abide as per the norms of service.

Therefore, few challenges that the Police Personnel in Haryana face in their day-to-day lives are analysed based upon the responses received from the three categories of respondents viz. police personnel, general public and members of legal fraternity and are stated herein-below:

5.3 ANALYSIS OF EMPIRICAL DATA

5.3.1 Analysis of Data Collected from Category-I Respondents- Police Personnel

Since this category is the foundation of research work, earnest efforts were made to closely observe and understand the lifestyle and regime of the policemen in the State of Haryana. For this purpose, besides the questionnaire method, personal interviews coupled with visits to the police stations were conducted so as to analyze the problem and challenges faced by police personnel in Haryana. The questions mentioned in the questionnaire were intended to touch upon the various facets of human rights of the police officials including the number of working hours, quality of infrastructure, transfer and promotion regime, quality of arms and ammunitions, level of autonomy, standard of accommodation, level of political interference, complaint resolution mechanism and lastly the level of job satisfaction. The responses received from the questions posed to 186 police personnel along with the inputs received through interviews are as under:

1. NO FIXED TIME FRAME FOR PROMOTIONS-

Question 8- Promotion prospects:

Chart 1

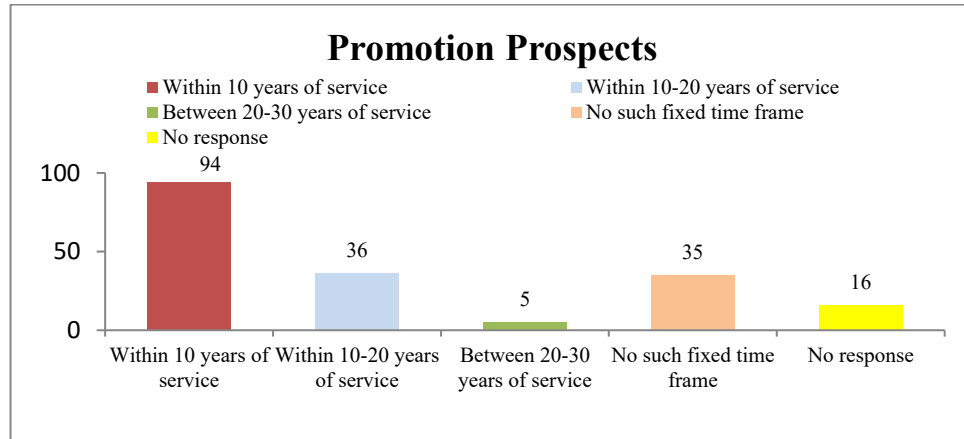


Table 1

Promotion Prospects	No. of responses	Percentage
Within 10 years of service	94	50
Within 10-20 years of service	36	19
Between 20-30 years of service	05	3
No such fixed time frame	35	19
No response	16	9

It is an established fact that promotion adds to the efficiency and work satisfaction of an employee. The employees in order to gain better perks and promotions harbour zeal to perform better and harder. Thus, increase in the current earnings and timely promotions contribute to better quality of work of a working individual. The current question was aimed to ascertain the zeal and efficiency potential amongst the police personnel in Haryana.

From the above data, it is observed that 50% of police personnel admitted that promotions were made within 10 years of service; with 19% admitting the fact of promotion within 10-20 years of service followed by 3% opting for the 20-30 years category; 19% admitting that there was no fixed time frame and 9% refusing to choose either options.

The data thus suggest that there is uncertainty amongst the police personnel with regard to their promotion to higher levels as no uniform period has been provided for time-scale promotions akin to other law enforcement agencies especially army personnel.

The lack of promotion prospects in a fixed time frame brings boredom in the lives of an individual and it breeds monotony and lack of zeal at work. With around 84% percent of police constabulary in the country, it is seen that most of the police constables retire with hardly one promotion.

Thus the police personnel in Haryana were saddened with the irregular promotion regime.

2. ERRATIC WORKING HOURS-

Question 9- Average number of working hours served each day:

Chart 2

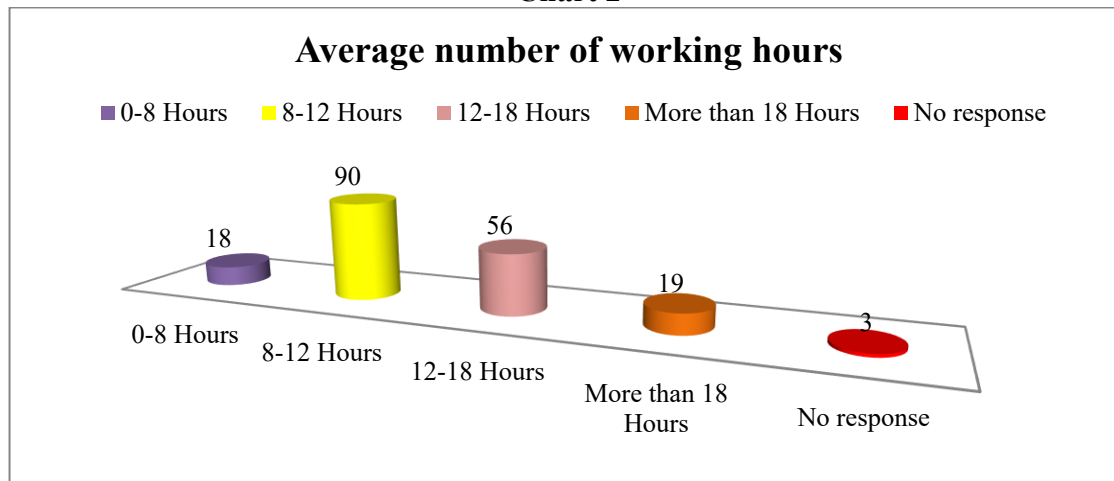


Table 2

Average number of working hours	No. of responses	Percentage
0-8 Hours	18	10
8-12 Hours	90	48
12-18 Hours	56	30
More than 18 Hours	19	10
No response	03	02

In order to maintain a healthy work-life balance, the average working hours must not exceed 8 hours a day and the same has been proven by various researches. As per medical experts, most people suffer from medical conditions due to sedentary lifestyle, irregular sleeping patterns and improper diet with little or no physical workout and meditation. The question was thus aimed at understanding the work-life balance scenario of the police personnel in Haryana and to ascertain whether the 8 hour duty norm advised by experts, the Police legislations as well as other Committees and Commissions is religiously followed in Haryana.

From the table and the chart depicted above, it is clear that 10% police personnel admitted to be working up to 08 hours each day whereas 48% opted for 8-12 hours option; 30% chose the 12-18 hours category with 10% went for more than 18 hours option and finally 02% omitted to answer the question. All in all, it is clear that around 88% of the police personnel were believed to be working for more than eight hours a day, which is contrary to the provision enshrined under the Model Police Act and the recommendations of various Committees and Commissions constituted from time- to- time.

3. FREQUENCY OF NIGHT DUTIES-

Question 10: Frequency of night duties:

Chart 3

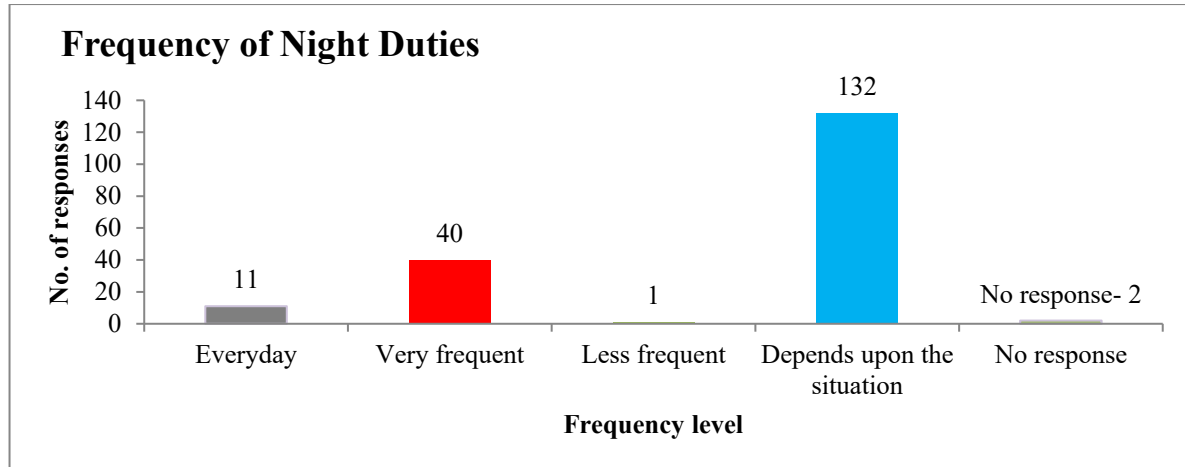


Table 3

Frequency of night duties	No. of responses	Percentage
Everyday	11	06
Very frequent	40	21
Less frequent	01	01
Depends upon the situation	132	71
No response	02	01

The question pertaining to night duties was incorporated in the questionnaire and personal interviews to ascertain the frequency of such duties as continuous night and day duties without adequate gaps may pose serious health hazards to the police personnel. Aviation, railways and transport industries usually follow a strict mandate of providing adequate time gap to avoid continuous duties of their employees.

From the aforementioned table and bar chart, it can be ascertained that not only are the police personnel working more than eight hours, but they are required to perform night duties which further affects their mental and physical well-being. The aforesaid data clearly depicts that 06% respondents opted for everyday option; 21% for very frequent option with 01% less frequent category; 71% belonged to depends upon the situation category and 01% omitted to entertain the question. Thus, 99% of police personnel accepted that they had to perform night duties albeit the frequency level varied from station to station.

Due to shortage of requisite staff, it was admitted by various personnel during personal interviews that they were made to serve both during day and night way beyond the 8-hour duty norm suggested by Committees and Commissions setup to advocate police reforms in India. Night duties have posed challenges in the regime of police personnel. Such continuous duties lead to sleep deprivation which in-turn results in poor health, stress and anxiety issues.

4. PROVISION OF WEEKLY AND OTHER OFFS-

Question 11- Provision of weekly offs:

Chart 4

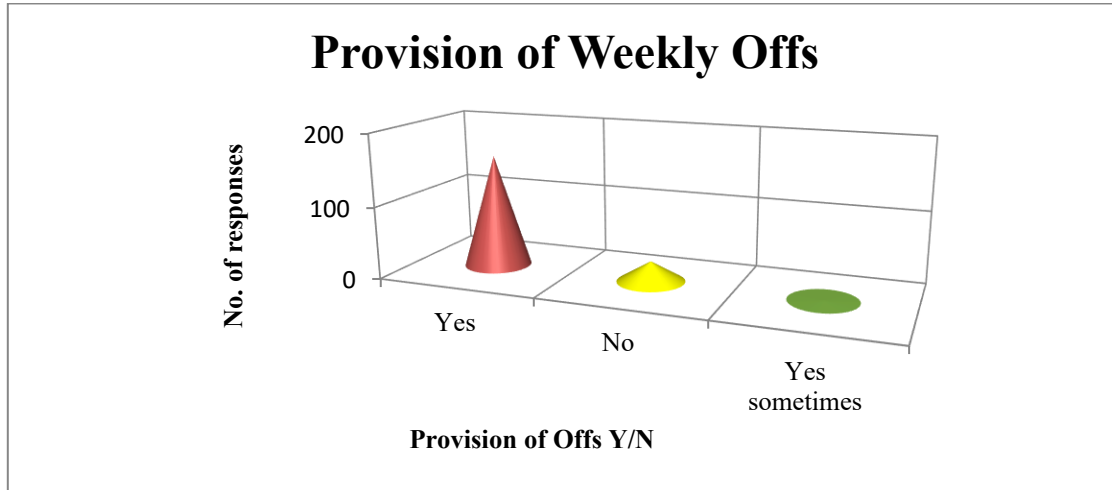


Table 4

Provision of weekly offs	No. of responses	Percentage
Yes	157	84
No	28	15
Yes sometimes	01	01

The various government organisations at the State and Centre follow five days or six days work pattern and provide ample opportunities for rest and leisure. The question was thus posed to gain an insight on the provision of weekly or other offs for police personnel. The questions stated in the questionnaire and personal interviews were not only aimed at inquiring about the provision of weekly off (question 11) but also the feasibility of availing the same (question 12). A weekly off is not only a physical requirement but also a social and psychological requirement to keep oneself in good shape and the said fact has been proved by various reports and researches being conducted from time-to-time.

The data above reveals that 84% of respondents accepted that there was a provision of weekly and other offs, while 15% answered in negative and 01% opted for third category (of yes sometimes). It may be inferred that a majority of police personnel admitted of the provision of weekly or other offs.

Question 12- Weekly or other offs (easy or difficult to avail):

Chart 5

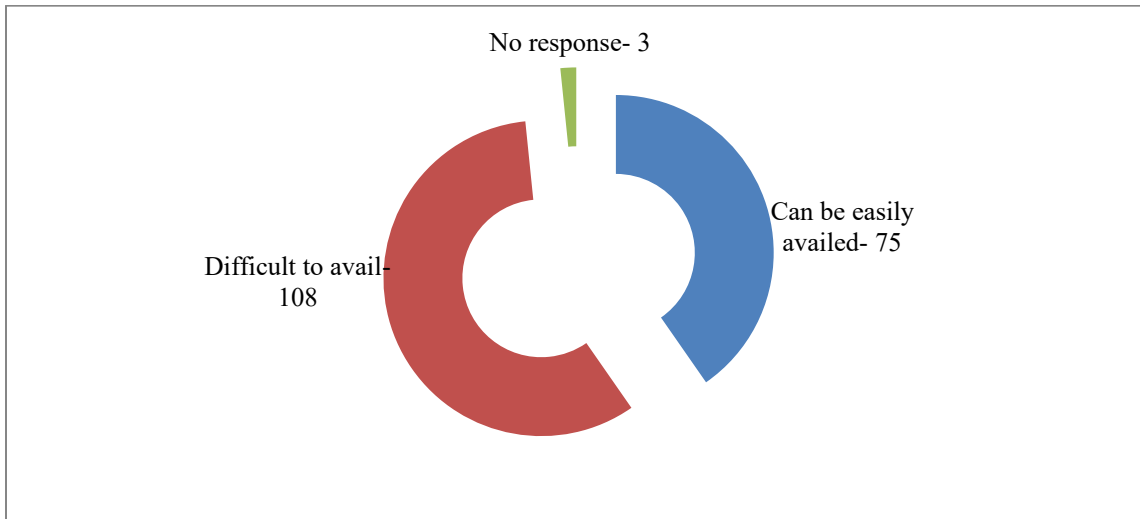


Table 5

Feasibility of availing the said facility	No. of responses	Percentage
Can be easily availed	75	40
Difficult to avail	108	58
No response	03	02

From the aforementioned tables and charts (question no. 11 and 12), 84% of the police personnel did admit that there was provision for weekly and other offs. However, 58% of the respondents were of the view that availing the provision of weekly or other offs was an uphill task as in most cases they were either out-rightly denied while in other cases they were initially granted but cancelled in the eleventh hour owing to some exigency like visit of a VIP, riots, law and order situation, floods, COVID-19 pandemic or natural calamity, accident, elections. Such abrupt denials and cancellation create a huge adverse impact on their personal ties with family and society as they are not available even in times of dire need or emergency at home. Even many of the respondents admitted that they had to cut-off social obligation due to the aforesaid reasons.

5. PROVISION FOR FOOD, TEA AND POTABLE WATER AT WORKPLACE-

Question 13- Facility of food, tea and potable drinking water at workplace:

Chart 6

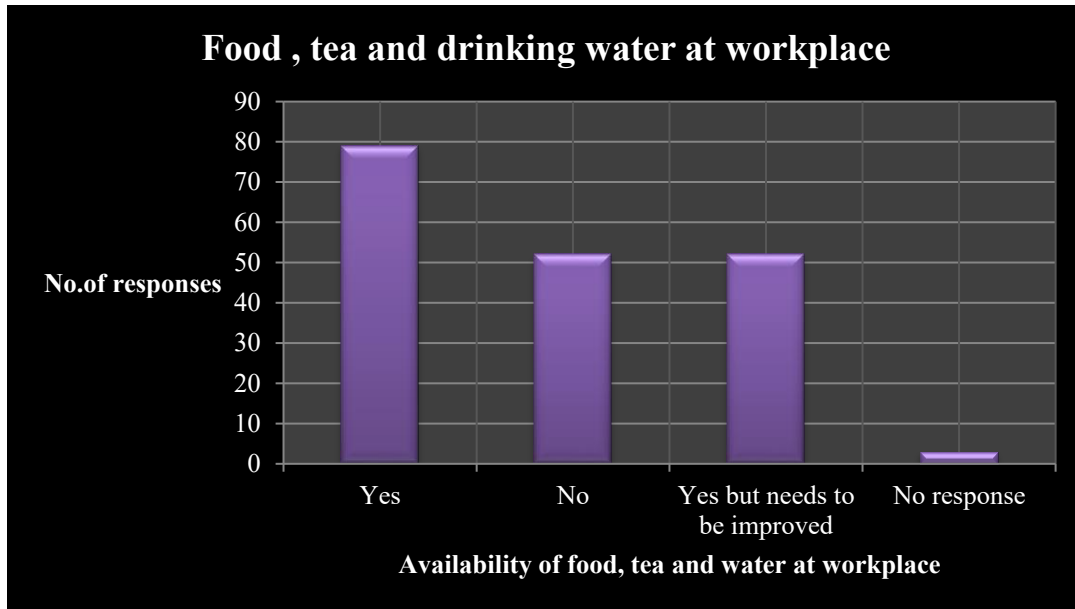


Table 6

Facility of food, tea and potable drinking water at workplace	No. of responses	Percentage
Yes	79	42
No	52	28
Yes but needs to be improved	52	28
No response	03	02

In the present scenario, the provision of such basic necessities such as cafeteria providing adequate facilities such as snacks, water, tea and coffee to the employees has become a regular norm and is being widely practiced worldwide. Companies such as Google go a step ahead and provide free breakfast, lunch etc., on a lavish scale. Even though such offices follow an eight to ten hours work norm, yet the idea behind incorporating such facilities is to gain support and cooperation of employees after making them feel at ease so that their overall efficiency is optimized.

The police personnel do not follow a fixed regime like other professionals, the given question was drafted to ascertain the quality of food and other facilities of tea, potable water etc. available at workplace keeping in view the afore-stated backdrop.

As per the observation and on the basis of the responses received from police personnel in various police stations in Haryana, it was found that the police personnel in some police stations i.e. 42% accepted that there was a provision, while others i.e. 28% outrightly refused while there was yet another category of 28% respondents which admitted the said facility with an opinion that the same required improvement. Thus, there is no uniform pattern being followed in this regard.

While visiting the police stations, it was observed that many police stations have hired cooks and have provision for tea and food for police personnel.

Since the police personnel ideally work for more than eight hours and given the nature of job where law and order situation may abruptly change, it is required that there must be adequate provisions for food, tea and potable water at workplace as the police personnel do not follow a nine to five job regime unlike other professionals who carry food while reporting for work or are provided by office and also take nutritious meals while leaving for workplace.

Thus, the irony is that the police personnel in Haryana who work for hours endlessly are not given such basic minimum facilities and given the nature of tireless work and absence of basic facilities makes the job of police personnel more hectic and frustrating. Such personnel end up eating outside junk food which adds to various health issues as the basic caloric requirement (2000 calories per day for women and 2500 for men) is not fulfilled. It was also informed during interviews that a separate food allowance known as ‘diet’ is also provided to the police personnel. It goes without saying that the diet money which is Rs. 40 per day⁵ is not commensurate to the existing inflation as well as the daily calorie intake prescribed by health experts.

⁵ Available at: <https://haryanapolice.gov.in/welfare#:~:text=Police%20personnel%20drawing%20Ration%20money,%2F%2D%20to%20other%20Police%20P.M.> (last visited on November 15, 2023).

6. CONDITION OF TOILET AND BATHROOMS-

Question 14- Condition of toilets and bathrooms at workplace:

Chart 7

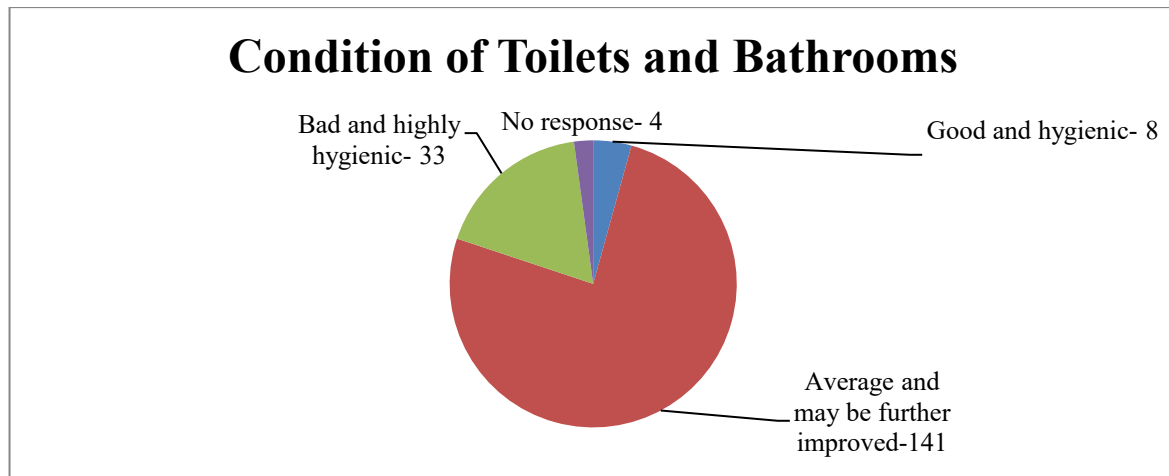


Table 7

Condition of toilet and bathrooms at workplace	No. of responses	Percentage
Good and hygienic	08	04
Average and may be further improved	141	76
Bad and highly unhygienic	33	18
No response	04	02

Clean and hygienic toilets and bathrooms is one of the basic human necessity. The Government has introduced Nirmal Bharat Abhiyan and Swachh Bharat Abhiyan for the purpose of providing clean toilets, ensure good sanitation practices and increase awareness to promote and maintain the same. Hence keeping in view the said Government initiatives, attempt was made to gain an insight on this aspect with respect to the police personnel in Haryana.

From the table and the pie chart mentioned hereinabove, it may be inferred that a chunk of police personnel are not completely satisfied with the prevailing condition of toilets and bathrooms at workplace. It can be said that the situation is rather grim with only 4% satisfied with the condition while 18% showing total dissatisfaction and 76% suggesting that it is average but may be further improved.

7. PROVISION OF REST-ROOMS AT WORKPLACE-

Question 15- Any provision of restrooms, crèche at workplace:

Chart 8

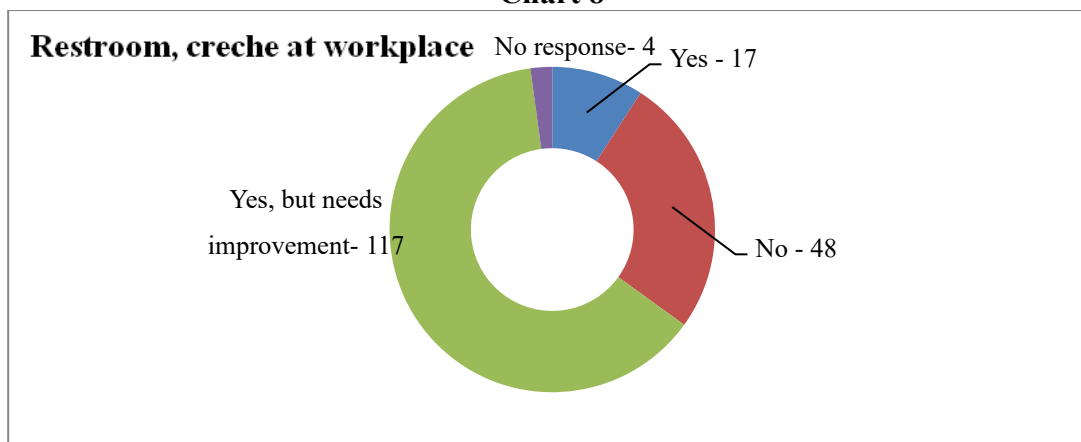


Table 8

Provision of restrooms, crèche at work place	No. of responses	Percentage
Yes	17	09
No	48	26
Yes, but needs improvement	117	63
No response	04	02

It is reiterated that police personnel in Haryana do not follow the strict eight hours duty regime, despite the fact that proper and adequate rest is required for a human body, it was incumbent to inquire into the resting facility available at workplace. Further, many work places have introduced crèche facilities to facilitate their employees. The police personnel would need the crèche facility more than any other employees as there are no such fixed duty hours.

The aforementioned table and diagram thus suggest that only 9% were satisfied with the facility of restrooms etc., with 26% denying any such facility with 63% wanting improvements and 02% skipping to answer the question.

While visiting the police stations, many women personnel shared their plight of not been able to spend quality time with their children. A mothers' presence in almost all ages is crucial for the overall development of a child. In a fixed working hour regime, working mothers manage to take care of their children but in an erratic regime, absence of mother becomes a serious challenge. It touches upon the humanitarian aspect of motherhood and also adversely affects the human rights of the child who is entitled to proper care and motherly love. It was also shared that even for child care leaves, much persuasion is required. Some women investigating officers (IOs) stated that the situation was worse in their case as owing to shortage of women IOs for the purpose of handling sexual offences and women related offences, each women IO is catering to more than one police station. Hence, any eventuality in either of the police stations assigned to them poses a serious challenge in their leaves and duty offs.

8. PROVISION FOR YOGA, MEDITATION AND EXERCISE AT WORKPLACE-

Question 16- Any provision for yoga, meditation or exercise at workplace:

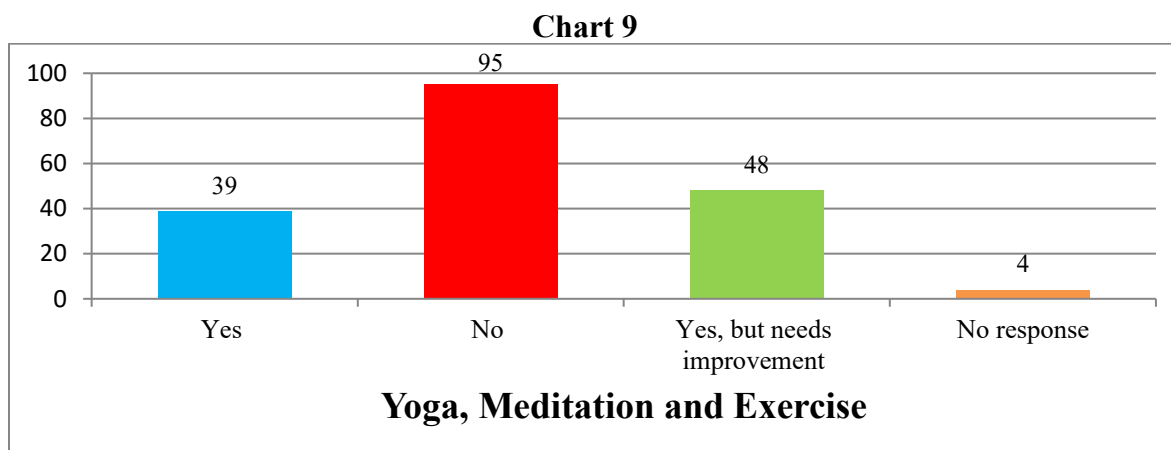


Table 9

Provision for Yoga, meditation or exercise at workplace	No. of responses	Percentage
Yes	39	21
No	95	51
Yes, but needs improvement	48	26
No response	04	02

The job of police is considered to be the most stressed one. Constant public dealing, interaction with anti-social elements, handling of stressful situations like accidents, crimes etc., require good mental and physical health. Hence the question was framed to ascertain the health conditions of police personnel in Haryana.

Lately, the States of Haryana and Assam raised a hue and cry about the fitness of the police personnel. The State of Assam went a step further to force the police personnel to either come back in shape or seek retirement within a short-prescribed deadline. The said issue of health of police personnel was also discussed during personal interviews as well as questions addressing the issue were incorporated in the questionnaire. During personal interviews, it was unanimously conveyed that *everything would fall in place once each police personnel is allowed eight hours rest* which sensed logical as most of them seemed to be sleep deprived. They further stated that Yoga, meditation and exercise facility would serve no purpose on sleep deprived individuals.

Further, from the table and the chart above, it may be inferred that around 51% respondents admitted that there was no facility of yoga, meditation or exercise at workplace; 21% respondents admitted that there was such facility and 26% admitted that there was such facility but required improvement.

9. PROVISION OF HEALTH CHECKUP –

Question 17- Any provision of health check-ups?

Chart 10

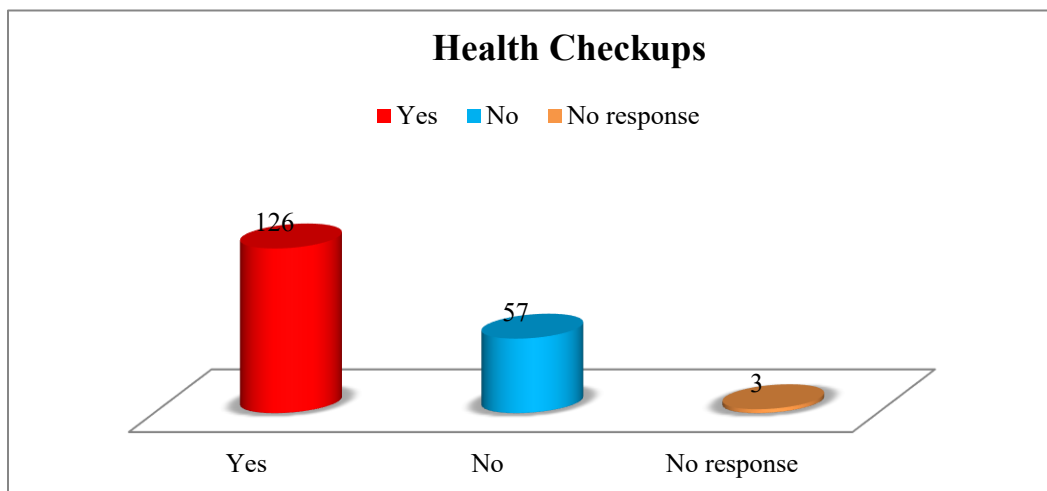


Table 10

Provision of health check-up	No. of responses	Percentage
Yes	126	68
No	57	31
No response	03	01

Question 18. Frequency of health check-ups:

Chart 11

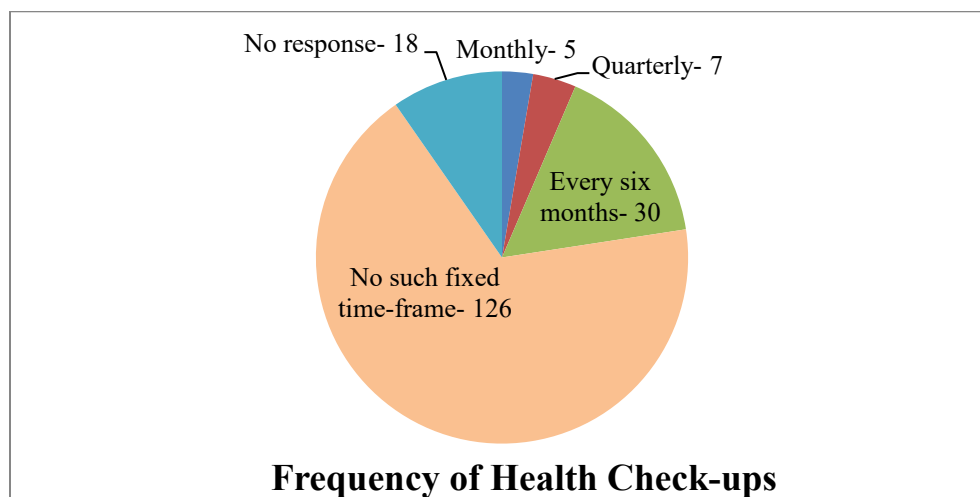


Table 11

Frequency of health check-ups	No. of responses	Percentage
Monthly	05	03
Quarterly	07	04
Every six months	30	16
No such fixed time-frame	126	68
No response	18	09

These questions were aimed at ascertaining the facilities provided for healthcare of the police personnel and whether there was any provision of routine health check-ups for them.

The data and the graph above portrays that health check-up camps have been organized from time-to-time as 91 % respondents admitted the said fact. However, during the course of personal interviews, it was informed that although hospitals such as Apollo, Fortis and Medanta do initiate organizing of such camps for check-ups, however there is no post diagnosis treatment facility available and the treatment in such hospitals is generally far beyond their reach, thereby not serving the desired purpose.

10. STATUS OF HEALTH ISSUES FACED BY POLICE PERSONNEL-

Question 19- Any serious health issue faced currently:

Chart 12

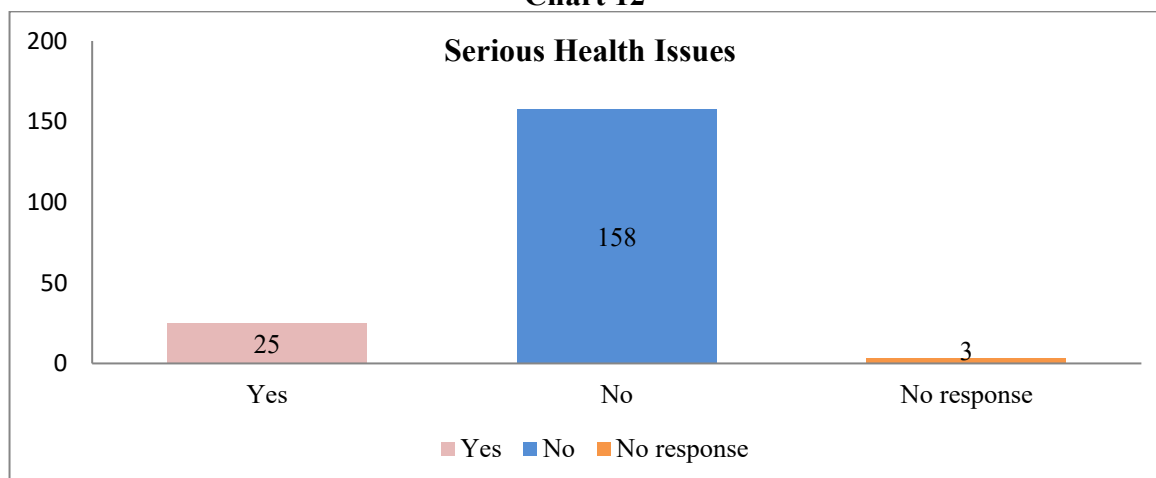


Table 12

Any serious health issue faced currently	No. of responses	Percentage
Yes	25	13
No	158	85
No response	03	02

The question was intended to ascertain the fitness level of police personnel and to gauge whether a typical pattern of health issue was faced by them or otherwise.

Only 13 percent of the police personnel admitted that they suffer from one or the other health issues.

Question 20- Specific health issue faced in case answer to question 19 is yes:

Chart 13

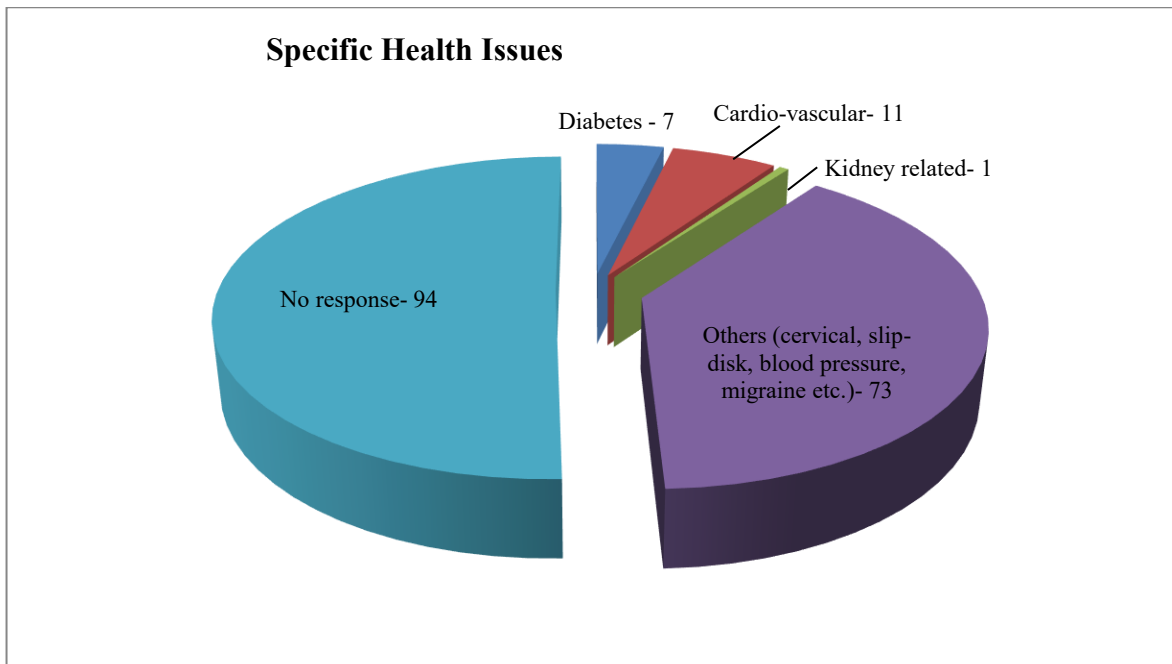


Table 13

Specific health issue	No. of responses	Percentage
Diabetes	07	04
Cardio-vascular	11	06
Kidney related	01	00
Others (cervical, slip-disk, blood pressure, migraine etc.)	73	39
No response	94	51

From the pie chart and table above, it may be depicted that the majority of respondents suffered from cervical, slip disc, blood pressure and migraine related health issues, mostly attributable to irregular work regime and stressful lifestyle.

Observation- Although less responses were received in question 19 which aimed at finding serious health issues faced by police personnel currently but when elaborate response was required in question 20, the data came up to be more than those who really admitted that they faced health issues. It may imply that many of them had health issues but they declined to admit that they suffer from one in question 19.

11. STATUS OF MEDICAL INSURANCE FACILITY –

Question 21- Status of medical insurance facility:

Chart 14

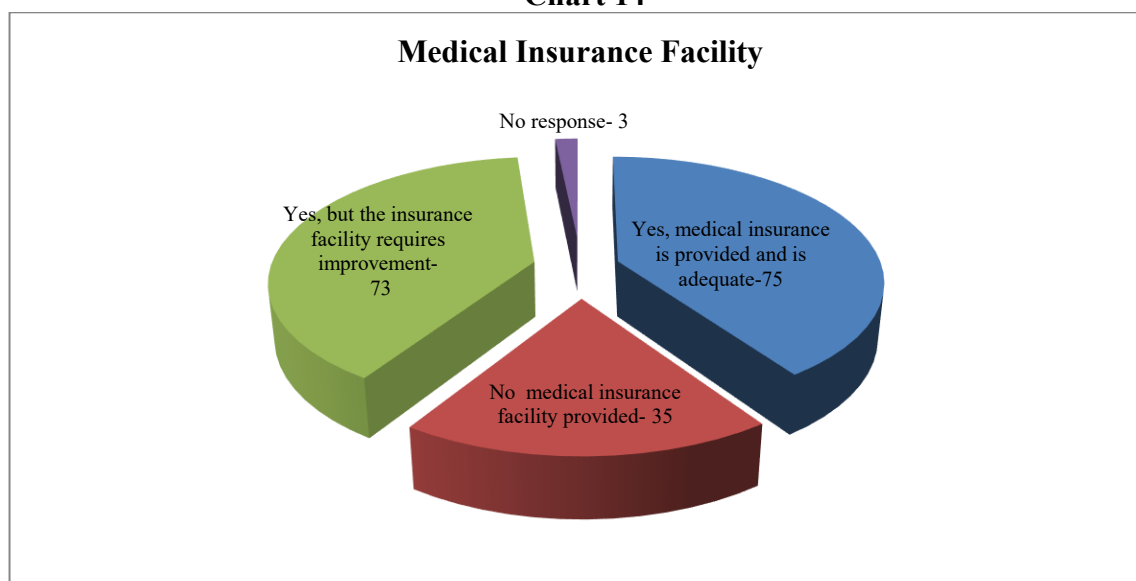


Table 14

Status of medical insurance facility	No. of responses	Percentage
Yes, medical insurance is provided and is adequate	75	40
No medical insurance facility provided	35	19
Yes, but the insurance facility requires improvement	73	39
No response	03	02

The hectic regime, stressful life and erratic working hours demands that the police personnel are well protected to meet any medical exigencies. The question was thus aimed to ascertain whether they were medically protected.

The aforementioned table and data indicates that 40% of respondents admitted the fact of medical insurance facility while 19% refused to admit and 39% suggested improvement (with 2% refusing to answer the question).

During personal interviews, it was admitted by some personnel that there was medical insurance but the same suffered from a serious lacuna. The medical facility was not cashless implying thereby, that in case of any such dire need of hospitalization, the payments would be made by police personnel upfront which is required to be reimbursed at a later date. Taking into account the expensive medical assistance in India qua hospitalization and low salary structure of police personnel, grievances were laid by them for providing cashless facility as they were forced to take treatment from other medical establishments albeit not approved one due to scarcity of funds. Further, during the course of personal interviews and questioning, it was found that although medical insurance has been provided yet many police personnel were not aware of any such facility been provided by State Government which further lead to an inference that the police personnel are not aware of their rights, facilities and entitlements which are actually provided to them as there is lack of dissemination of information by the State Government.

12. AVERAGE NUMBER OF YEARS SERVED AT ONE POLICE STATION-

Question 22- Average number of years served at one station:

Chart 15

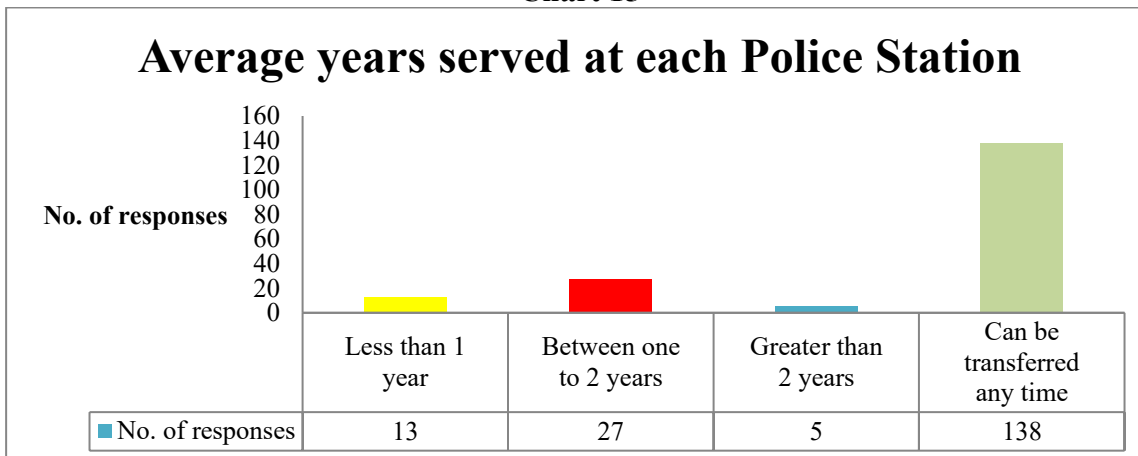


Table 15

Average no. of years served at one station	No. of responses	Percentage
Less than 1 year	13	07
Between one to 2 years	27	14
Greater than 2 years	05	03
Can be transferred any time	138	74
No response	03	02

The question was specifically aimed to test whether the Committees' and Commissions' recommendations and the ruling in the Prakash Singhs' judgment which directs for a fixed tenure for at least 2 years at one station are complied with in true letter and spirit or otherwise. The responses received are as under:

The aforementioned table and corresponding chart reveals that 07% respondents stated that the average term at one station was less than one year; 14% stated that it was between one to two years; 03% opted for greater than two years category; 74% believed that they could be transferred any time and 02% skipped the question. The data thus reveals that there has been no uniformity in transfers as prescribed by the Hon'ble Apex Court in Prakash Singh's case (which directs for a minimum of 2 years stay in each station).

During personal interviews, many police personnel shared their experience of frequent transfers and the undue hassle that it causes to them and to their families especially the children at crucial levels of education as abrupt transfers causes delay and difficulties in mid-term admissions in schools and colleges. Thus, owing to the said hardships many admitted to living away from their families and keeping the families at a fixed place of abode so that the family does not suffer unduly.

13. LEVEL OF INDEPENDENCE AT WORKPLACE-

Question 23- level of independence at workplace:

Chart 16

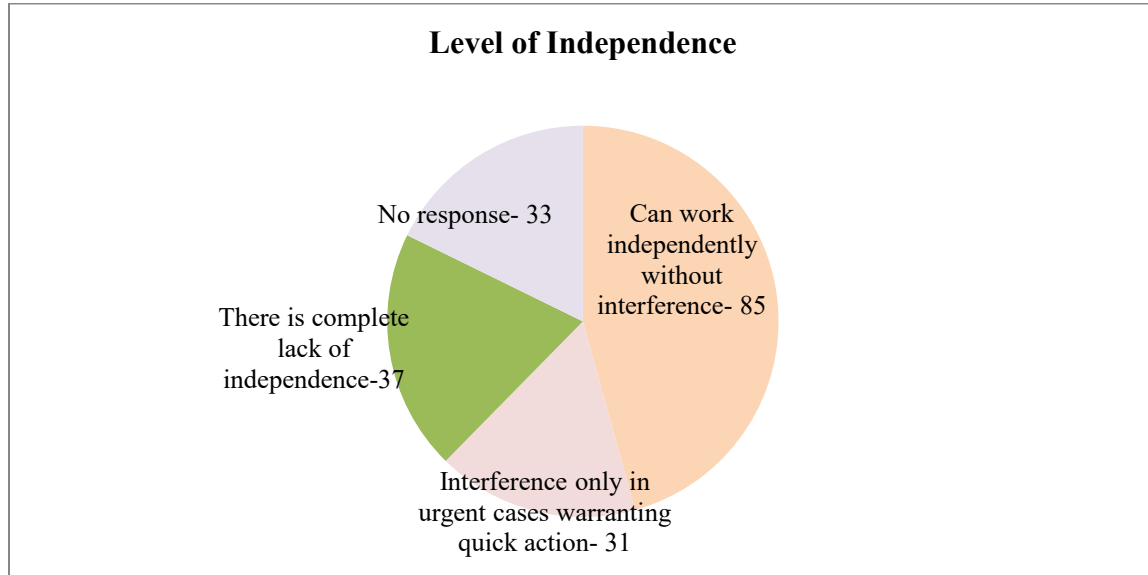


Table 16

Level of interference at workplace	No. of responses	Percent
Can work independently without interference	85	46
Interference only in urgent cases warranting quick action	31	16
There is complete lack of independence	37	20
No response	33	18

Professional autonomy is an important feature of a congenial work environment. When a person is assigned some task, he must be given a free hand or freedom in performing it and dealing with a particular situation and the senior authorities must repose full trust and faith on their team. However, the free hand and autonomy implies that the power would be exercised within the legal framework only.

Since, the police personnel follow a set hierarchical pattern and ultimate power vests with State Government in power, the said question was thus aimed at gauging the professional autonomy of the police personnel.

The aforementioned data depicts that 46% admitted presence of professional autonomy whereas 16% admitted that there was interference only in urgent cases warranting quick action and yet another category of 20% admitted absence of independence at workplace (with 18% respondents who chose to skip the question). Hence the question gathered a mixed response.

14. INSTANCE OF MENTAL AND PHYSICAL HARASSMENT FACED AT WORKPLACE-

Question 24- any instance/ instances of physical or mental harassment faced at workplace:

Chart 17

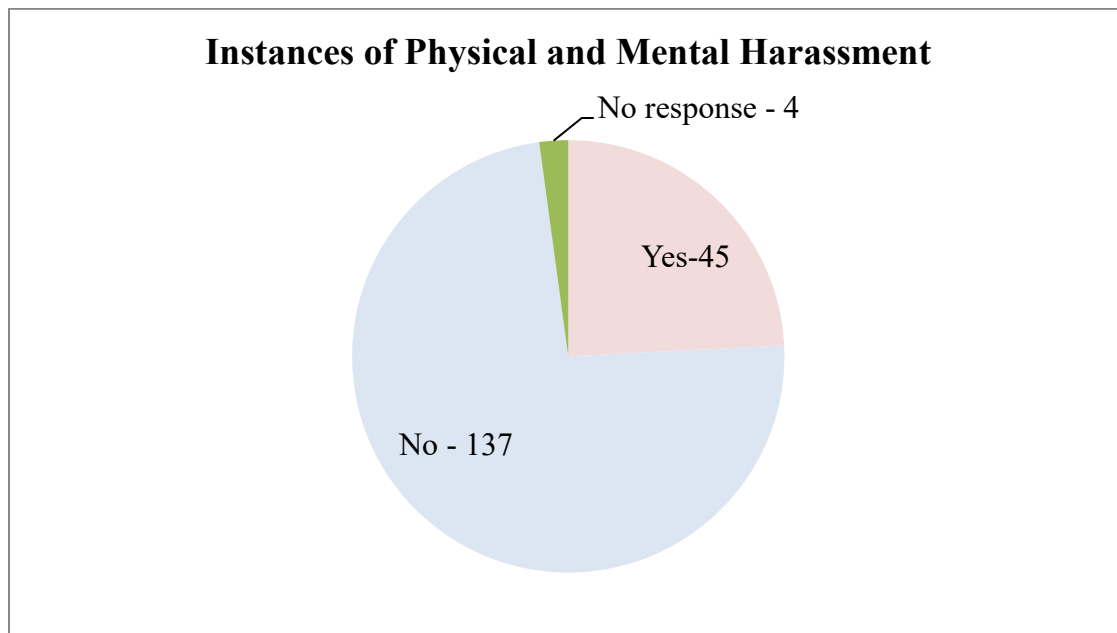


Table 17

Any instances of physical and mental harassment faced at workplace	No. of responses	Percentage
Yes	45	24
No	137	74
No response	04	02

Now-a-days, the issue of toxic environment at workplace has been widely discussed. Not only should the workplace be equipped with adequate infrastructure, it must be free from toxic environment. Issues of harassment- mental as well as physical, internal politics, the tendency of letting down with unhealthy competition ruins the work environment and may lead to devastating results if not addressed adequately and timely.

The Hon'ble Courts have time and again stressed on free work environment. In the similar context, the foregoing question becomes important.

The data presented in the form of aforementioned table and pie chart states that 24% of respondents did admit of such physical and mental harassment at workplace while 74%statedthat they did not face any such instance.

On further questioning during the course of interview, the following responses were received from those who did encounter such adverse situations:

- a. There is lot of burden on every police man in field;
- b. There is pressure of senior officers every time;
- c. Pressure owing to workload as well as political pressure;
- d. There is political pressure as well as pressure from seniors;
- e. Any untoward situation is inevitable, can happen anytime. As some irritating people approach and create problems';
- f. Physical or mental harassment due to heavy workload;
- g. They did feel pressure sometimes especially in cases of huge workload and officers wanting the work urgently or within short deadline;
- h. Police works under tremendous pressure;
- i. Absence of fixed time-table at work causes undue challenges;
- j. All that the Department needs is completion of work and is oblivious of conditions at workplace;
- k. Anything could happen at workplace. There is complete uncertainty;
- l. Do not get ample rest due to excessively busy schedule and
- m. On various occasions, served 36 hours of work due to less strength, lot of work-load, no time to spend with family leading to emotional stress and irritability.

15. STATUS OF COMPLAINTS RESOLUTION MECHANISM-

Question 25- Whether there is any complaints resolution mechanism:

Chart 18

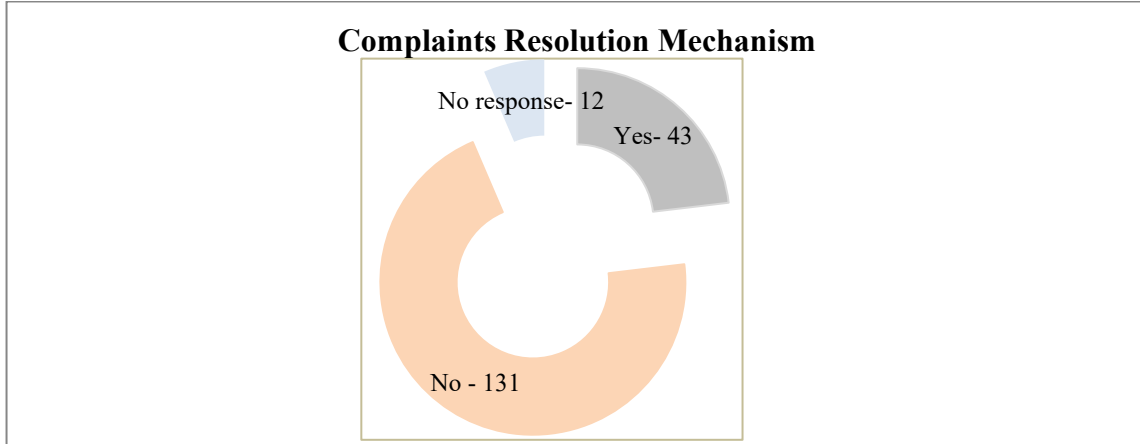


Table 18

Status of complaints resolution mechanism	No. of Responses	Percentage
Yes	43	23
No	131	70
No response	12	07

The question becomes important as the stressful work regime, requires some avenue where the police personnel could approach and get their grievances redressed in a time-bound manner. Many a times, the issues may be sorted by mere discussion with the reporting authorities or some designated officers. A complaints resolution mechanism is thus an important requisite both in terms of congenial environment in profession as well as in terms of human rights which protects an individual from undue torture and stress and advocates timely redressal.

The question was thus aimed to analyse the complaints resolution mechanism (if any) at workplace of police personnel.

The response received from the respondents on this aspect creates an inference that 23% admitted that there was such mechanism with 70% respondents rejecting the fact that there was no complaints resolution mechanism in place while 07% refused to answer the question.

16. ISSUE OF SEXUAL HARASSMENT AT WORKPLACE-

Question 27- Any instance of sexual harassment faced at workplace:

Chart 19

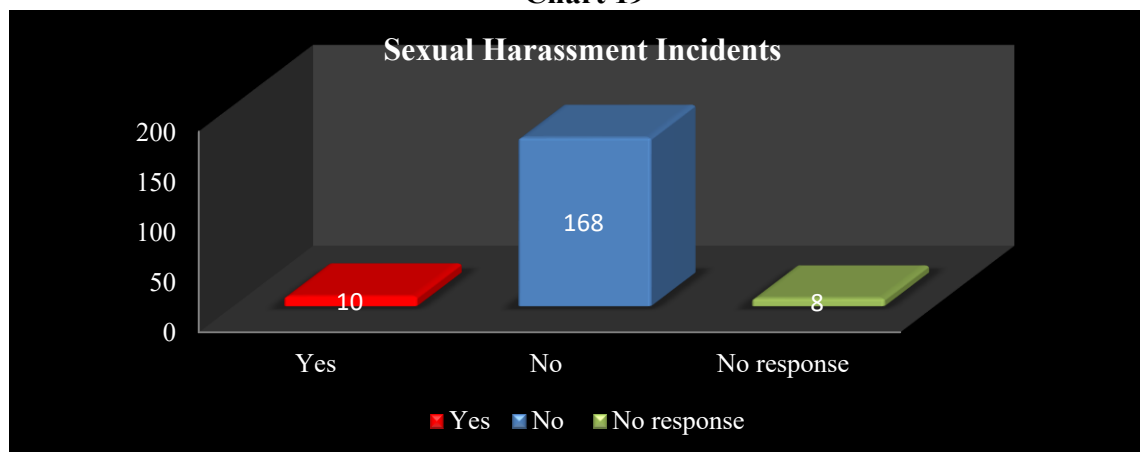


Table 19

Any instance of sexual harassment faced at workplace	No. of responses	Percentage
Yes	10	06
No	168	90
No response	08	04

There are both male and female police personnel in the country who are recruited for maintaining peace and harmony in the country. The female police officers are also equally vulnerable and requires adequate statutory mechanisms for ensuring their safety. After the *Vishaka & Ors v. State of Rajasthan & Ors.*⁶ (popularly known as the Bhanwari Devi Rape case verdict), guidelines were issued to protect women at workplace. The guidelines included establishment of a complaint redressal committee where complaints of the employees are considered and adequately redressed. The guidelines later paved way for “*Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.*” The foregoing questions are thus attempted to assess the safety aspect of female police personnel.

Out of the total 186 respondents from the police personnel category, only 06% police personnel admitted sexual harassment incidents at workplace with 90% stating absence of such incidents while 4% skipping to entertain the question. The data may thus imply that the workplace is relatively safer in this regard. However, it cannot be inferred to be completely safe. Even an iota of threat to safety is a serious human rights violation as a female can be expected to give in her 100% only if she feels that her dignity and self-respect are adequately ensured at workplace.

⁶ AIR 1997 SC 3011.

17. WHETHER THERE IS ANY SEXUAL HARASSMENT COMPLAINTS CELL AT WORKPLACE-

Question 28- Whether there is any sexual harassment complaints cell at workplace?

Chart 20

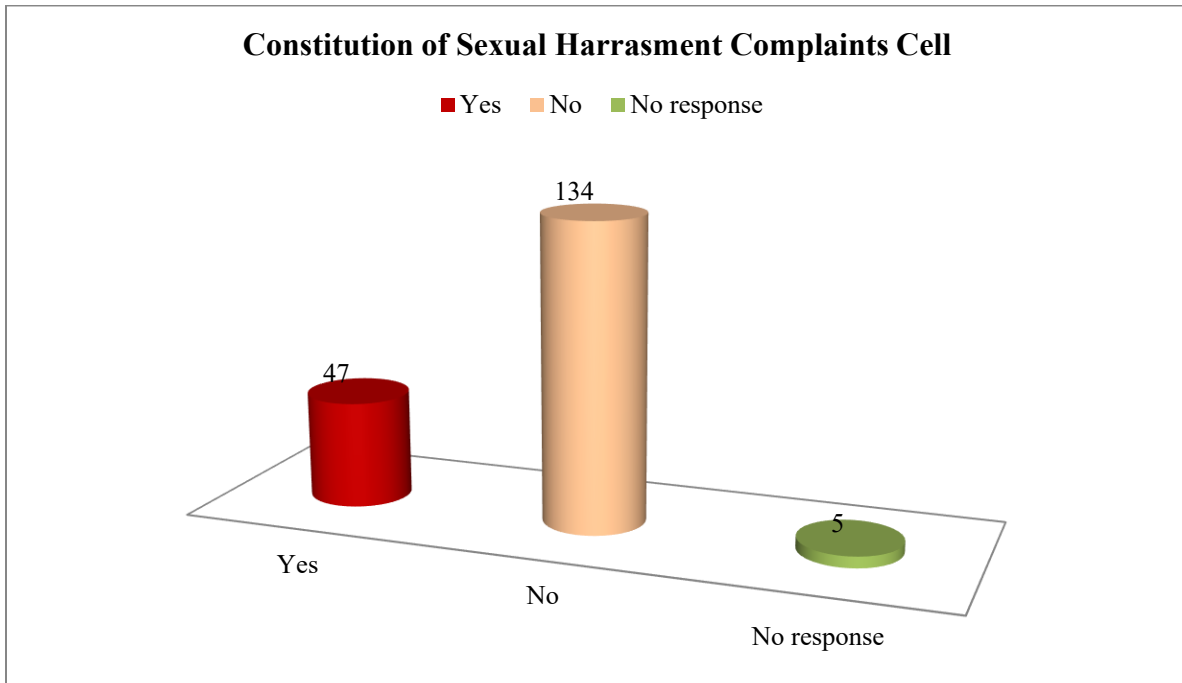


Table 20

Whether there is any sexual harassment complaints cell at workplace	No. of responses	Percentage
Yes	47	25
No	134	72
No response	05	03

From the above table and diagram, it is evident that 25% respondents responded in the affirmative; while nearly 72% respondents stated that there was no sexual harassment complaint cell whereas 3% skipped the question.

Question 29: Level of redressal if answer above is yes

Chart 21

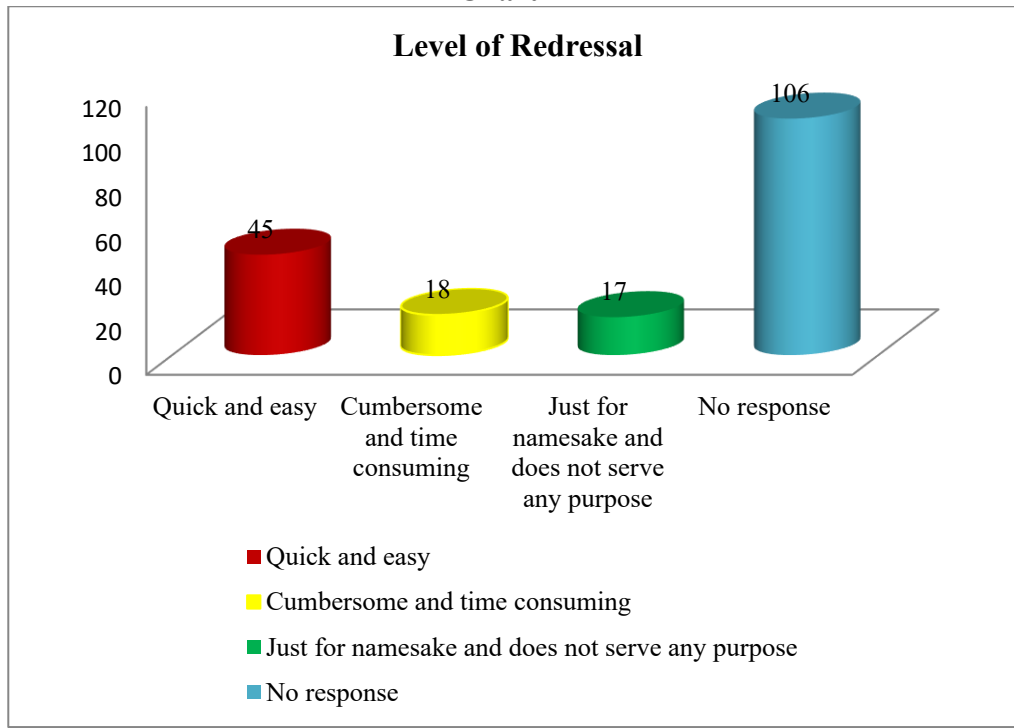


Table 21

Level of redressal	No. of responses	Percentage
Quick and easy	45	24
Cumbersome and time consuming	18	10
Just for namesake and does not serve any purpose	17	09
No response	106	57

As regards the level of redressal, it was stated by 24% respondents that it was quick and easy; 10% believed that it was cumbersome and time-consuming ; 9% believed that it was for namesake only and did not serve any purpose and 57% chose to skip the question. The said data leads to the inference that the safety guidelines laid down in Vishaka case have not been given due implementation.

18. STATUS OF ARMS, AMMUNITIONS, LATEST ARTILLERY AND SAFETY GEARS-

Question 30- is the workplace sufficiently armed with weapons, latest artillery and safety gears:

Chart 22

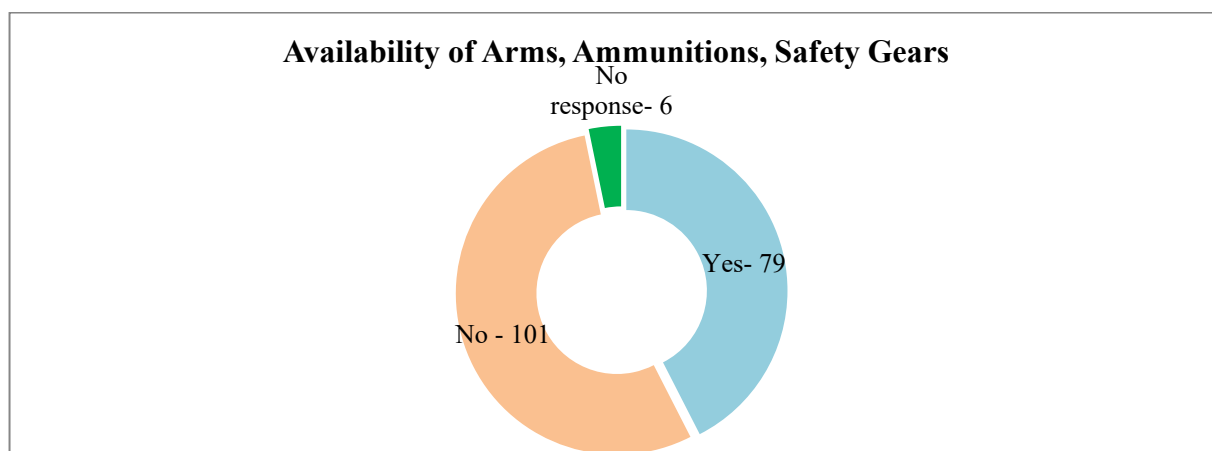


Table 22

Is the workplace sufficiently armed with weapons, latest artillery and safety gears	No. of responses	Percentage
Yes	79	43
No	101	54
No response	06	03

Time and again voices against the sub-standard quality of arms, ammunitions and safety gears of police personnel have been raised in the Country. Be it the 26/11 attacks in Mumbai, the Pathankot attack, the Bikru encounter or the various agitations in Haryana that have raised alarm on the outmoded quality of weaponry provided to police personnel. With this aim, the aspect was duly considered in the empirical research. Questions were mentioned in the questionnaire and police stations were personally visited to check the status of the arms and ammunitions and the results may be seen below. Table 22 and corresponding chart reflects the availability of weapons whereas table 23 and its corresponding chart depict the perception of the police personnel on the quality of such weapons.

The above table and chart depicts that 43% believed that the police stations have adequate arms and ammunitions; 54% believed that the police stations were not adequately armed while 03% preferred not to respond to the question.

19. STANDARD OF ARTILLERY AND PROTECTIVE GEARS PROVIDED TO POLICE-

Question 31- Quality of artillery, protection gears and bullet proof jackets available at workplace:

Chart 23

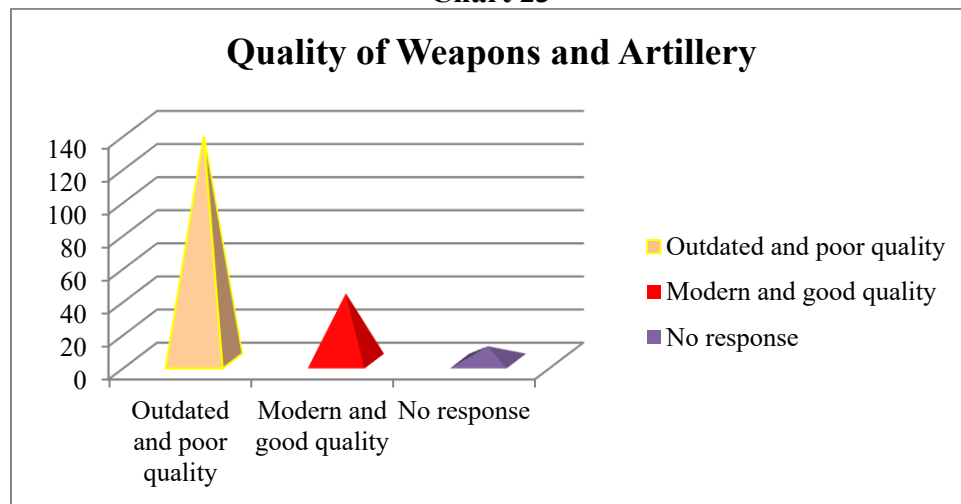


Table 23

Quality of artillery	No. of responses	Percentage
Outdated and poor quality	136	73
Modern and good quality	41	22
No response	09	05

The task of police personnel involves detection and prevention of crime and to perform such task, they are required to go to the hostile environment where threat to life is common. Under such scenario, use of outdated and poor-quality artillery adversely impacts their right to life. Therefore, specific question was framed in order to estimate the standard of the protective gear and artillery provided to the policemen for their personal safety and security as well as for the safety and security of society.

From the above analysis, it is clear that 73% of the respondents felt that the weapons provided to them were outdated and poor quality, whereas 22% found the weapons to be modern and sophisticated. Only 5% of the respondent did not choose to answer the said question.

During personal interviews, some respondents went on to add that there were no bullet proof jackets for their protection.

20. LEVEL OF SECURITY AT WORKPLACE-

Question 32- Level of security at workplace:

Chart 24

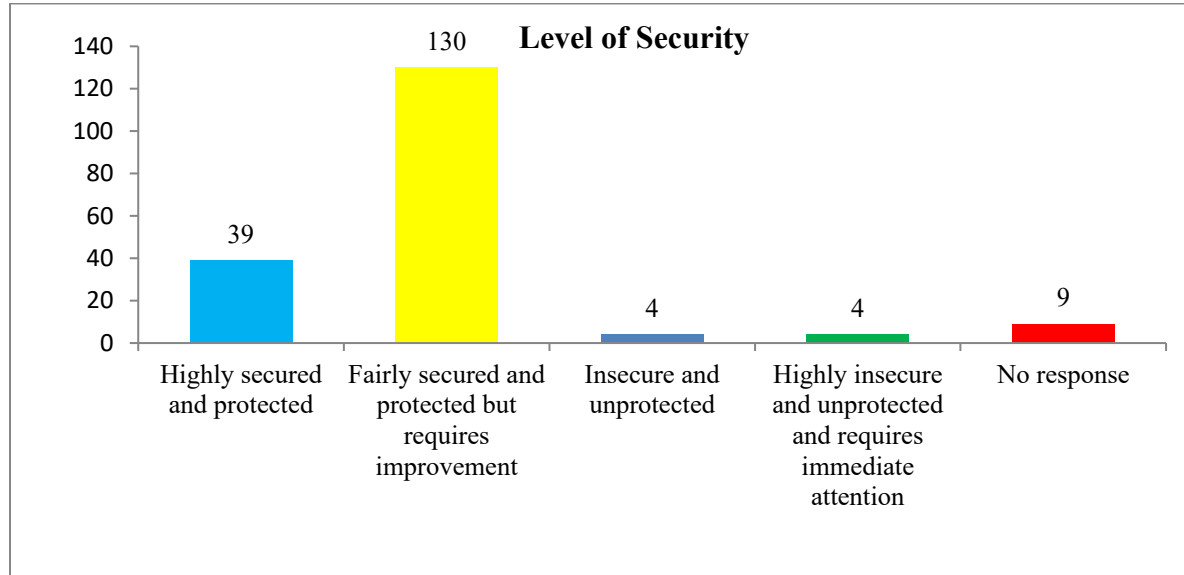


Table 24

Level of security at workplace	No. of responses	Percentage
Highly secured and protected	39	21
Fairly secured and protected but requires improvement	130	70
Insecure and unprotected	04	02
Highly insecure and unprotected and requires immediate attention	04	02
No response	09	05

From the above analysis, it comes to light that 21% stated that the workplace was highly secured and protected; 70% of the respondents believed that it was fairly secured and protected but required improvement; 02%stated that it was insecure and unprotected; 02% stated that it was highly insecure and unprotected and required immediate attention and 05% skipped the question altogether.

21. CCTV CAMERAS AT WORKPLACE-

Question 33- Whether CCTV Cameras are installed at workplace:

Chart 25

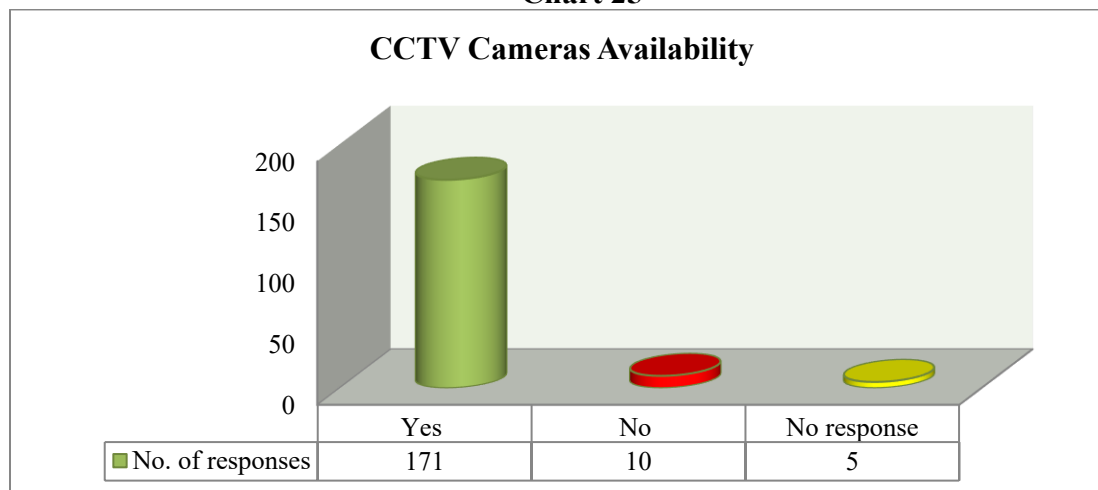


Table 25

Whether CCTV Cameras are installed at workplace	No. of responses	Percentage
Yes	171	92
No	10	05
No response	05	03

The Hon'ble Supreme Court in *Paramvir Singh Saini v. Baljit Singh & Ors*,⁷ had issued strict directives for the installation of CCTV cameras in every police station and within the offices of investigative agencies, including the CBI, the Directorate of Enforcement, and the National Investigation Agency, which are responsible for conducting investigations and possess arrest authority. Hence, the question was framed to assess the compliance of the Hon'ble Courts directions.

From the table and chart, it is evident that the mandate of the Apex Court has been substantially followed, as 92% of the respondents stated that CCTV cameras were installed in the police station; whereas 05% of the respondents stated that no CCTV Cameras were installed at the police station and 03% did not prefer to answer. The major advantage of such installation is to avert chances of any false complaint against the police qua torture or misbehavior.

⁷ SLP (Crl.) 3543 of 2020, decided on 2.12.2020 (SC).

22. INSTANCES OF MOB-VIOLENCE AGAINST THE POLICE-

Question 34- Any instance of mob violence while on duty:

Chart 26

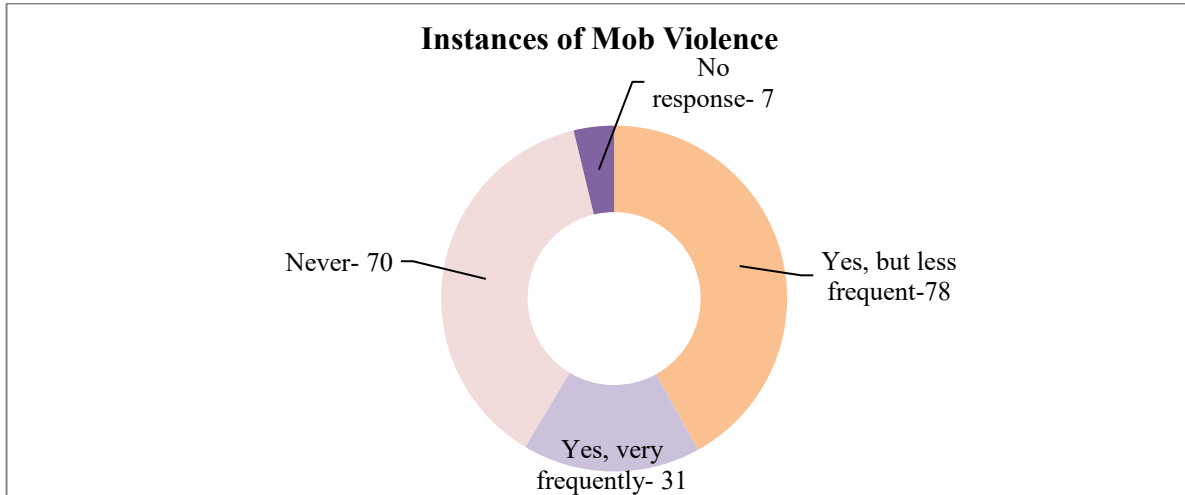


Table 26

Instance of mob violence while on duty	No. of responses	Percentage
Yes, but less frequent	78	42
Yes, very frequently	31	17
Never	70	37
No response	07	04

Now-a-days, instances of mob violence against the police have increased significantly. During crime detection and prevention especially at the time of prohibiting sand-mining; NDPS related crimes; stopping vehicles carrying animals illegally; religious processions; communal clashes; demolition drives and effecting arrests, it is seen that mob becomes violent many-a-times and manhandles the police officers on duty and sometimes causing serious injuries to the personnel on duty. Simultaneously, the offenders, taking advantage of the situation flees from the spot. Therefore, the question was specifically posed to the police personnel to get the insight on the frequency of such violent attacks which jeopardize their human rights.

From the above empirical data, it can be easily ascertained that the frequency of mob attack upon police personnel while on duty is significant as 59% of the respondents had stated that there were instances of mob attack upon them but their frequency varied (42% believed that there were such instances but were less frequent and 17% believed that they were very frequent); whereas only 37% of the respondents stated that they had never encountered any mob attack while 04% of the respondents did not answer the said question.

23. POLICE-PUBLIC RELATIONS-

Question 35- Relation between police and public according to you:

Chart 27

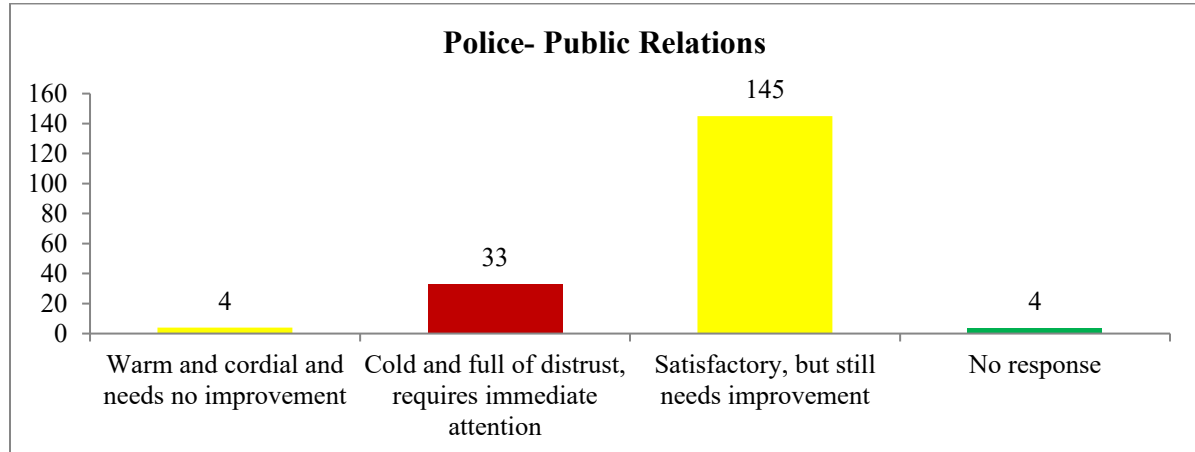


Table 27

Police-public relation according to police	No. of responses	Percentage
Warm and cordial and needs no improvement	04	02
Cold and full of distrust, requires immediate attention	33	18
Satisfactory, but still needs improvement	145	78
No response	04	02

The status of police-public relations are generally an agenda of discussion by media houses. The police works tirelessly for securing the rights of the public. However, the relations between them are generally not considered warm and cordial. Therefore, the said question has been specifically framed in order to ascertain the police-public relation.

From the above data, it is clear that only 02% of the respondents found the police-public relation to be warm and cordial whereas 18% of the respondents stated the said relationship was cold and distrustful and 78% of the respondents found the relationship to be satisfactory which required improvement and only 02% did not opt to answer the said question. Further, during personal interviews, many police personnel were unhappy with the fact that owing to extraneous pressures on their day-to-day working, they are bound to take steps which general public does not approve. The public thus forms a negative perception about them which causes discontentment amongst them. Also, the bad behaviour or deeds of police are given undue publicity and their good deeds are less discussed.

24. DETAILS OF THE ACCOMMODATION FACILITY PROVIDED TO POLICE PERSONNEL-

Question 36- Accommodation provided by Government or living on requisition?

Chart 28

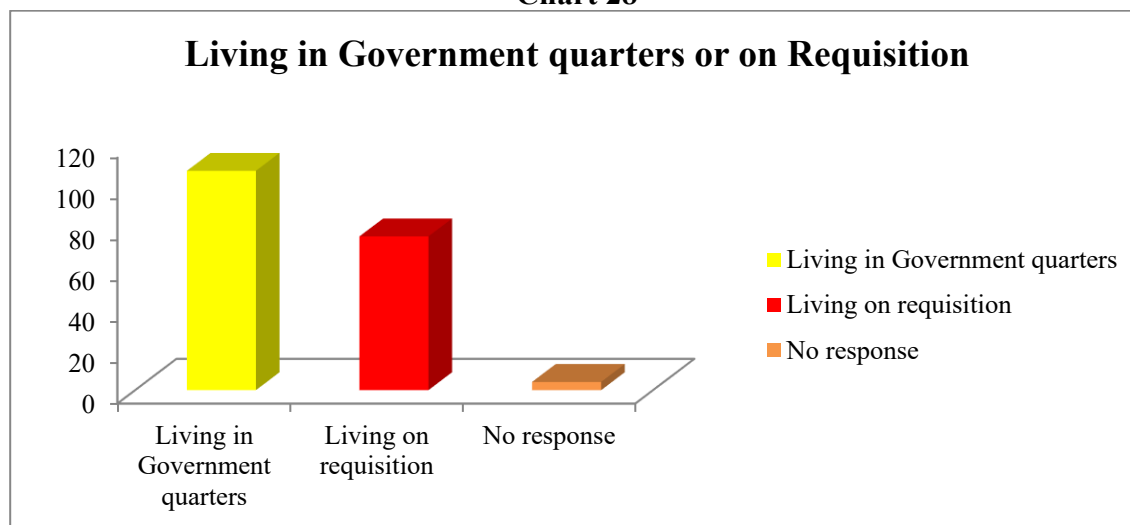


Table 28

Accommodation provided by Government or living on requisition	No. of responses	Percentage
Living in Government quarters	107	58
Living on requisition	75	40
No response	04	02

Food, clothing and shelter are the basic necessities of a human being. In a hectic regime, all that a person need is a place to rest and spend quality time with family. For this, a clean, sufficiently spacious home with proper ventilation which is safe and has minimum basic facilities becomes essential. The satisfaction that while the police personnel is on duty, the family back home must be leading a comfortable life, always crosses the mind of the police personnel. With these objectives, the forthcoming questions were aimed to gain valuable insight regarding the housing facilities provided to them by the Government.

From the above data, it can be stated that 58% respondents were living in Government Accommodation whereas 40% were living on requisition and only 02% did not answer the said question. During personal interviews, it was revealed that many police personnel were living in Government Quarters while others were living on requisition as the houses were less and the police personnel were more in number.

25. QUALITY OF GOVERNMENT ACCOMODATION-

Questions 37 -Quality of Government Accommodation if the above answer is yes:

Chart 29

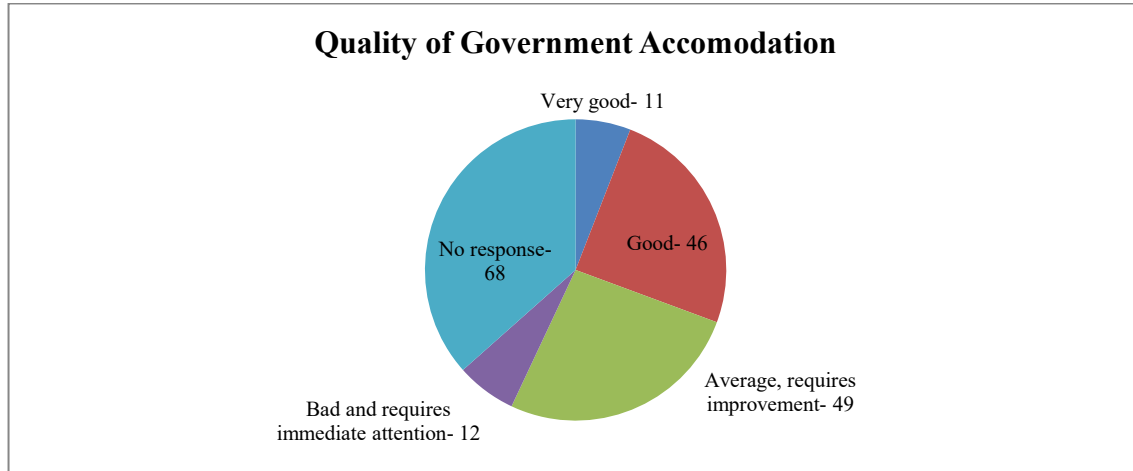


Table 29

Quality of Government Accommodation	No. of responses	Percentage
Very good	11	06
Good	46	25
Average, requires improvement	49	26
Bad and requires immediate attention	12	06
No response	68	37

From the above empirical data, it is evident that 06% of the respondents found the quality of Government Accommodation to be very good and 25% found the same to be of good quality. However, 26% of the respondents were of the view that average Government Accommodation was provided to them which required improvement and 06% of the respondents stated that the quality of accommodation so provided to them was bad and poor. The remaining 37% of the respondents did not choose to answer the question.

During personal interviews, it was revealed that that many middle-aged police personnel having adult children, spouse and even elderly parents found the area of the accommodation to be not sufficient enough to comfortably accommodate the entire family. Many living on Government accommodation were not happy with the quality of quarters. For those living on requisition, had the issue of changing after a fixed time (11 months) as landlords were skeptical regarding the payment of rent owing to frequent transfers.

26. STATUS OF OCCUPANCY, WHETHER SOLE OR JOINT-

Question 38- living with family or alone:

Chart 30

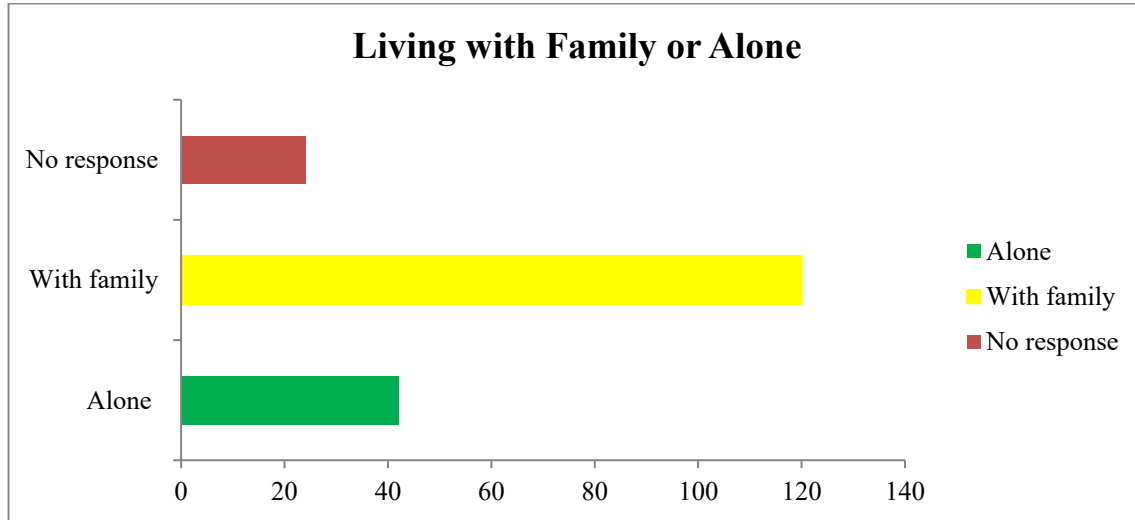


Table 30

Living with family or alone	No. of responses	Percentage
Alone	42	23
With family	120	64
No response	24	13

Many-a-times, living alone pose greater risk in a highly stressful work environment. Familial bond keeps an individual positive once he reaches home (though for a limited time). For various reasons, police personnel are forced to live alone. Thus, the question was aimed at ascertaining the number of such personnel and with specific reasons of living alone.

From the data above, it is clear that 23% of the respondents were living alone whereas 64% were living with their respective families. The remaining 13% of respondent did not choose to answer the said question.

During personal interviews, it was revealed that some of the police personnel chose to live alone, with a view to ensure that lifestyle and the crucial phase of education of their children do not suffer due to inadequate infrastructure and abrupt transfers.

27. LEVEL OF JOB SATISFACTION-

Question 39- Level of job satisfaction:

Chart 31

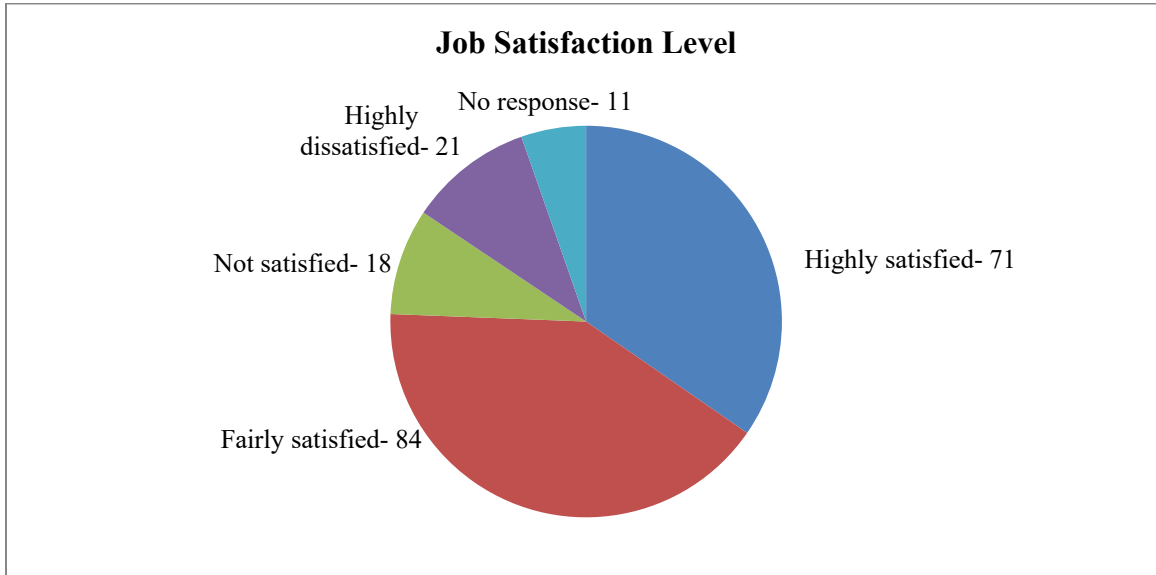


Table 31

Job satisfaction	No. of responses	Percentage
Highly satisfied	71	35
Fairly satisfied	84	41
Not satisfied	18	09
Highly dissatisfied	21	10
No response	11	05

The police work round the clock to maintain peace and order in the society. They are overly burdened and lead a stressful life, therefore, specific question was framed in order to ascertain the level of job satisfaction amongst the police personnel in the backdrop of the various questions earlier placed touching upon the various aspects of work-life balance, infrastructural facilities, mental and physical health and so on.

From the empirical data, it is revealed that 35% of respondents were highly satisfied with their jobs, while 41% were fairly satisfied. A total of 9% of the respondents were not satisfied with their job and duties whereas 10% found their job to be highly dissatisfied. Only 5% of respondent did not choose to answer the question. However, during personal interviews, it was observed that the majority of police personnel were going through a lot of hardships in their routine life which was leading to low zeal and decline in level of job satisfaction.

5.3.2 Analysis of Data Collected From Category-II Respondents- General Public

In order to make the research more meaningful, gaining valuable insights from general public becomes important. Because it is ultimately the general public for whose protection the police institution has been established. Hence the general public is amongst the major stakeholders. The questionnaire aimed for general public had been drafted to get their inputs on the working pattern of police, the manner of redressal received by them, their views on working conditions of police and the expectations they hold for police. A total of 119 respondents from general public had provided their feedback.

1. POLICE AS THE FIRST RESPONDER IN THE TIME OF CRISIS-

Q6- Who would you like to call in times of grave emergency?

Chart 32

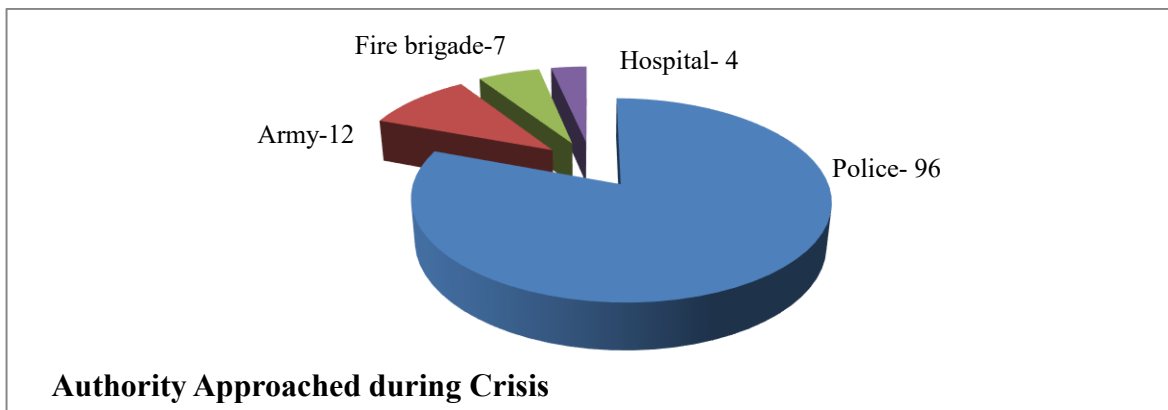


Table 32

First responder in times of crisis generally	No. of responses	Percentage
Police	96	81
Army	12	10
Fire brigade	07	06
Hospital	04	03

Police, army, fire brigade and hospital are the important institutions meant to cater to the emergency need of the society. In times of dire need, even the names and contact numbers of near ones tend to slip from the memory. Hence the question was aimed at ascertaining the institution that people generally approach in case of dire emergency.

From the above empirical data, it is clear that 81% of the public opted for the police option whereas 10% of the respondents opted for army option; 06% chose the fire brigade option and only 03% chose the hospital option.

2. ANY PERSONAL SITUATION WHEN ASSISTANCE OF POLICE WAS NEEDED-

Q7. Have you experienced any situation when you sought police assistance?

Chart 33

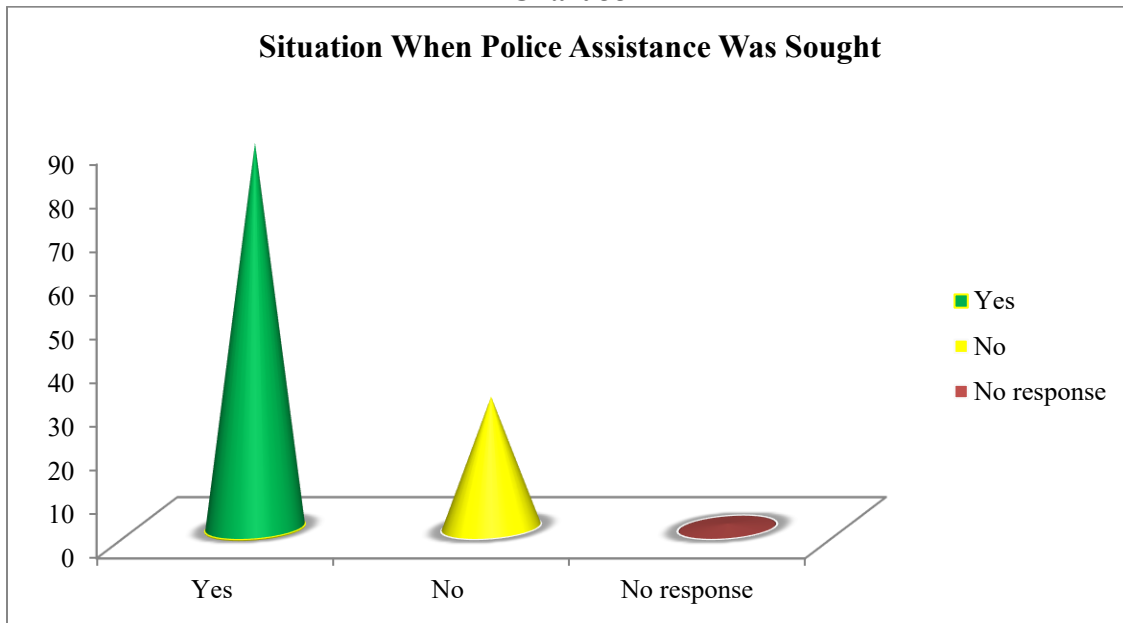


Table 33

Any situation when police assistance was sought	No. of responses	Percentage
Yes	88	74
No	30	25
No response	01	01

The question was meant to analyse whether the respondents ever sought police assistance.

From the above data, it is evident that 74% of respondents sought the assistance of the police whereas 25% did not seek their assistance and only 01% did not answer the question.

3. TIME TAKEN BY POLICE TO REACH OUT FOR ASSISTANCE-

Q.8 Did the police assistance reach on time?

Chart 34

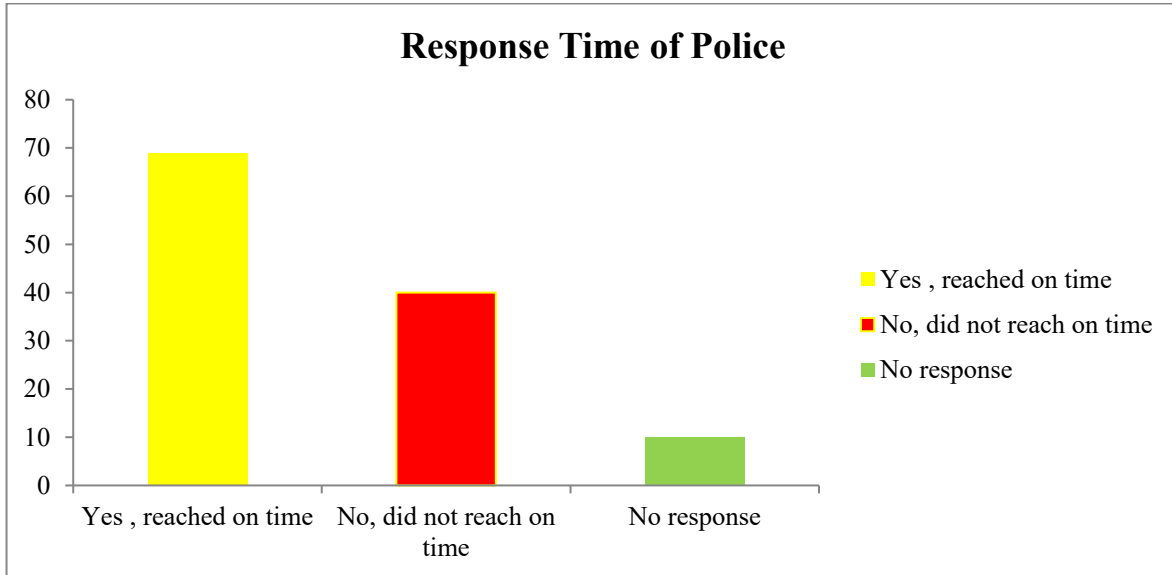


Table 34

Time taken by police in reaching out	No. of responses	Percentage
Yes , reached on time	69	58
No, did not reach on time	40	34
No response	10	08

The assistance provided by any Government functionary or institution is meaningful only if it reaches on time. In event of crime, accident, mishap or any untoward incident, promptness in action is the essence. Police is generally blamed for being excessively late. Hence the current question was aimed at gauging the response time of police.

From the aforementioned table and corresponding diagram, it can be ascertained that 58% of public admitted that the police reached on time for their assistance whereas 34% stated that the police did not reach on time and only 08% did not respond to the question.

4. VISIT TO POLICE STATION-

Q9- Have you ever visited any police station?

Chart 35

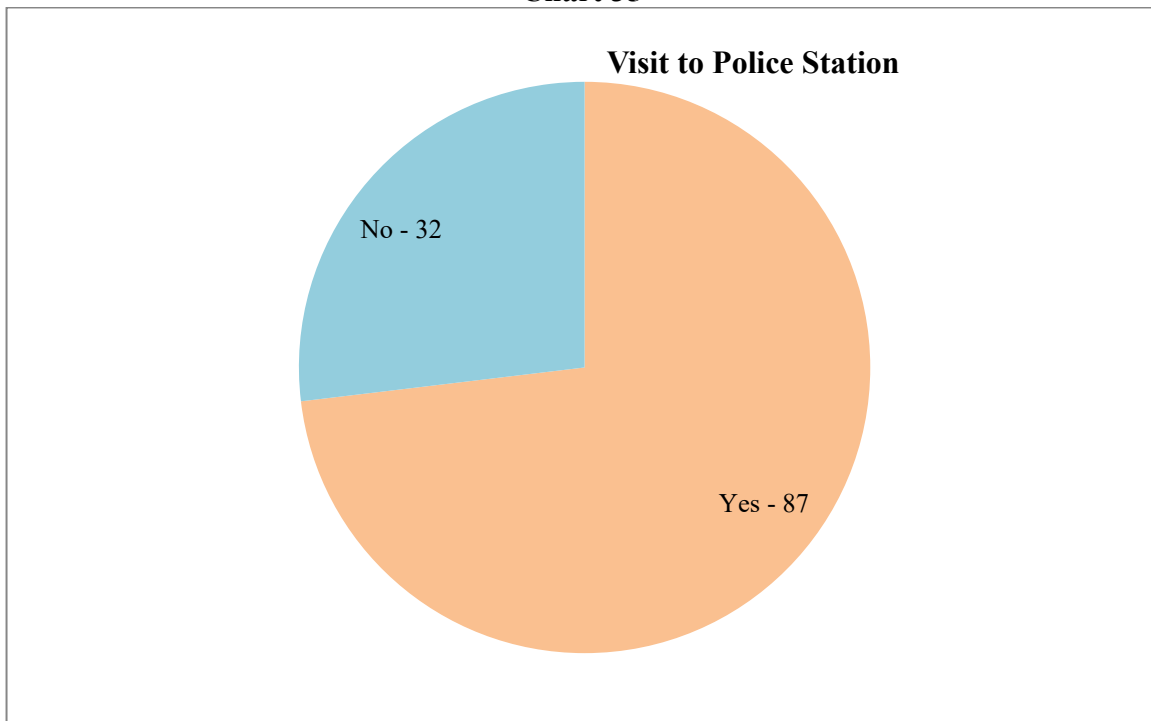


Table 35

Any visits to police station	No. of responses	Percentage
Yes	87	73
No	32	27

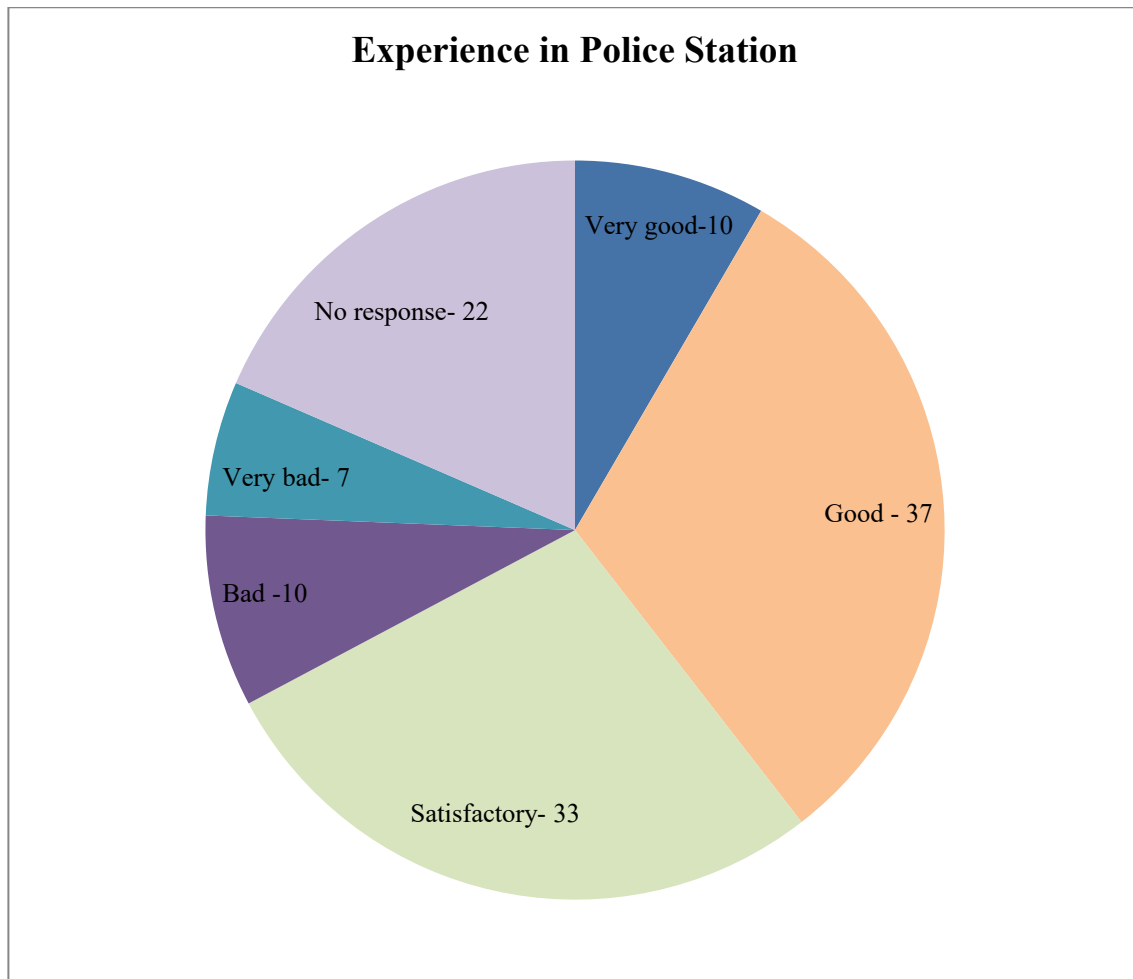
The question was aimed to find the first -hand experience of general public with the police at the police station.

From the above data, it is inferred that 73% of the respondents visited the police station whereas 27% of the respondents did not visit any police station.

5. EXPERIENCE OF VISITING POLICE STATION-

Q10- Your experience in the police station:

Chart 36



The aforementioned pie-diagram depicts the experience of those respondents who had the chance of visiting the police station. 08% respondents were of the view that their experience with the police at the police station was very good while 31% found their experience to be good;28% of public found the experience to be satisfactory and 08% had bad experience while 06% had worst experience. Only 19% did not respond to the question.

6. CONDITION OF INFRASTRUCTURE AT POLICE STATION-

Q11. What is your opinion about the infrastructure and condition of police stations:

Chart 37

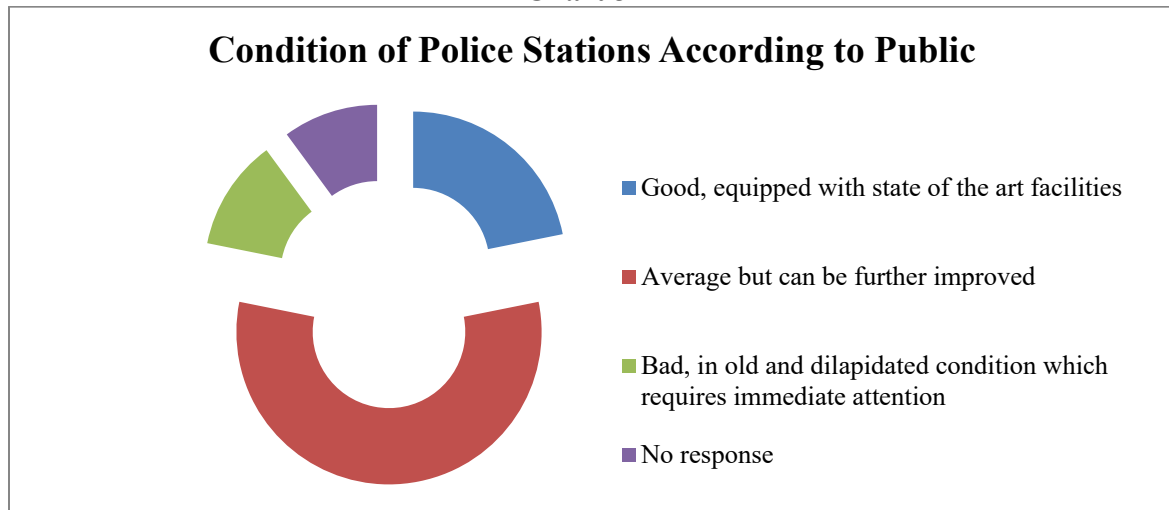


Table 37

Infrastructure and condition of police stations	No. of responses	Percentage
Good, equipped with state- of- the- art facilities	26	22
Average but can be further improved	67	56
Bad, in old and dilapidated condition which requires immediate attention	14	12
No response	12	10

This question was primarily aimed to gauge the infrastructure and actual condition in which the police work in a police station (from the general public's perspective)

The table as well as the corresponding chart depicts that 22% of general public found the police station to be adequately furnished with state of the art facility while 56% of the respondents found the infrastructure to be average requiring improvement, while 12% of the population was of the view that the infrastructural facility in the police station was in a bad and dilapidated condition. Only 10% did not respond to the said question.

7. STRESS AND LEVEL OF BURDEN OF POLICE PERSONNEL-

Q12. Do you feel that the police is overburdened and stressed?

Chart 38

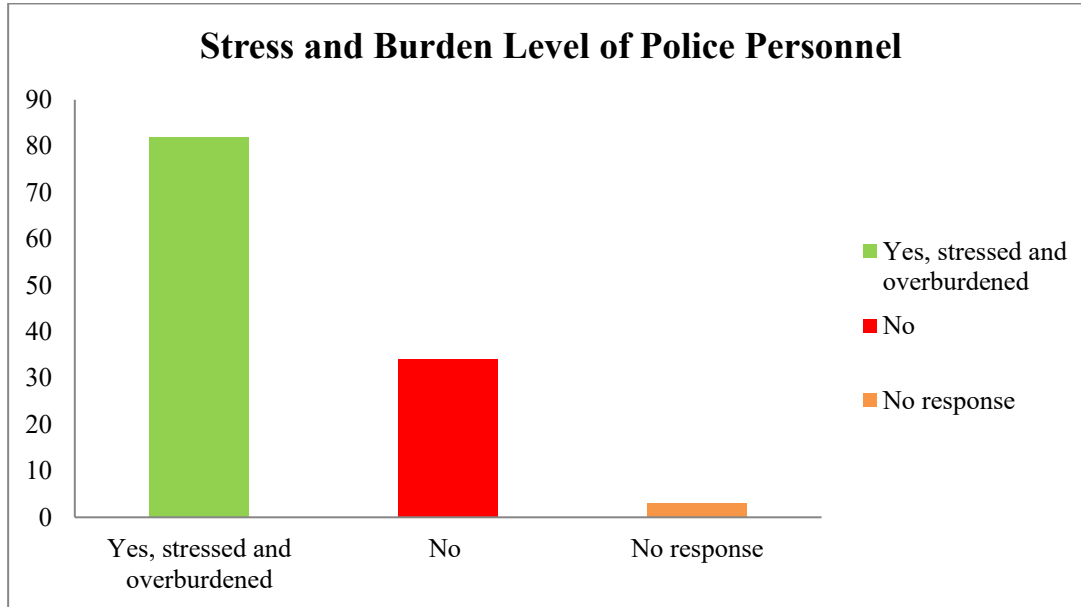


Table 38

Stress and level of burden of police personnel	No. of responses	Percentage
Yes, stressed and overburdened	82	69
No	34	29
No response	03	02

The question was posed to the general public in order to find out their views on the aspect of mental and physical stress under which the police works and status of manpower.

The table and corresponding chart shows that 69% of respondents found the police to be working under stressful environment and heavily over-burdened whereas 29% of the respondents found that the police neither works in a stressful environment nor are they are over-burdened. Only 02% of respondents did not respond to the said question.

8. FITNESS LEVEL OF POLICE-

Q13- The status of general fitness of police:

Chart 39

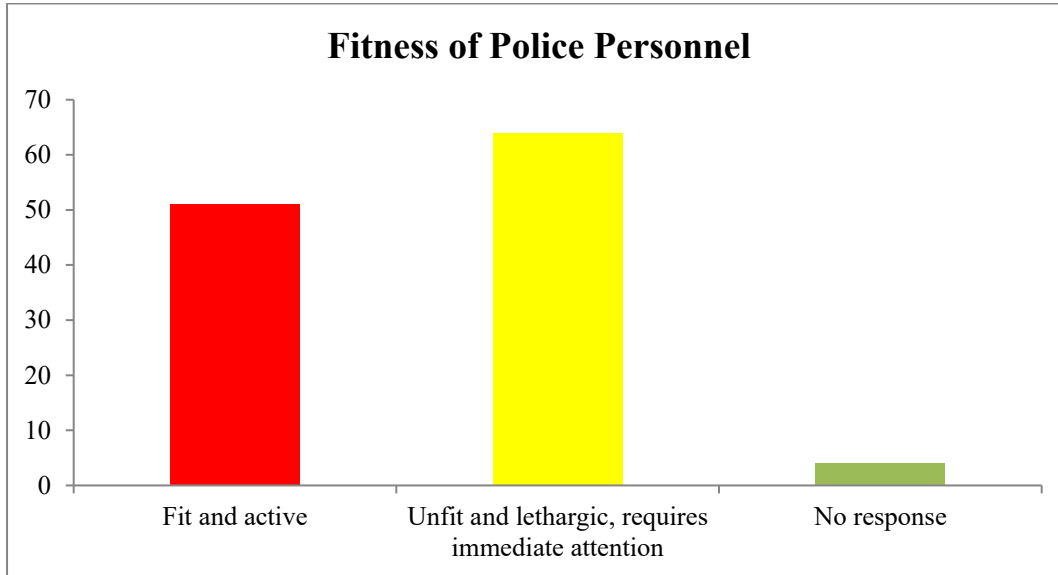


Table 39

General fitness of police	No. of responses	Percentage
Fit and active	51	43
Unfit and lethargic, requires immediate attention	64	54
No response	04	03

The main object of including the said question was to gain the valuable opinion of the general public regarding the fitness level of police personnel and to seek their views on the general capability to perform their duties with promptness and efficiency.

From the above empirical data, it can be gathered that 43% of respondents found the police to be fit and active whereas 54 % of respondents were of the opinion that the police is unfit and lethargic requiring due attention towards their health and only 03% did not choose to respond to the said question.

9. THE AVERAGE TIME A POLICE PERSONNEL SPENDS ON DUTY-

Q.14- According to you what is the average time spent by a police personnel while on duty?

Chart 40

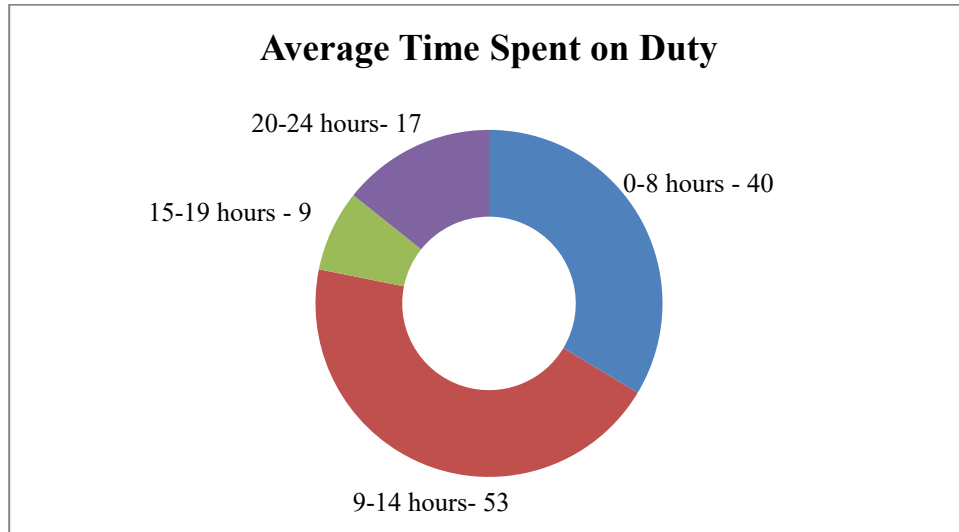


Table 40

Average time served by a police personnel on duty	No. of responses	Percentage
0-8 hours	40	34
9-14 hours	53	44
15-19 hours	09	08
20-24 hours	17	14

The question finds mention in questionnaires of all the three categories to have comprehensive view of the police personnel; the general public and the members of the legal fraternity to ascertain the working regime of the police and also to ascertain whether the other stakeholders of the society are mindful of the hectic working hours of the police personnel.

The empirical data collected on the important issue of working hours of the police personnel reveals that 34% respondents were of the opinion that police personnel works for eight hours while 44% stated that they work somewhere between 09-14 hours and 08% believed that police works for more than 15 hours and less than 19 hours while 14% of the respondents were of the opinion that the police personnel worked for more than 20 hours.

10. SUPPORT FOR EIGHT HOUR DUTY NORM-

Q15- Would you support eight-hour duty norm for police?

Chart 41

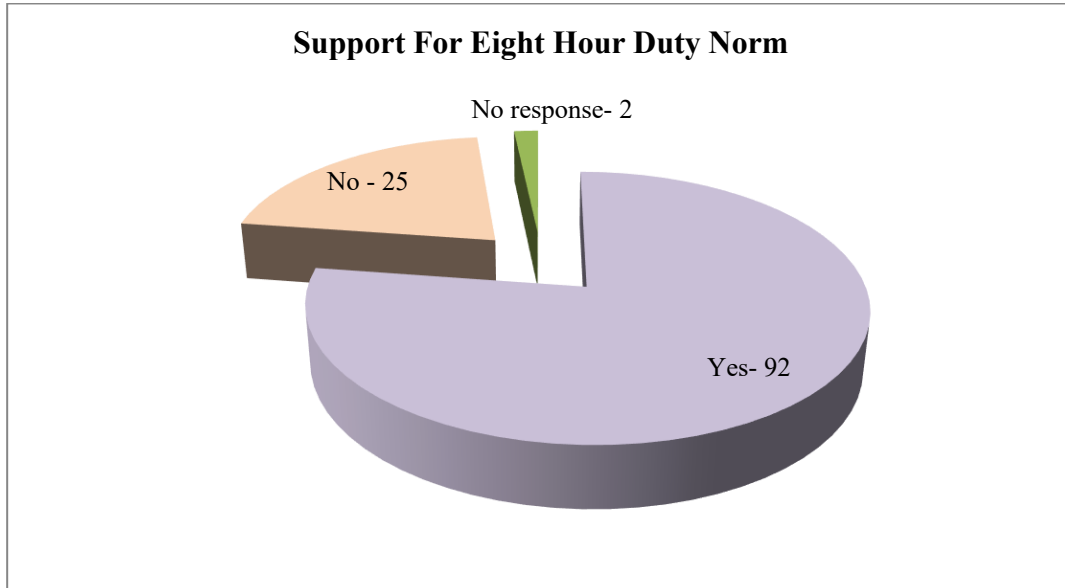


Table 41

Support for 8 hour duty norm	No. of responses	Percentage
Yes	92	77
No	25	21
No response	02	02

Eight hour duty is a humanitarian requirement and is widely mooted across the globe in order to ensure that human beings have an adequate work-life balance. More than 08 hours of duty creates an adverse impact on the physical and mental health of an individual.

From the above data, it can be gathered that 77% of respondents supported the eight hours working norm whereas 21% of respondents did not support the same. Only 2% failed to respond to the said question.

11. GENERAL PUBLIC PERCEPTION ABOUT POLICE-

Q-16 Your general opinion about police:

Chart 42

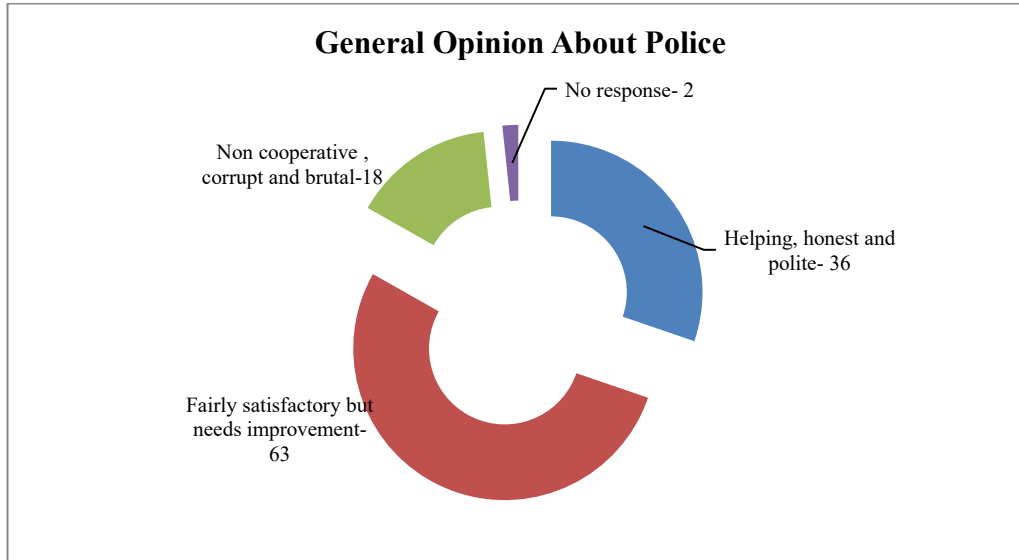


Table 42

General opinion about police	No. of responses	Percentage
Helping, honest and polite	36	30
Fairly satisfactory but needs improvement	63	53
Non cooperative, corrupt and brutal	18	15
No response	02	02

This question has been framed in order to identify and analyse the overall perception of police in the mind of general public.

From the empirical data, it is clear that 30% of respondents found the police to be helpful, honest and polite; while 53% found the working of police to be fairly satisfactory requiring improvement. However, 15% of respondents were of the opinion that the police was non-cooperative, corrupt and brutal while 2% did not respond to the said question.

12. LEVEL OF POLITICAL PRESSURE UPON POLICE-

Q17- Do you think that the police work under immense political pressure?

Chart 43

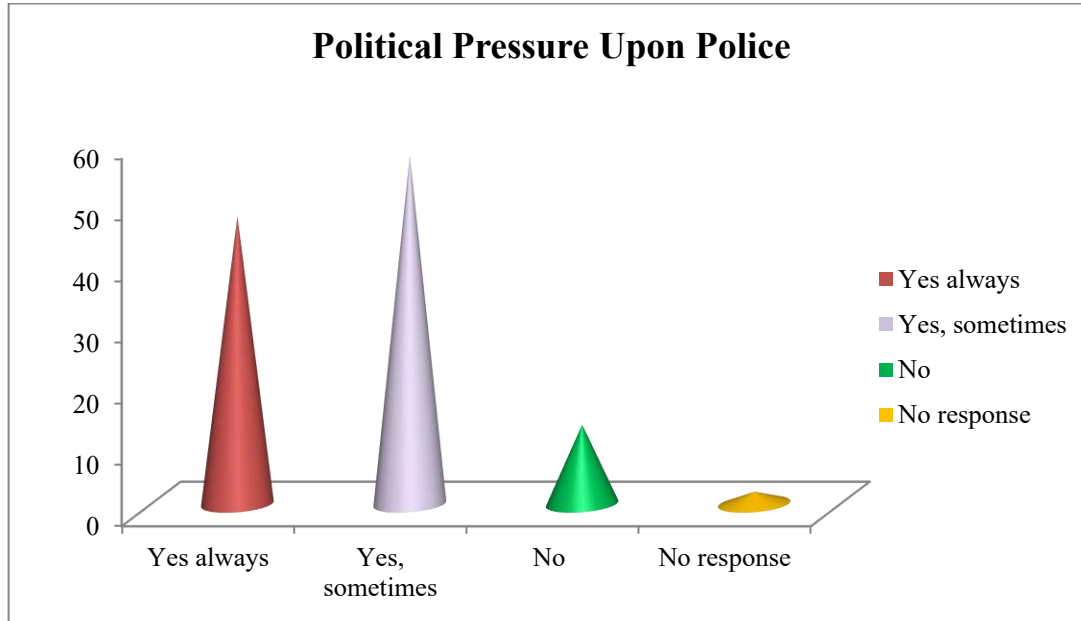


Table 43

Political pressure upon police	No. of responses	Percentage
Yes always	47	39
Yes, sometimes	57	48
No	13	11
No response	02	02

The main thrust of posing the said question amongst the general public was to ascertain their opinion about the political interference in the working of police.

From the data above, it is evident that 39% of respondents believed that there was excessive political interference, while 48% of respondents were of the opinion that although there was political interference but not always. However, 11% respondents viewed that police works independently without any political interference and only 2% did not respond to the question.

13. STATUS OF ARMS AND AMMUNITION PROVIDED TO POLICE-

Q-18 Is the police armed with latest weapons, arms and artilleries?

Chart 44

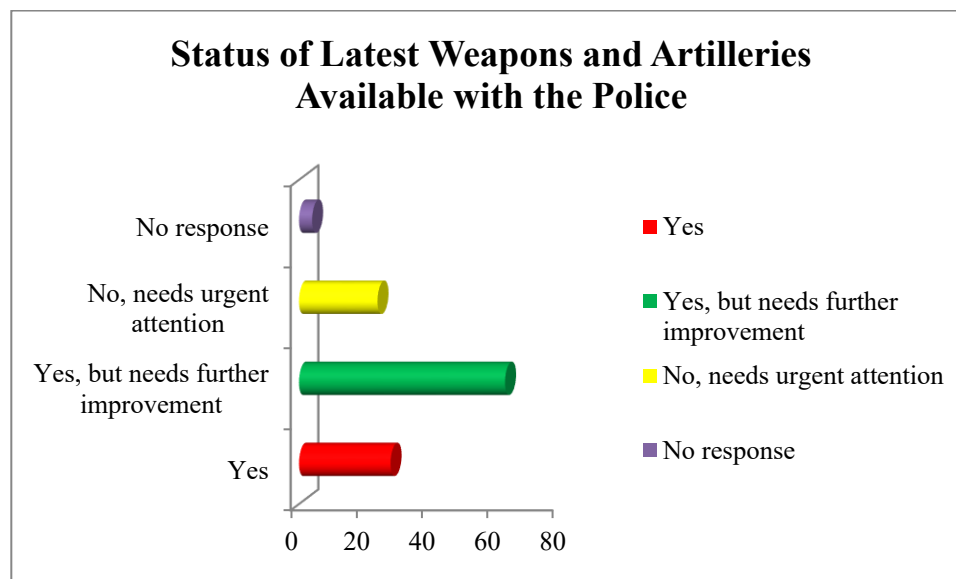


Table 44

Whether the police is armed with latest weapons, arms and artilleries	No. of responses	Percentage
Yes	28	24
Yes, but needs further improvement	63	53
No, needs urgent attention	24	20
No response	04	03

Quality of weapons is not only an important security issue but also has humanitarian overtones. The protectors of human rights must be adequately equipped to protect their as well as others lives at ease. In the contemporary times, the offenders, the members of terror outfits and other anti-social elements are equipped with the latest arms and ammunitions. The police personnel many-a-times lose their lives owing to dearth of latest weapons. In the given backdrop the current question has been put forth for opinion of general public.

From the above data, it is evident that 24% of respondents were of the opinion that the police was armed with latest weapons while 53% opined that although police was armed with latest weapons but required improvement. However, 20% were of the opinion that urgent attention was required to provide latest weapons to the police while 03 % chose to leave the question unanswered.

**14. STATUS OF RESPECT AND ACKNOWLEDGEMENT OF EFFORTS
MADE BY POLICE-**

Q.19 Do you think that given the type of duty, the police is given due respect in India?

Chart 45

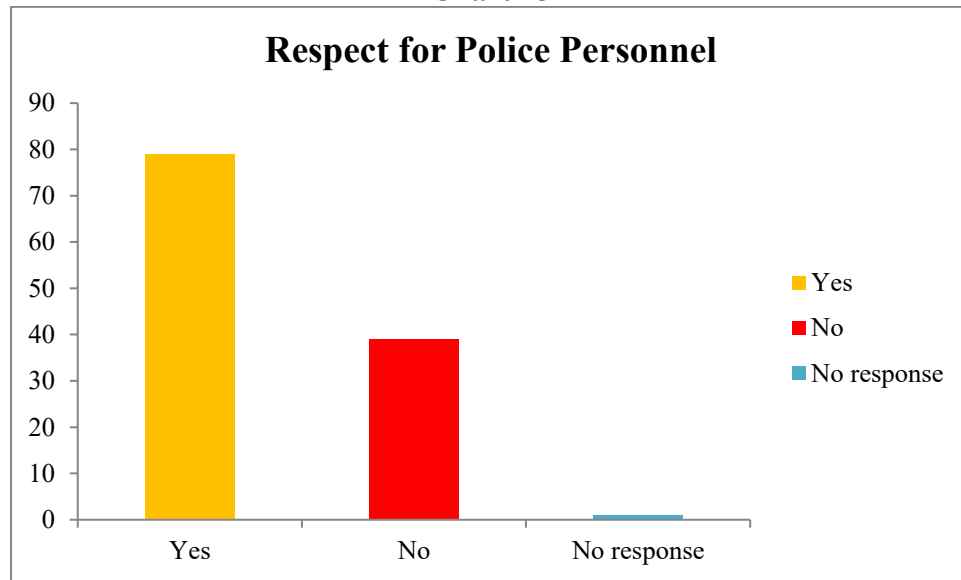


Table 45

Respect for police in India	No. of responses	Percentage
Yes	79	66
No	39	33
No response	01	01

This question has been framed so as to garner the public perception about the respect earned by the police in performance of their duties.

From the table and chart above, it is evident that 66% of respondents had shown due respect for the police while 33% stated that the efforts of police were not duly acknowledged by the general public. Only 01% did not respond to the said question.

15. TENDENCY OF NEGATIVE PUBLICITY OF THE POLICE-

Q.20- A lot is said and discussed against the police but less is said and done in favor of police. Do you agree with the statement?

Chart 46

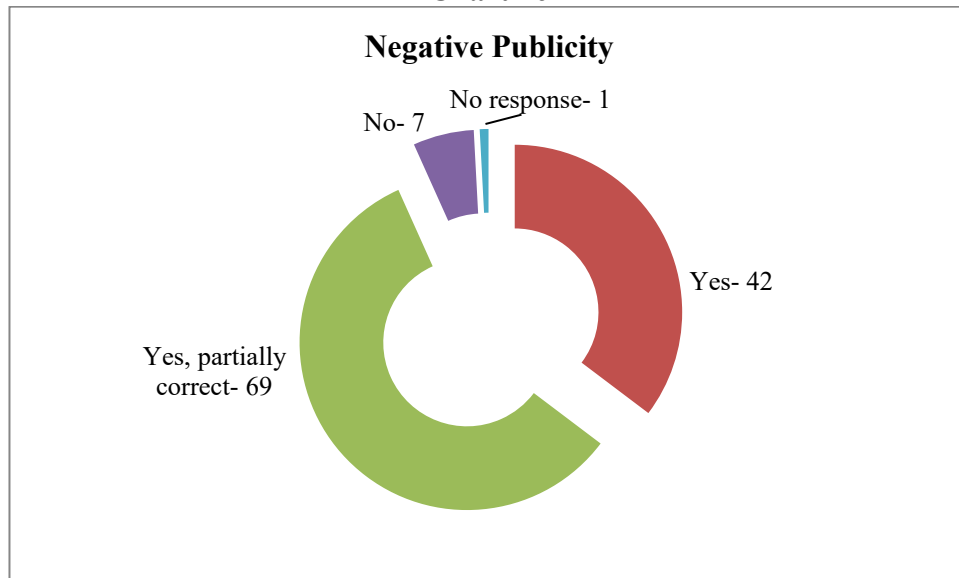


Table 46

A lot is said and discussed against the police but less is said and done in favour of the police-	No. of responses	Percentage
Yes	42	35
Yes, partially correct	69	58
No	07	06
No response	01	01

The current question has been framed with the objective to gain insight into the negative publicity of the police and the opinion of public about such aspect.

From the empirical data, it is evident that 35% of the respondent completely agreed to the proposition while 58% respondents opined that it was partially correct. However, 06% of respondents did not agree to the proposition while 01% chose not to answer the question.

16. HUMAN RIGHTS OF POLICE WHETHER PROTECTED IN INDIA-

Q.21- Do you think that Human Rights of Police are adequately addressed in India?

Chart 47

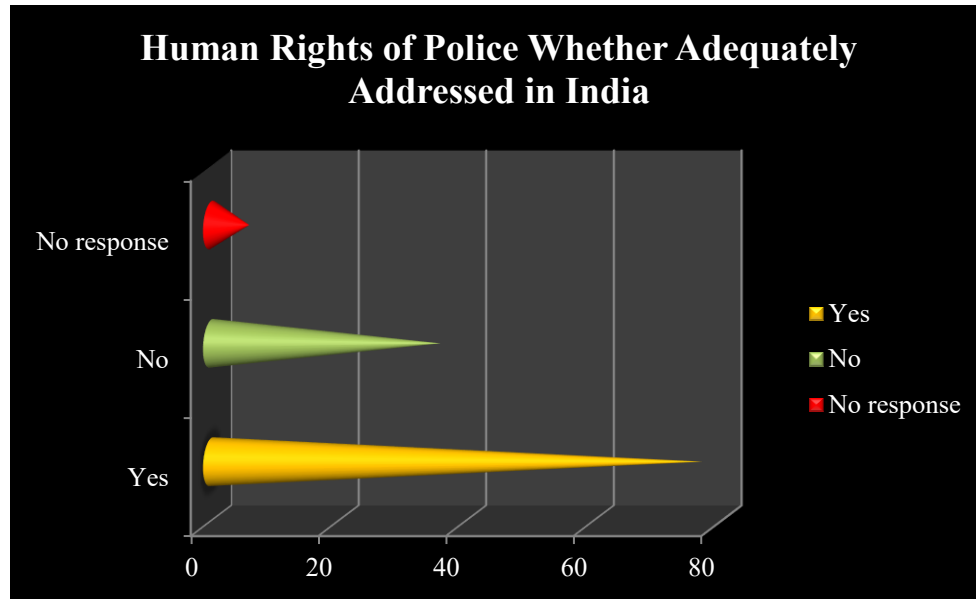


Table 47

Human rights of police whether adequately addressed in India	No. of responses	Percentage
Yes	77	65
No	36	30
No response	06	05

The question has been primarily framed so as to seek the opinion of the general public on the aspect of protection of human rights of the police personnel who in the capacity of being human beings are equally entitled to get protection and seek timely redressal in event of violations.

From the aforementioned data, 65% stated that human rights of police were adequately addressed while 30% respondents believed that human rights of the police were not protected while 05% left the question unanswered.

17. NEED FOR POLICE REFORMS-

Q22- Do you think that the police needs to be reformed?

Chart 48

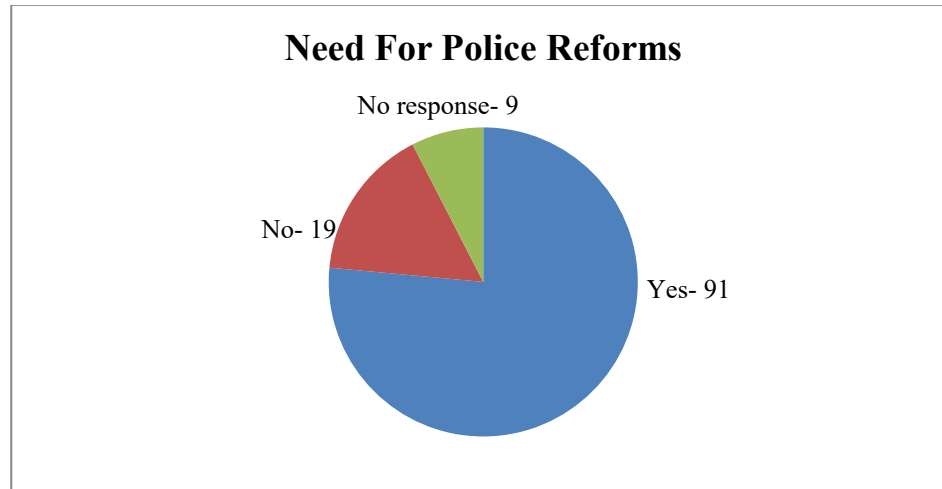


Table 48

Need for police reforms	No. of responses	Percentage
Yes	91	76
No	19	16
No response	09	08

The current issue has been addressed in the backdrop of the preceding questions touching upon the social and human rights aspect of the police personnel and to gain insight into the opinion of general public on the issue of police reforms.

From the above data, it is crystal clear that 76% of the general public opined that there was a dire need for police reforms while only 16% formed the opinion that no police reforms were required and 08% did not answer the question.

5.3.3 Analysis of Data Collected From Category-III Respondents- Members of Legal Fraternity-

As police is allocated the task of preserving peace and order in the society and to investigate crimes, it also works in close coordination with the members of legal fraternity such as public prosecutors, judges, court staff, law students, legal aid clinics etc. Hence, total 88 responses from legal fraternity were collected through specially drafted questionnaire aimed for them to ascertain their views on police functioning and their role in criminal justice system and suggest measures leading to better criminal justice administration while securing human rights of police personnel simultaneously.

1. IMPORTANCE OF POLICE IN THE CRIMINAL JUSTICE SYSTEM-

Question 06- Police plays an important role in the Criminal Justice System:

Chart 49

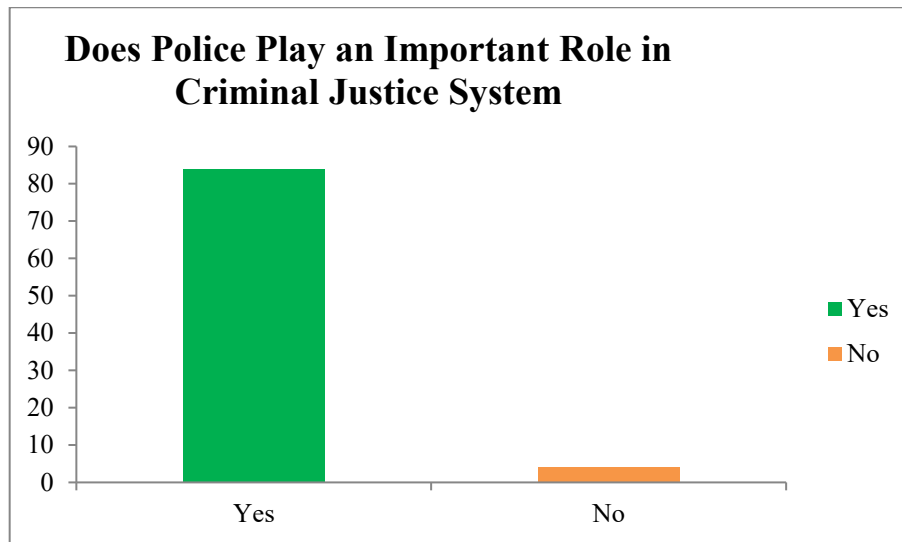


Table 49

Important role of police in the Criminal Justice System	No. of responses	Percentage
Yes	84	95
No	04	05

Police is tasked with preserving peace and harmony, arrest criminals, protect public property, work towards prevention of crime and investigate crimes. The question was thus aimed at gaining insights of the members of the legal fraternity on the important role of police in the Criminal Justice System.

From the empirical data collected in the case, it can be inferred that majority i.e. 95% respondents believed that police plays a crucial role in the Criminal Justice System with 05% disagreeing to the proposition.

2. LEVEL OF CO-ORDINATION OF POLICE WITH OTHER COUNTERPARTS-

Question 07- What is the level of co-ordination of Police with other organs/wings of Criminal Justice System:

Chart 50

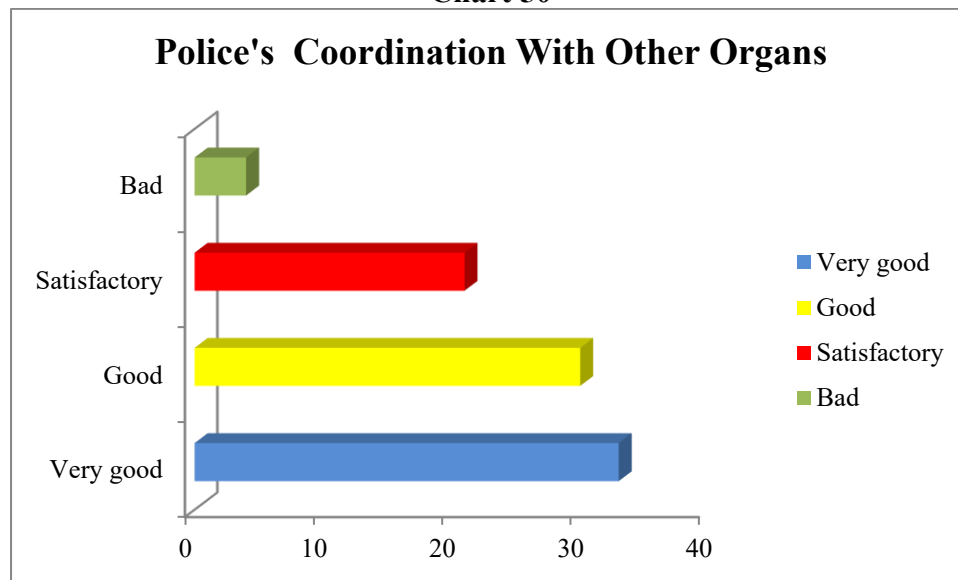


Table 50

Level of co-ordination of Police with other organs/wings of Criminal Justice System	No. of responses	Percentage
Very good	33	37
Good	30	34
Satisfactory	21	24
Bad	04	05

The Criminal Justice System in India cannot work in isolation. The police, the Court and the staff, the lawyers, the legal aid clinics all unite to ensure that rights of public are preserved. Hence the said question was framed with the objective of ascertaining the level of police coordination with other stakeholders.

The data depicted in the aforementioned table and diagram states that 37% considered the coordination to be very good; 34% respondents believed that the coordination was good with 24% and 5% believing it to be satisfactory and bad respectively. It can be inferred that a considerable population is satisfied with the coordination level of police.

3. WHETHER POLICE RESPONSIBLE FOR DELAY IN CRIMINAL TRIALS DUE TO DELAY IN COURT APPEARANCES ETC. -

Question 08- Do you think that police is responsible for delay in criminal trials as it fail to appear readily for evidence in Courts as prosecution witnesses?

Chart 51

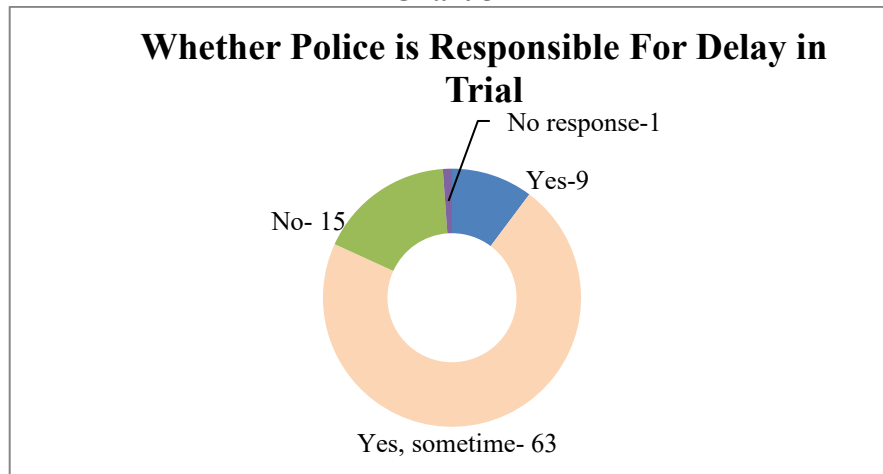


Table 51

Police responsible for delay in criminal trials due to delay in Court appearances etc.	No. of responses	Percentage
Yes	09	10
Yes, sometimes	63	72
No	15	17
No response	01	01

It is an established fact that the police is made to perform multifarious functions simultaneously. Many a times, the delay in criminal trial is attributed to the police as it is too busy to give its deposition. Hence the foregoing question to ascertain the validity or otherwise of the given proposition.

The empirical data on the aspect reveals that 10% respondents believed that delay is attributable to polices' non-appearance during trials; 72% respondents believed that delay is sometimes attributed to delay of police personnel in reporting to Hon'ble Courts during hearings. However, 17% respondents did not agree to the proposition with 01% respondents skipping the question altogether.

4. RATING OF POLICE AS INVESTIGATORS-

Question 09- As investigators, how would you rate the working of police?

Chart 52

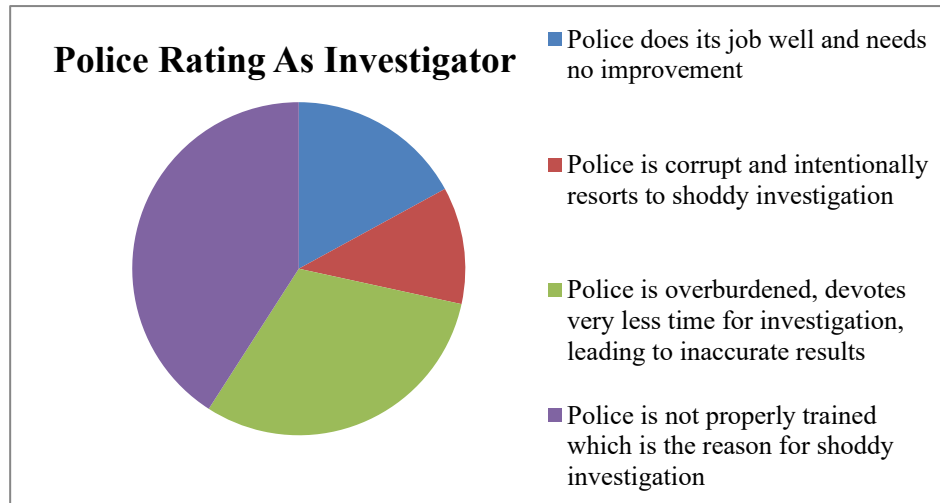


Table 52

Police rating as investigators	No. of responses	Percentage
Police does its job well and needs no improvement	15	17
Police is corrupt and intentionally resorts to shoddy investigation	10	11
Police is overburdened, devotes very less time for investigation, leading to inaccurate results	27	31
Police is not properly trained which is the reason for shoddy investigation	36	41

The Police is generally blamed for poor crime investigation and the low rate of conviction is generally attributed to their poor working pattern. The foregoing question is thus aimed to receive the feedback of the members of legal fraternity on the given issue:

The feedback received from the respondents reveals that 17% showed satisfaction on the investigation role of Police; 11% opined on the corruption as reason of shoddy investigation; 31% believed that overburdening of police could leave very less time for investigation and 41% considered improper training to be the cause of shoddy investigation.

5. CHANGE OF SITUATION IF LAW AND ORDER IS SEPARATED FROM INVESTIGATION WING-

Question 10- Do you think that situation would change if the law and order wing and investigation wing are separated?

Chart 53

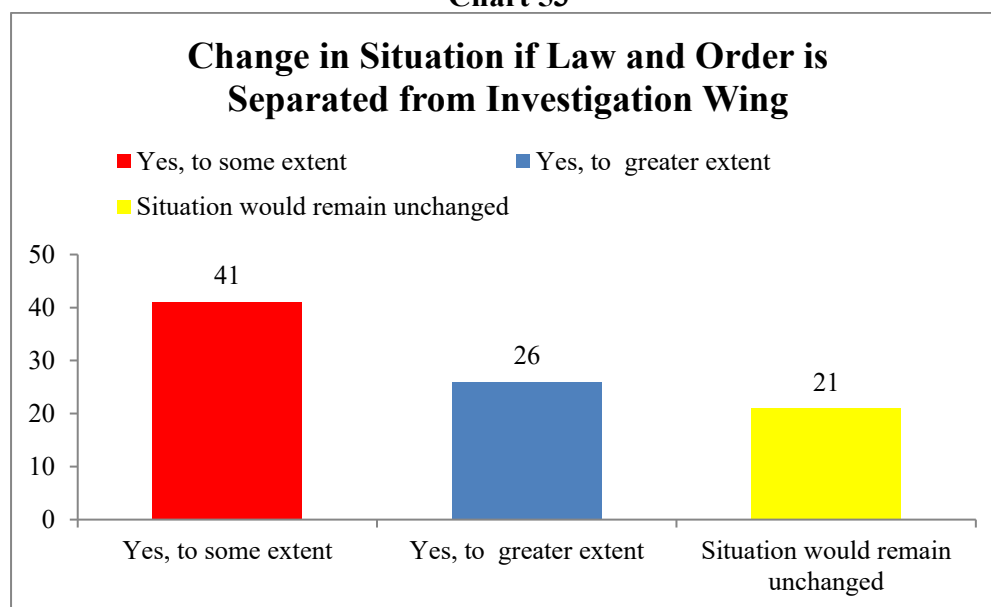


Table 53

Would separation of law and order from investigation change the current situation	No. of responses	Percentage
Yes, to some extent	41	47
Yes, to a greater extent	26	29
Situation would remain unchanged	21	24

Various Committees and Commissions set-up in India; the directions of the Hon'ble Supreme Court have time and again unanimously advocated for separation of law and order from investigation. Hence the current question was meant to get the inputs of the legal fraternity on the issue.

The empirical data depicts that 47% respondents believe that in case investigation is separated from law and order situation would change to some extent; 29% believe that situation would change to a greater extend while 24% opine that the situation would remain unchanged.

6. POLICE AS THE FIRST RESPONDER IN THE TIMES OF CRISIS-

Question 12- Do you believe that police is the first responder in times of crisis

Chart 54

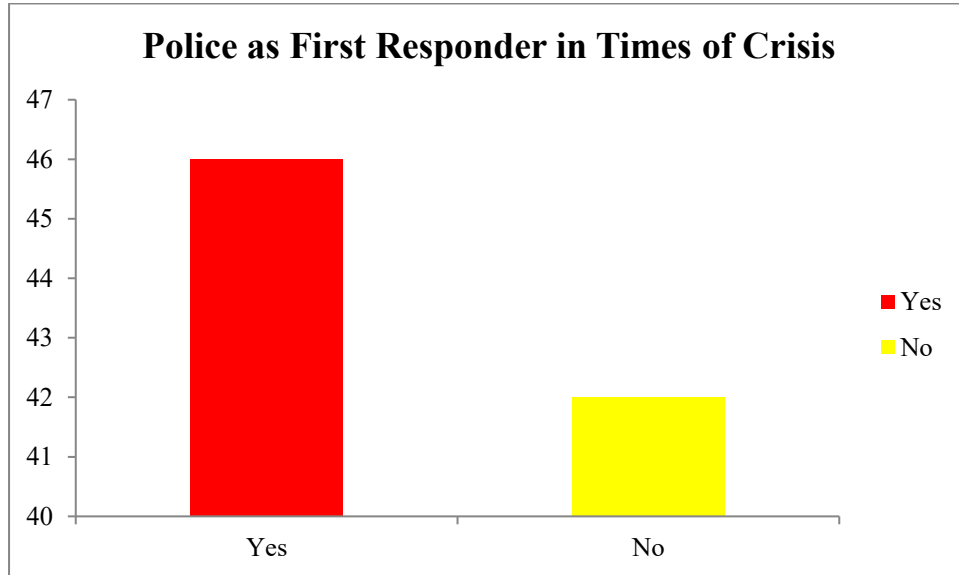


Table 54

Police is the first responder in the times of crisis	No. of responses	Percentage
Yes	46	52
No	42	48

The first authority that people generally remember for instant help in the case of grave emergency is the police. The said question was meant to attain feedback of members of legal fraternity on the ability of the police to reach out to general masses in times of crisis.

The aforementioned data reveals that 52% respondents agree to the notion of police being the first responder in times of crisis while 48% believes otherwise.

7. POLICE'S ABILITY TO PROTECT THE RIGHTS OF CITIZENS-

Question 13- Is the Police able to protect the rights of the citizens:

Chart 55

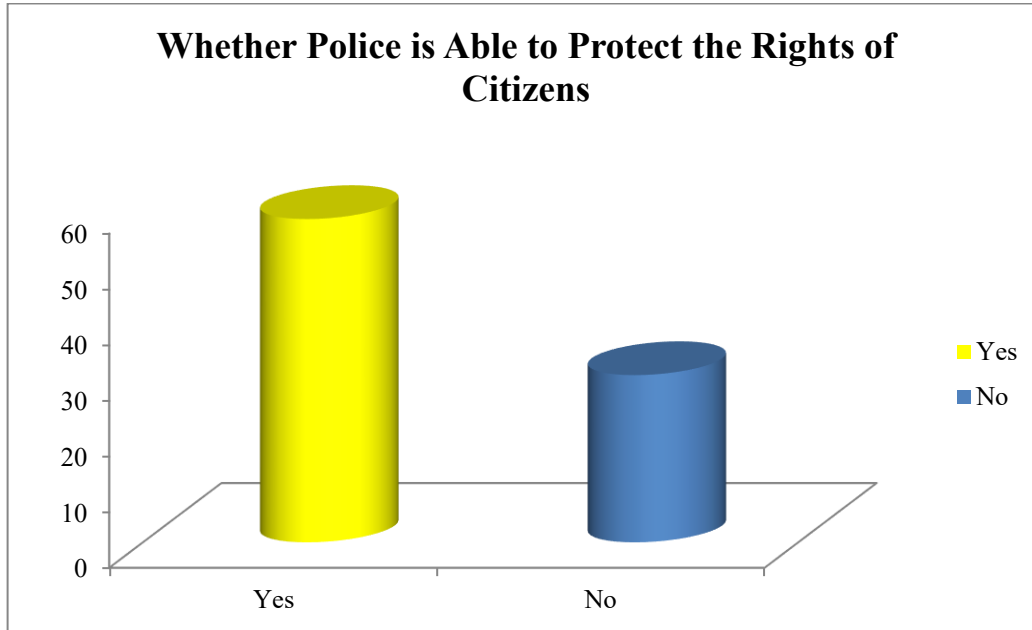


Table 55

Police's ability to protect the rights of citizens	No. of responses	Percentage
Yes	58	66
No	30	34

It is established that police devotes more than eight hours time for the maintenance of law and order and protection of human rights of its subjects. But in reality, the dedication and hard-work is really benefitting the general masses seemed to be more pertinent. Hence the question to gauge the present situation.

The data on the issue depicts that 66% agree that police has been able to protect the rights of citizens with 34% bearing a different opinion.

8. WHETHER POLITICAL INTERFERENCE ON POLICE WORKING AFFECTING CRIMINAL JUSTICE SYSTEM-

Question 14- Do you think that political interference on police functioning is affecting the criminal justice system:

Chart 56

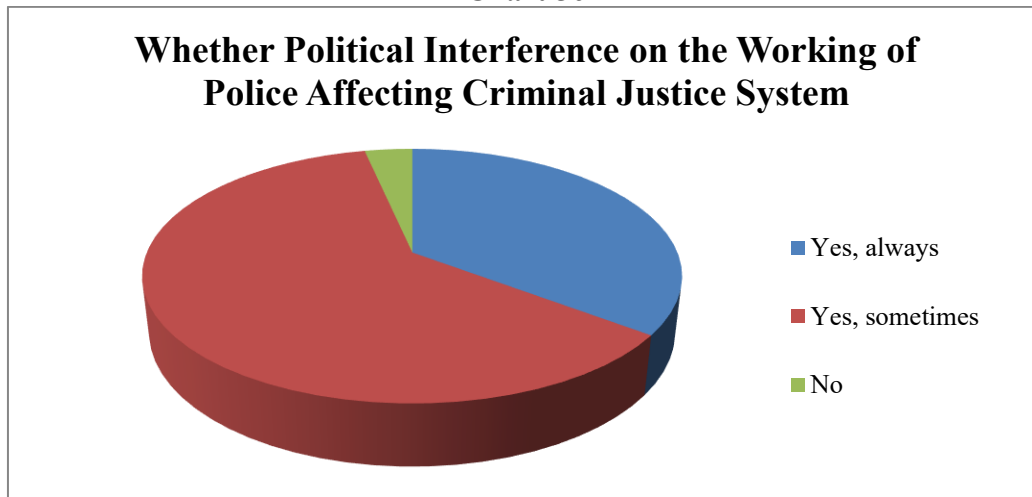


Table 56

Political interference whether affecting the criminal justice system	No. of responses	Percentage
Yes, always	31	35
Yes, sometimes	54	61
No	03	04

Political interference has been a debatable topic in the Courts, Legislatures and Media. Unluckily, the Indian System is not able to come out of the Colonial mindset of using police for vested political interests. The Hon'ble Courts have time and again cautioned against interference of ruling Governments on the day-to-day functions of police. Hence, the question in order to ascertain the views of legal fraternity on the subject.

The data collected on the instant issue states that 35% of the respondents agree that political interference on police is affecting the criminal justice system; 61% agree that it does affect sometimes while a minority of 04% showing disagreement on the proposition.

9. POLICE BEHAVIOUR WITH PUBLIC-

Question 15- What is your perception about police behaviour with public?

Chart 57

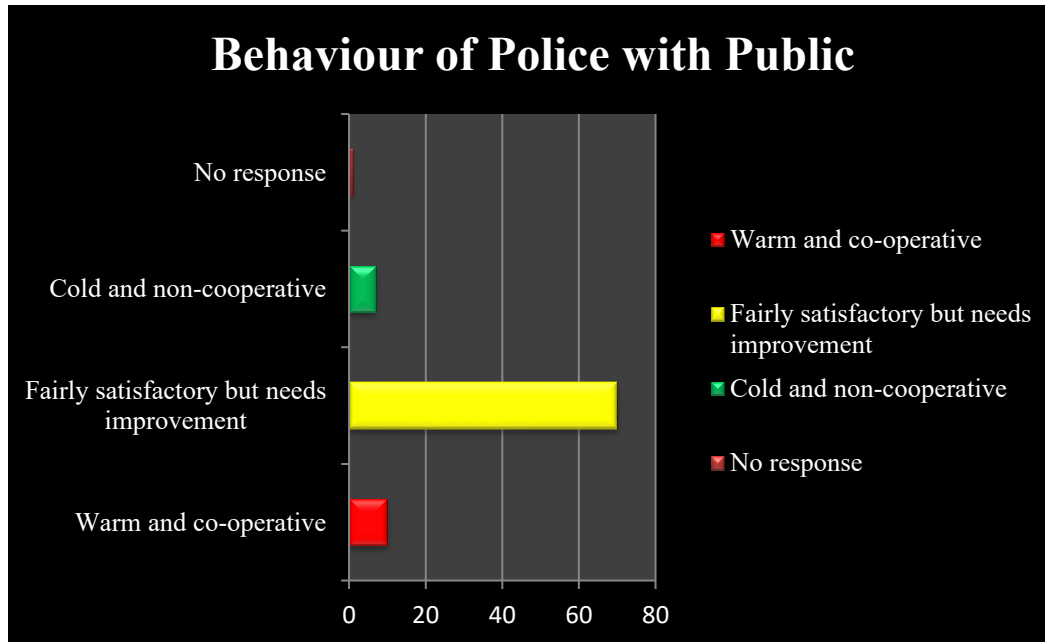


Table 57

Police behaviour with public	No. of responses	Percentage
Warm and co-operative	10	11
Fairly satisfactory but needs improvement	70	80
Cold and non-cooperative	07	08
No response	01	01

Police behaviour with public is widely discussed. Police is generally blamed for being ruthless, cold and corrupt. In order to ascertain the views of legal fraternity on the subject, the question was thus incorporated in the questionnaire.

The empirical data collected in the subject reveals that 11% respondents believes that police behaviour with public is warm and cooperative; 80% stating that it is fairly satisfactory but needs improvement; 08% stating that it is cold and no-cooperative and lastly 01% leaving the question un-answered.

10. CONDITIONS OF POLICE STATIONS-

Question 16- What is your opinion about the infrastructure and condition of police stations?

Chart 58

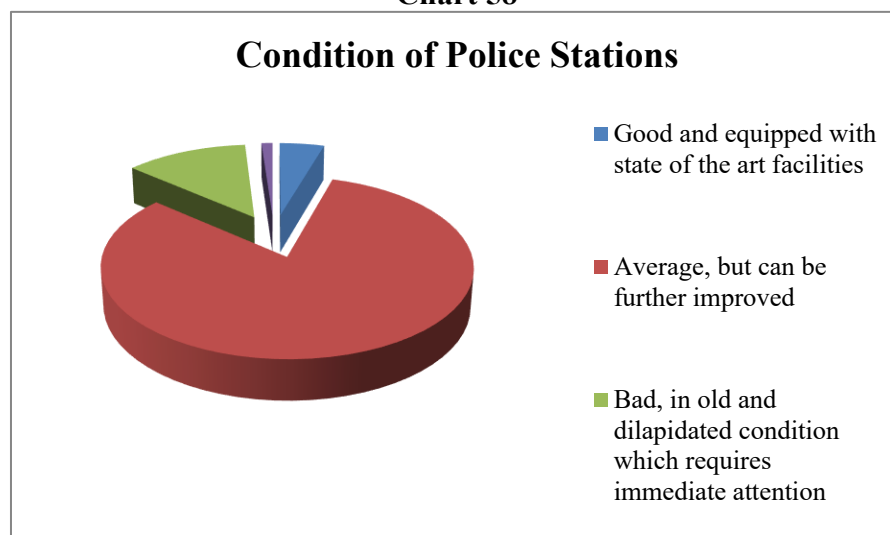


Table 58

Conditions of police stations	No. of responses	Percentage
Good and equipped with state of the art facilities	04	05
Average, but can be further improved	72	82
Bad, in old and dilapidated condition which requires immediate attention	11	12
No response	01	01

A need for clean and congenial work environment with decent infrastructure has been demanded time and again. The conditions of various Government Department are decent with various Ministries and Government Institutions doing a lot in this regard in order to bring them at par with their corporate counterparts. A clean and healthy environment is a basic fundamental right enshrined under the Constitution. As the legal fraternity works in close coordination with police, their views on the actual conditions of police station in the State of Haryana were thus sought in the form of the current question.

From the table and the pie-chart, it can be stated that only 05% of the respondents believe that condition of police station is good and equipped with state of the art facilities; 82% believe that it is average but can be further improved; 12% holding the view that they are in old and dilapidated condition which requires immediate attention and 01% respondents refused to answer the question.

11. STATUS OF ARMS AND AMMUNITIONS PROVIDED TO POLICE PERSONNEL IN HARYANA:

Question 17- Is the police armed with latest weapons, arms and artilleries?

Chart 59

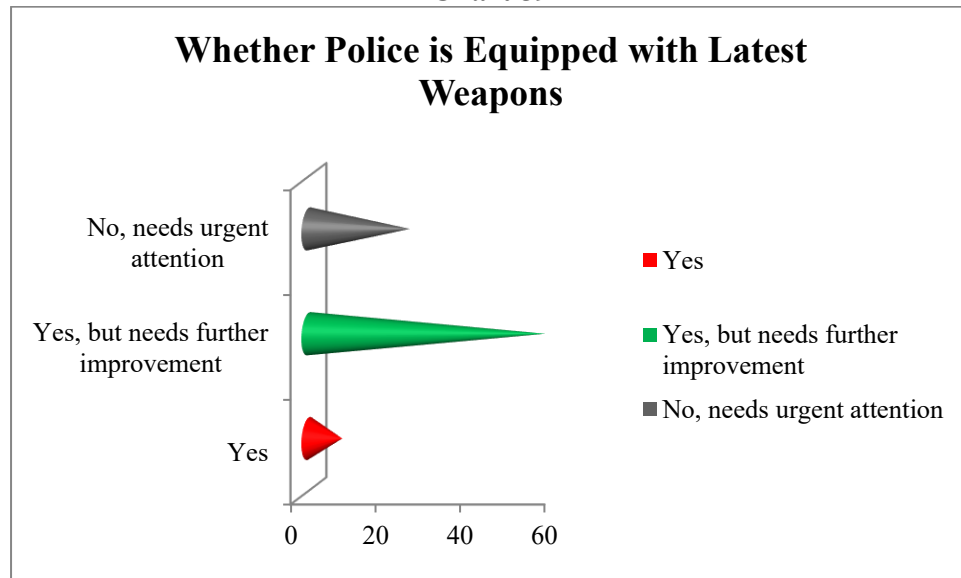


Table 59

Police whether equipped with latest weapons	No. of responses	Percentage
Yes	08	09
Yes, but needs further improvement	56	64
No, needs urgent attention	24	27

A police personnel can save others lives once he himself is fairly equipped. Many instances in India have clearly highlighted the gory picture of the standard of arms and ammunitions provided to police. In Haryana also various clashes and law and order disturbance shows that there is a need for latest weapons and artillery. The question was thus framed to gain views of the legal fraternity on the issue.

The empirical data on the issue of quality of arms and artilleries are suggestive of the fact that only 09% of the legal fraternity believe that police is equipped with latest weapons; with 64% believing that they are equipped but needs further improvement and 27 % stating they are not so equipped and thus the issue needs immediate attention.

12. WHETHER THE POLICE PERSONNEL IN HARYANA ARE OVERBURDENED-

Question 18- Do you feel that the police is overburdened and stressed?

Chart 60

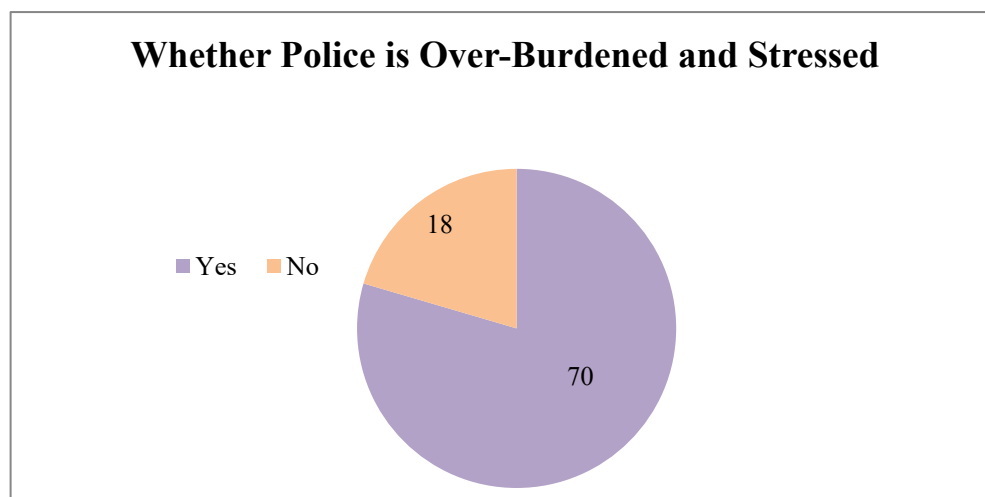


Table 60

Whether police is over-burdened and stressed	No. of responses	Percentage
Yes	70	80
No	18	20

The members of the legal fraternity works closely with the police personnel and may thus provide valuable insights on the working pattern of the police personnel. Hence the question was aimed to understand whether the police personnel in Haryana are really overburdened or otherwise in the opinion of members of legal fraternity.

The outcome of the empirical research on the issue of burden level clearly suggests that 80% believed that police personnel are over-burdened while only 20% of legal fraternity respondents believe that they are not so overburdened.

The next few questions were aimed at the fitness of the police, the average working hours served by police and the like to ascertain whether the working pattern is humane enough and in sync with the basic standards and guarantees which they generally support in their day to day lives.

13. GENERAL FITNESS OF THE POLICE:

Question 19- Your opinion on the general fitness of police.

Chart 61

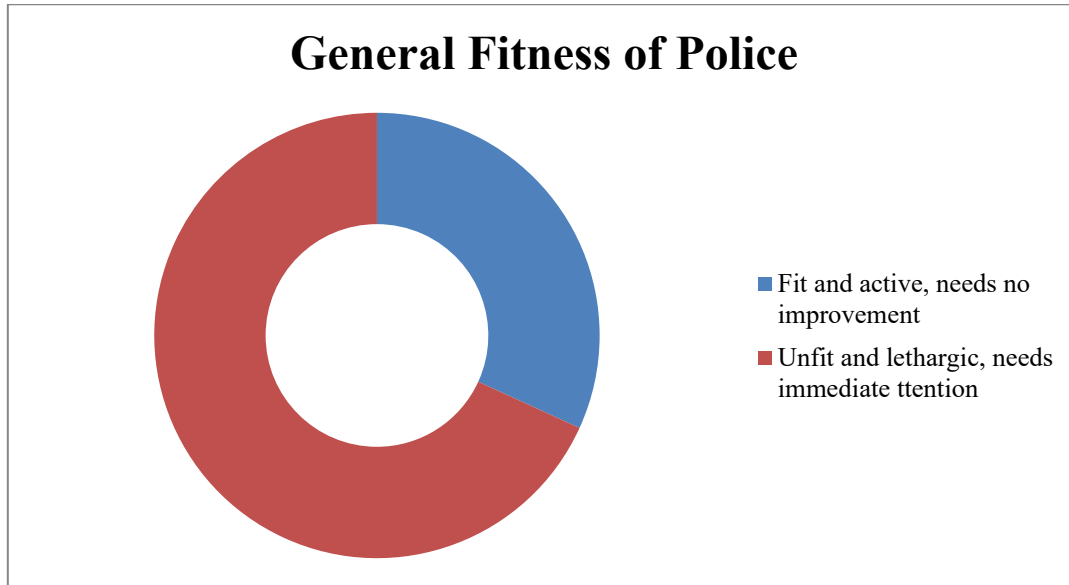


Table 61

General fitness of the police	No. of responses	Percentage
Fit and active, needs no improvement	28	32
Unfit and lethargic, needs improvement	60	68

The aforementioned table and chart suggests that the majority members of the legal fraternity (i.e. 68%) believed that police personnel are unfit and lethargic and needs improvement while 32% believed that they are fit and active and needs no improvement.

14. AVERAGE TIME SPENT BY POLICE PERSONNEL WHILE ON DUTY-

Question 20- According to you what is the average time spent by the police personnel while on duty?

Chart 62

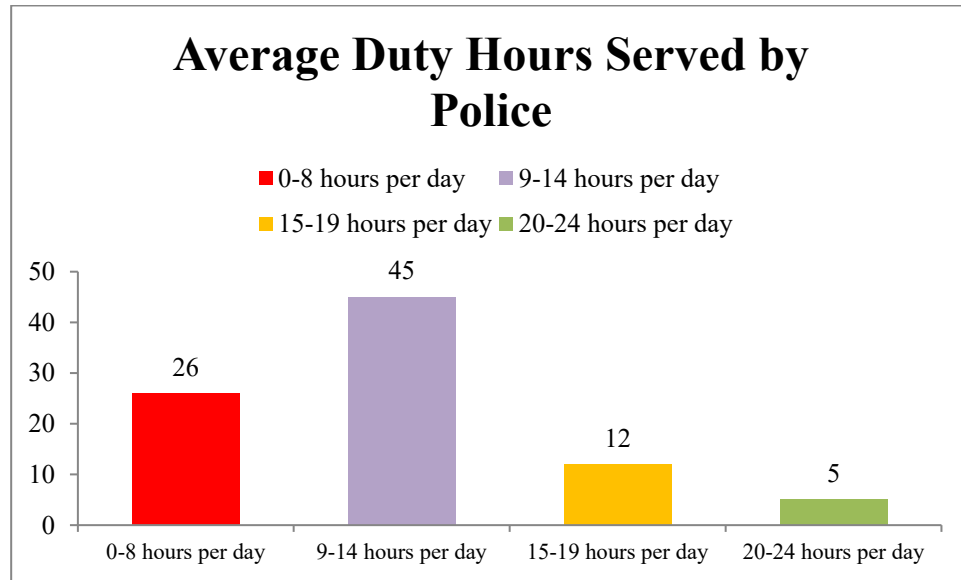


Table 62

Average duty hours served by police	No. of responses	Percentage
0-8 hours per day	26	29
9-14 hours per day	45	51
15-19 hours per day	12	14
20-24 hours per day	05	06

From the data collected in pursuance to the aforementioned question, it is ascertained that 29% believe that police personnel work for up to eight hours each day; 51% stating that the police works for 9-14 hours; 14% believing that they serve somewhere between 15-19 hours and lastly 6% stating that they serve for up to 24 hours. To sum up, majority of respondents believes that the police works way beyond the eight hour duty norm.

15. SUPPORT FOR EIGHT HOUR DUTY NORM FOR POLICE-

Question 21- Would you support eight hour duty norm for police?

Chart 63

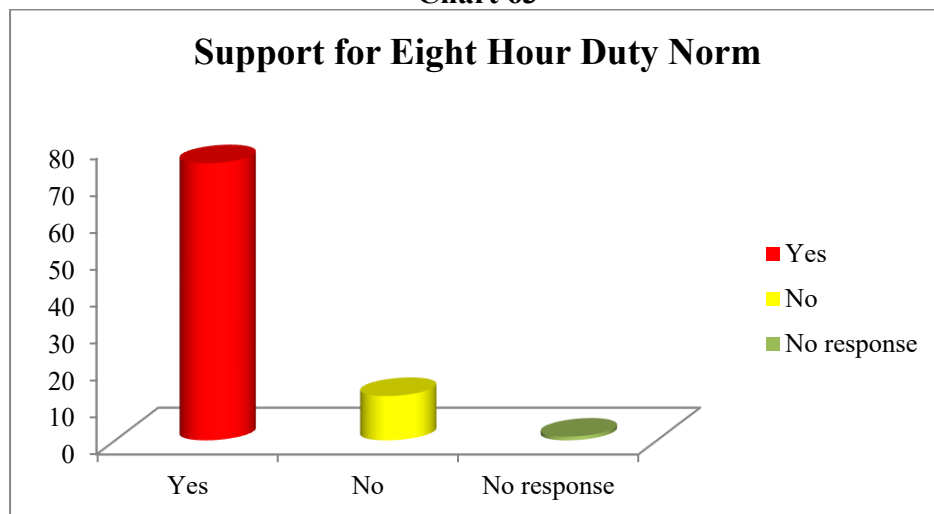


Table 63

Support for eight hour duty norm for police	No. of responses	Percentage
Yes	75	85
No	12	14
No response	01	01

Section 188 of the Model Police Act categorically states that the average working hours of a police officer must not ideally exceed eight hours a day. Besides, the various Committees and Commissions constituted from time to time have given the similar recommendations. Also the Hon'ble Courts have raised concerns on the health of police personnel owing to continuous duty hours. Further, on 26.12.2014, BPRD had forwarded recommendations to the DGPs of all States/UTs for implementing the eight hour shift. The said question has been asked with the objective of ascertaining the progress on the important human rights issue

The empirical data on this aspect suggest that 85% of respondents supported the eight hour duty norm for police personnel in Haryana while a minority of 14% of respondents rejecting the eight hour duty while 01 % refusing to answer the question.

16. NEGATIVE PUBLICITY OF POLICE LEADING TO POOR PUBLIC PERCEPTION-

Question 22- A lot is said and discussed against the police but less is said and done in favour of police:

Chart 64

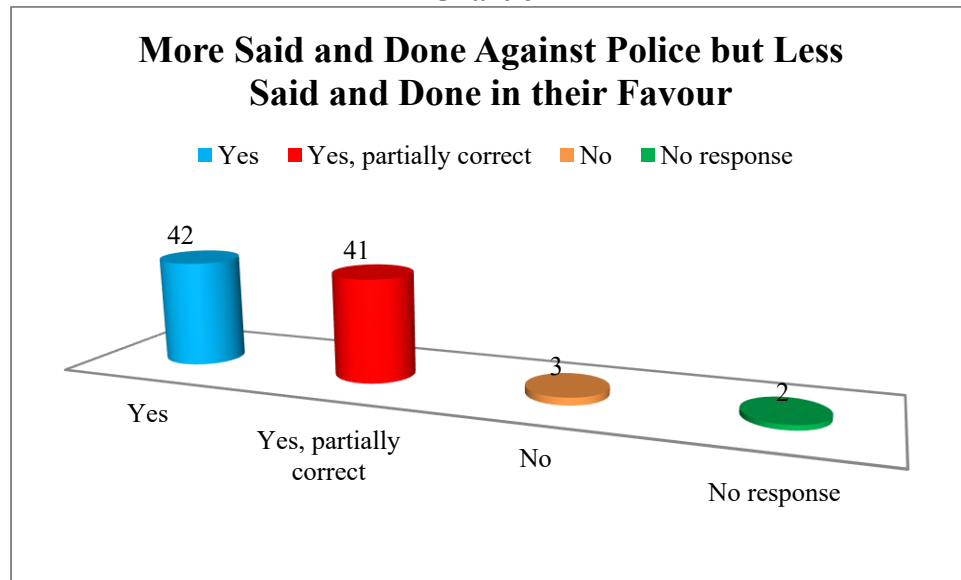


Table 64

More said and done against police but less said and done in their favour	No. of responses	Percentage
Yes	42	48
Yes, partially correct	41	47
No	03	03
No response	02	02

It is often observed that the police remain in limelight for odd reasons and the criticism becomes a topic of general discussion. But very few times it is observed that the good acts of police are highlighted, praised or glorified. Hence the foregoing question to observe whether the members of legal fraternity agree to the proposition.

The response received from the members of the legal fraternity also takes to the similar inference with 48% completely agreeing to the proposition, 47% believing that the statement is partially correct, 3% believing that the said is not true and 2% giving no response.

17. HUMAN RIGHTS OF POLICE PERSONNEL WHETHER ADEQUATELY ADDRESSED IN INDIA-

Question 23- Do you think that Human Rights of police are not adequately addressed in India?

Chart 65

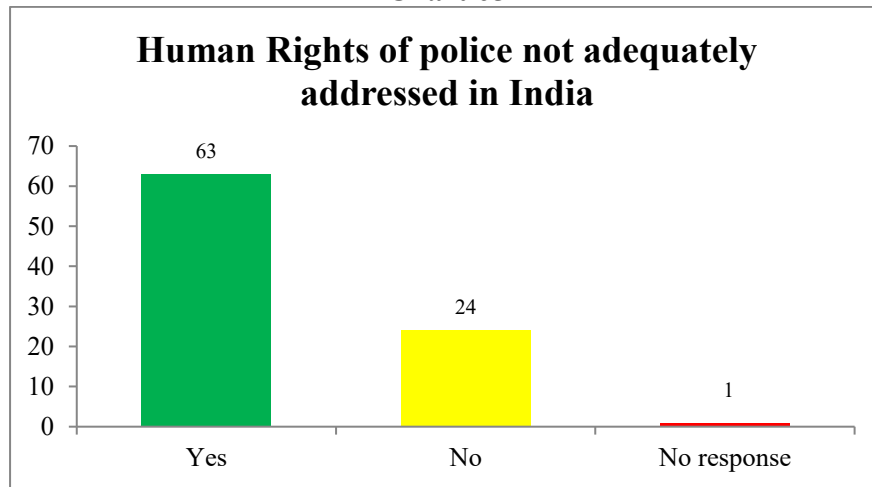


Table 65

Human Rights of Police not adequately addressed in India	No. of responses	Percentage
Yes	63	72
No	24	27
No response	01	01

The legal fraternity works for the betterment of society by bringing the inhuman practices before the Courts, fighting for human rights and ensuring that every life is protected and given its valid due. The forgoing question aims to ascertain whether the legal fraternity is equally mindful of the human rights of police or otherwise.

The data mentioned herein above states that a majority (i.e. 72%) of members of legal fraternity believed that human rights aspect is not adequately addressed in India followed by 27% believing otherwise and finally a percent of respondents refusing to answer the question.

18. NEED FOR POLICE REFORMS-

Question 25- Do you think that the police system needs to be reformed:

Chart 66

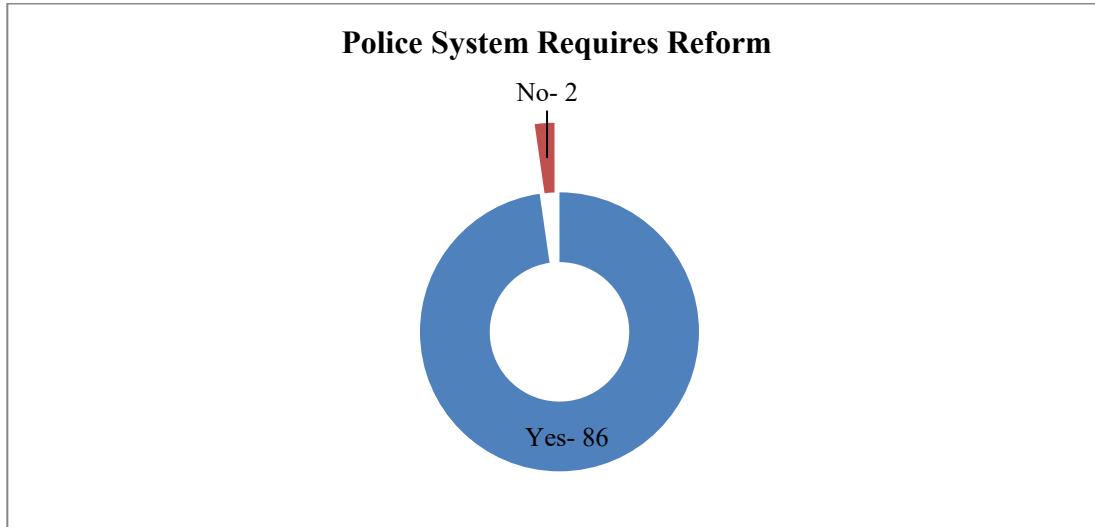


Table 66

Need for police reforms	No. of responses	Percentage
Yes	86	98
No	02	02

Keeping in view the various issues pertaining to human rights aspect of police being already addressed in the preceding questions, the current question has been framed to find answers from the members of legal fraternity as to whether the police needs to be reformed for their betterment.

The data mentioned in the table along with the corresponding pie-chart depicts that 98% of respondents of the Legal Fraternity category mooted for police reforms with 2% mooted against the cause of police reforms. It can be ascertained that the considerable percentage of the members of legal fraternity are in favour of the idea of police reforms.

19. NEED FOR TAKING UP THE CAUSE OF HUMAN RIGHTS OF POLICE PERSONNEL IN INDIA –

Question 27- As protectors of human rights and as active agents of change, would you like to advocate human rights of police?

Chart 67

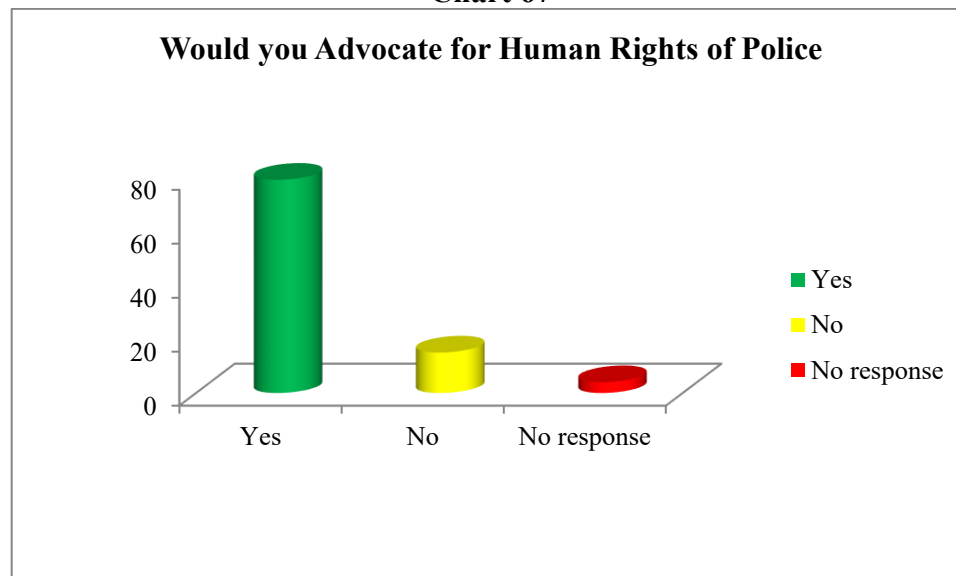


Table 67

Would you advocate for human rights of police	No. of responses	Percentage
Yes	79	81
No	15	15
No response	04	04

Since lawyers and members of legal fraternity as a whole play a vital role in Criminal Justice System and are treated as important medium to bring about evolution and change in society by voicing their opinions and fighting against inhuman and illegal acts. Thus, the instant question was placed to ascertain their view-points on fighting for human rights of police personnel in Haryana.

From the aforementioned table and corresponding chart it could be observed that 81% of members of legal fraternity voted in favour of advocating human rights of police followed by 15% refusing to advocate for human rights of police and finally 4% of respondents evading the question altogether. It can be stated that there is a good percentage of respondents favouring the police personnel in Haryana.

5.4 FINDINGS ON THE BASIS OF EMPIRICAL STUDY

5.4.1 Findings pertaining to perception of police towards their working conditions, infrastructure, health etc.

1. No fixed time frame for promotions has been followed in the State of Haryana

There is uncertainty amongst the police personnel with regard to their promotion to higher levels as no uniform period has been provided for time-scale promotions akin to other law enforcement agencies especially army personnel.

The lack of promotion prospects in a fixed time frame brings boredom in the lives of an individual and it breeds monotony and lack of zeal at work. With around 84% percent of police constabulary in the country, it is seen that most of the police constables retire with hardly one promotion only. Thus, the police personnel in Haryana were saddened with the irregular promotion regime. The issue is not limited to police personnel at the entry and intermediate levels but extends to IPS Officers as well. The IPS Officers of Haryana have been raising hue and cry on untimely promotion which reveals that the delayed promotion aspect is prevalent at all ranks.

2. Absence of fixed duty hours

The empirical data reveals that around 88 % of the police personnel are working for more than eight hours a day, which is contrary to the provision enshrined under Section 188⁸ as well as the recommendation of a various of Committees and Commissions constituted from time-to-time. Such erratic working hours are a serious violation of the legislative provisions; the Constitution as well as the basic human rights guarantees provided by the International Conventions and the guarantee provided in Article 24 of Universal Declaration of Human Rights.

3. Frequent night duties

The analysis of data on the current issue states that night duties are a common feature (since 99% respondents admitted the fact) for the police personnel in Haryana.

⁸ Model Police Act, 2006.

Night duties are *per se* not fatal but the frequencies of such duties are crucial. Besides, many police personnel admitted that due to shortage of staff, they work in both day and night shifts, bringing about the inhumane approach towards the police personnel.

4. Weekly and other offs though provided for yet difficult to avail

There is provision of weekly and other offs for police personnel. However, availing the same is an uphill task as in most cases they are either out-rightly declined while in other cases they are initially granted but cancelled in the eleventh hour owing to some exigency like visit of a VIP, riots, law and order situation, floods, COVID-19 pandemic or natural calamity, accident, elections. The said situation also points towards the serious departure of human rights provision guaranteeing adequate time for rest, leisure and quality time with family (Article 24 of UDHR).

5. Less focus on essential facilities such as food, potable water and tea for police personnel despite hectic and stressful lifestyle

As far as the provisions of potable water, food and tea are concerned, it is established that police personnel remain away from home most of the times. Despite the said fact, the facilities of food, tea and potable water are not up-to the mark which creates undue challenge in the lives of police personnel. Besides, the responses received from questionnaires, personal interviews also revealed that police personnel are anyhow managing with food every day with a meager diet allowance (Rs. 40 / day) provided to police personnel in Haryana which nowhere matches the inflation levels prevailing in the country.

6. Yoga, meditation and exercise facilities not given much preference in the State of Haryana

Since the police personnel are required to cater to a large population, it becomes essential that the health (i.e. both physical and mental) of such personnel is in perfect shape. The data collected on this aspect showed that such issues are not taken seriously. The respondents lamented that such issues become irrelevant as they are hardly allowed 8 hours continuous sleep and that nothing would work on a sleep deprived body.

7. Routine check-ups for police personnel do not benefit much in absence of adequate post-diagnosis mechanism

As it was informed that there are frequent health check-up camps organized by Medanta, Apollo and Fortis etc., but such camps were limited to diagnosis only and treatment in those hospitals was not within the reach of each police personnel. Therefore, not much is achieved by such measures.

There was initial denial on the health aspect of the police personnel and only a minority of respondents admitted about their poor health concerns. However, in the consequent question, many more shared details about the diseases and health issues faced by them. A majority of respondents admitted to have been suffering from cervical spondylosis, slip-disc, blood pressure and migraine related health issues, mostly attributable to irregular work regime and stressful lifestyle.

8. No cashless medical facility provided to police personnel in Haryana

The police personnel are medically insured but the facility suffers from a serious lacuna as the same was not cashless implying thereby, that in case of any such dire need of hospitalization, the medical expenditure would be borne by police personnel first and the same would get reimbursed at a later stage, after completing cumbersome formalities. Taking into account the expensive medical assistance in India qua hospitalization and low salary structure of police personnel, grievances were placed by them for providing cashless facility as they were forced to take treatment from other medical establishments albeit not approved one due to scarcity of funds.

Further, during the course of personal interviews and questioning, it was observed that although medical insurance has been provided yet many police personnel were not fully aware of any such facility been provided by State Government which further lead to an inference that the police personnel are not adequately aware of their rights, facilities and entitlements which are actually provided to them as there is lack of dissemination of information by the State Government.

9. Room for improvement of sanitation facilities

The data collected on conditions of toilets and bathrooms revealed that the police personnel are not satisfied with the prevailing sanitation conditions at police stations.

Clean and hygienic toilets are one of the basic requirements at workplace and absence of it is a serious lapse as it may breed unwanted infections and cause serious health issues.

10. Poor condition of restrooms at workplace with no crèche facilities for children of police personnel

As per empirical data, many police personnel stated that they serve both day and night shifts simultaneously. Due to this, adequate restrooms become a basic and a fundamental necessity. Ironically, many police stations and thanas were not adequately equipped with basic seating facility for the police personnel as they were too small. Many police stations had very little makeshift facility. The entire situation directs towards the vulnerability of the police personnel. As regards the crèche and daycare facility, hardly any such arrangement was observed while visiting the police stations. In the current nuclear family concept, absence of such facility creates undue burden on the new parents who also happen to be police personnel.

11. There is no uniformity on the tenure served at one police station

The provisions of Haryana Police Act, 2007 are not in sync with the Act of 2006,⁹ and the recommendations of the Supreme Court in Parkash Singh's case which mandates for a minimum period of 2 years at one station. The data further revealed that the police personnel could be transferred any time.

12. Level of autonomy at workplace

The said aspect received a mixed response with some respondents admitting of complete independence to those stating that there is absence of independence at workplace.

13. Inadequate complaints redressal mechanism at workplace including sexual harassment cases

The negative feedback on the important aspect directs towards the sorry state of affairs. Many a times, proper counseling and redressal from senior authorities works wonders. In absence of such mechanism, the situation further aggravates thereby leading to serious repercussions. Also, protection of women from sexual harassment at work

⁹ The Model Police Act, 2006.

place with adequate and time bound redressal is an important issue especially when the country has witnessed brutal and spine-chilling rape incidents in the past. Also, elaborate and mandatory guidelines have been framed on the sensitive issue of sexual harassment at workplace. Yet around 70% of the respondents from the police personnel category admitted that there was no such mechanism against sexual harassment at workplace. On the level of redressal, there were many who admitted that it was either for namesake or was time consuming.

14. The standard of arms, ammunitions and artilleries are sub-standard and requires immediate attention

India has witnessed various terrorist and criminal attacks in past. With various criminal gangs operating in the country, it becomes incumbent on the governments to provide adequate facilities to counter such criminals and terrorist activities. Once the country faces any attack, lot of hue and cry is raised, many promises are made so that people feel convinced. However, as time passes by, nothing substantial is done on the ground and resultantly innocent and brave officers lose their precious lives. Incentives are later on made for bereaved families but less is done on the preventive front. No bullet proof jackets were found in the arms and ammunition department of police stations. Besides, the weapons were outdated and nowhere in comparison to those provided to army personnel, which are modern and sophisticated.

15. The quality and number of residential quarters provided to families of police personnel requires a serious overhaul

It goes without saying that housing is a basic and fundamental requirement. A sub-standard house adds to the challenges of the police personnel because in such case not only the personnel individually suffer, his family also suffers. Therefore, the human rights of those attached to the police personnel are also disturbed. The data revealed that a considerable chunk of police personnel were living on requisition due to paucity of quarters. Out of those living on requisition, a considerable chunk confessed that they were either average quality or bad and required immediate attention. The reason cited for dissatisfaction included old and dilapidated condition; less frequent repairs and extremely small area. There were around 23% police personnel in Haryana who stated that they

were living alone and got their families shifted elsewhere due to non-availability of proper accommodation and frequent transfers which disturbed their families and education of children etc.

16. Job satisfaction level

Only 35% police personnel confessed that they were happy with the job; whereas 41% were fairly satisfied meaning thereby that some things were missing and required to be addressed; around 19 percent comprised of not satisfied and highly dissatisfied category and 05% did not choose to answer. During personal interviews, the level of dissatisfaction with the job was evident due to poor family and societal bonds; poor infrastructure, political and extraneous interference; less incentives and poor work-life balance.

17. Lack of training in investigative techniques

During personal interviews and at the time of collection of empirical data, it was observed that the police personnel, the general public and the legal fraternity unanimously agreed that the police greatly lacked in investigative techniques and the same requires an overhaul. Even the Courts have time and again cautioned the State Governments and DGPs and directed them to impart adequate trainings on investigation techniques, dealing with cyber-crimes, NDPS related issues and also training on handling sensitive matters by following a humanitarian approach. Further, it was also noticed that many-a-times, despite the criminals being apprehended for their crimes, they were held not guilty due to paucity of evidence which is attributable to the police personnel. Ideally, investigation is the key-task of a police officer. It is their responsibility to conduct investigation in a more efficient, impartial and fair manner but often it is noticed that the investigating officers are not trained to deal with the investigation of the offence. Many-a-times, the crime scene is not preserved; CCTV footage is not obtained despite camera surveillance at the scene of crime; independent witnesses are not joined despite their availability nor do the IOs take any action against the public which refrains from aiding in investigation; call details are not obtained and preserved; help of scientific experts are not taken at the crime scene are some of the instances which shows that the police

personnel conducting investigation requires to take into consideration the said aspect for conducting investigation in a holistic manner.

The aspect of training was also highlighted in the Parliamentary Standing Committee 237th Report on Police- Training, Modernisation and Reform.¹⁰

5.4.2 Findings pertaining to general publics' perception for police

- 1. Reliance of general public towards police:** The general public considers police as the first responder in crisis situation.
- 2. Assistance from police, response time-** Most of the respondents had sought police assistance at one time or the other;

A majority of respondents belonging to the General Public category disclosed that the police provided timely assistance;

- 3. Visit to police station and condition of infrastructure-** A majority of respondents had stated that they had visited police stations while the experience varied as they had mixed reactions; regarding the opinion on infrastructure the response received was generally bad with many stating that it could be improved.
- 4. Overburdening of police-** A large percentage of respondents believed that police is overburdened.
- 5. The general fitness level of police according to general public –** Majority of respondents believed that the police personnel are unfit and lethargic and requires immediate attention.
- 6. Average working hours of police and support for eight hours duty norm-** Most of the respondents from the general public believed that police work for more than 8 hours; with a positive response towards supporting the eight hour duty norm for police.
- 7. General perception of public towards police-** The general public perception about police received a positive response with a room for further improvement.

¹⁰ Government of India, “237th Report of the Department-related Parliamentary Standing Committee on Home Affairs on Police-Training, Modernisation and Reforms-vacancies in the State Police Force” (Ministry of Home Affairs, 2022) *available at:* www.mha.gov.in. (last visited on July 22, 2023).

8. **Political pressure on police-** On the question of political pressure, majority believed that there was political pressure on police. However, the opinion differed on the times when there was political interference and pressure as some believed that there was such pressure at all times while others stated that it was sometimes.
9. **Status of arms and ammunitions-**On the question of arms and ammunitions, majority believes that the police personnel are armed with latest weapons but the same requires improvement;
10. **Level of respect and acknowledgment by public-** A majority of respondents believed that the police is given due respect however a small chunk believed that the respect element was missing.
11. **Regarding the negative publicity of police-** Majority believed in the statement *“a lot is said and discussed against the police but less is said and done in favour of police”* to be correct. However, a few believed that it was partially correct.
12. **Status of protection of human rights of police in India-** A majority believed that they were protected.
13. **Need for police reforms-** On the aspect of need for police reforms, majority believed that there is dire need for police reforms.

5.4.3 Findings pertaining to perception of members of legal fraternity for police

1. **Importance of police in Criminal Justice System-**A considerable percentage of respondents believed that police plays avital role in the criminal justice system.
2. **Level of coordination of police with other wings of Criminal Justice System-** The level of coordination of police with other wings of criminal justice system received a positive response.
3. **Police whether reason for delay in trials-** On the question as to whether police is responsible for delay in criminal trials due to delay in Court appearances- majority believed in the proposition with the chunk agreeing that it causes delay sometimes.
4. **Rating of police as investigators-** On the rating of police as investigators, there were mixed responses with many believing that lack of training of police is the reason for shoddy investigation; with many imputing the responsibility on

- overburdening of police; some believed that police does its job well and needs no improvement with few alleging that corruption was the cause of shoddy investigation.
5. **Whether separation of law and order from investigation would improve the existing condition-** A majority of respondents believed that investigation would improve if law and order is separated from investigation.
 6. **Police as the first responder in the times of crisis-**A major chunk of respondents believed that police is the first responder in the times of crisis.
 7. **Polices' ability to protect lives of citizens-** A good percentage of respondents believed that police have been able to protect the rights of citizens.
 8. **Whether political interference affecting criminal justice system-** Many respondents believed that political interference is affecting the criminal justice system while there was a mixed response on the time when such interference has been experienced. Some stated that it was always present while others stated that political interference is there sometimes.
 9. **Behaviour of police with public-** A considerable majority of respondents believed that the behaviour of police with public is fairly satisfactory but needs improvement.
 10. **Condition of police stations-** The views of legal fraternity on the conditions of police were on the negative side with majority stating that the conditions were average with room for improvement.
 11. **Availability and standard of weapons-** Many opined that police is equipped with latest weapons but there was room for further improvement.
 12. **Overburdening of police-**A majority believed that police is overburdened and stressed.
 13. **General fitness of police-** Many respondents believed that the police is unfit and requires improvement.
 14. **Duty hours of police-**A considerable percentage believed that police works for more than eight hours a day and that they would support the eight hour duty norm for the police.

- 15. More is said and done against police and less is said and done in their favour-** Many agreed to the fact that more is said and done against police and less is said and done in their favour, while some agreed to the statement whereas others stated that it was partially correct.
- 16. Human rights of police whether adequately addressed in India-**Majority of respondents believed that Human Rights of police are not adequately addressed in India.
- 17. Whether there is need for police reforms-** Almost all respondents believed that there is a need for police reforms.
- 18. Would you advocate for human rights of police-** A considerable majority agreed to advocate the cause of human rights of police personnel.

5.5 ANALYSIS OF THE STUDY

1. The phrase that a police officer is always on duty conveys a very inhuman and narrow mindset of the State Governments. Human rights can neither be taken away nor can they be conferred on an individual by anyone in power. In the era of human rights, such jargons require serious overhauling.
2. Though the general public believes that the police is given due respect in the country yet the situation requires due improvement. People do not take a second to think before attacking police personnel on duty.
3. Mere promises on paper do not cause any benefit until the same are materialized. Law and order to be separated from investigation in real terms to ensure that Criminal Justice in the country as well as the Human Rights of police are both ensured and protected simultaneously.
4. Undue political interference on issues as transfers, postings and promotions has caused substantial damage to the institution of the police and consequently to the democratic structure of the country.
5. Carefully choosing words like ‘may’ in the Haryana Police Act has helped the State Government from getting away with the responsibilities of serious and urgent nature eg., issues like infrastructure facilities, modernization, training, welfare of police personnel are serious issues as the fate of human rights largely

depend upon them. Such serious issues need strict use of words conveying mandatory nature as against the discretionary nature.

6. No provision for ensuring minimum stay at one station implies that State Government can use the police personnel as per their whims and may get the police personnel transferred once the desired obedience cannot be obtained.
7. The Director General of Police is the top ranked police officer in the State. Lot of deliberation is made before appointing the DGPs as the favourite one may devote full time and energy in pleasing the appointing authorities in power as against to any independent one. The section pertaining to DGP is thus carefully drafted without specifying any specific criteria and with only one year minimum tenure.
8. Section 96 (1) of the Haryana Police Act lays down that “*the Police Act, 1861, in its application to the State of Haryana, is hereby repealed.*”

The aforementioned provision seems like an eyewash as the idea and spirit of using Police as muse is kept intact. Section 51 is one such glaring example of the same.

Thus, the chapter has dug deeper into the life of a police personnel in Haryana to ascertain the extent upto which the human rights as well as the rights guaranteed to them under the Constitution are actually secured. Three sets of respondents have been selected for the study. The first category comprises of the police personnel in the State of Haryana; the Second Category comprises of the general public and the last category is that of the members of the legal fraternity.

It goes without saying that the police profession is one of the most stressful professions in the world. The police personnel do not lead a routine life as the law and order situation may get tensed without any premeditation. Thus, the empirical data collected in the chapter highlights the difficult life of the police personnel in Haryana. The questions placed before the police personnel are aimed to assess the total working hours served by a police personnel; level of physical and mental health; professional independence; security at workplace; standard of infrastructural facilities at workplace etc. and the result has been disappointing on most of the counts.

Another set of questionnaires are aimed at ascertaining the perception of police in the eyes of general public. It is ultimately the general public for the safety of whom the

police toils day and night. Their perception on the working of police is thus sought in the chapter.

Last but not the least, the third category of the respondents are the members of legal fraternity whose inputs have been sought on the police working in the criminal justice system- aspects as overburdening of police; reasons for shoddy investigation; need for reforms and separation of law and order from investigation has been sought.

From the above analysis, it can be concluded that a lot of changes are required to be introduced to ensure that the human rights of police personnel in Haryana are respected, recognized and secured.

CHAPTER-6

CONCLUSION AND SUGGESTIONS

The basic tenets of human rights include equality, congenial environment at work place coupled with decent living standard. The police toil incessantly so that the general masses feel safe and secure. The empirical research conducted on the subject reveals that the conditions under which the police personnel functions in the State of Haryana are not humane enough. The police personnel suffer in terms of poor quality of life due to disequilibrium between work-life balance, occupational stress, depression, insomnia etc. The working hours are way beyond the eight hours duty norm as suggested by the Model Police Act, 2006; Hon'ble Courts and the various Committees and Commissions constituted from time-to-time. Besides, the police stations are not properly equipped given the type of hectic regime of the police personnel. Thus, rather than a facilitator the poor conditions act as a stumbling block in their efficiency level and make their hectic work regime even more challenging. It is observed that even the basic minimum facilities seem a distant reality.

6.1 JUSTIFICATION OF HYPOTHESIS

The first hypothesis stands completely proved, *“as despite being the protectors of human rights of the masses, the human rights aspect of police personnel remains largely unaddressed”*. A lot is done to safeguard the human rights of people and strong opinion is raised in cases of aggression by police but very less is done in favour of the human rights of police. A very pertinent statement of the widow of a slain top cops that shook the conscience and forced the society to think. In the aftermath of 26/11 (2008 terrorist attacks in Mumbai), Smt. Smita Salaskar, wife of slain top cops Sh. Vijay Salaskar lamented in an interview that generally human rights groups and NGOs used to flock outside their residence accusing her slain husband of encounter killings of dreaded criminals. However, no such groups or NGOs came forward to condole his death when he laid down his life while fighting the dreaded terrorists to protect the citizens of the country. She also raised serious doubts on the intelligence failure, dearth of adequate weapons and bullet proof jackets along with other basic security accessories. In such

backdrop, it is sad that many brave cops succumb to pressure and commit suicide while in other cases they get killed while combating with criminals and terrorists in the absence of latest arms and ammunitions. Even otherwise, those police personnel who sacrifice their life and limb to protect the public are not given much recognition and appreciation. Besides, they devote very little time to their families due to long duty hours. For women cops, no crèche or day care facility is provided for their children and their child care leaves are generally curtailed due to dearth of manpower. The extraneous pressures of influential people, the senior officers and politicians also add to their woes. Although, there is provision for weekly or other offs, however availing the same becomes a daunting task. Many-a-times the leaves are out-rightly declined, while in other cases they are sanctioned but cancelled at the eleventh hour. Besides, little or no heed is paid on the physical & mental health aspect of the police personnel. There are health check-up drives and camps organized from time-to-time but the post diagnosis system is not in order. No cashless medical facility is available at hospitals and paying the huge medical expenses first and claiming reimbursement later on becomes an onerous task especially with low income group personnel who runs short of liquidity most of the times. Other issues such as lack of potable water, tea and food facilities, unhygienic lavatory conditions, untimely and uncertain promotion prospects, frequent transfers (without following the two year minimum tenure at one station) also adversely affects the human rights of police personnel in Haryana. The training is yet another aspect which requires serious and urgent attention. The police personnel are not adequately trained in the areas of forensic, cyber laws and investigation and it came to light that the routine police trainings are mere eyewash as very less heed is paid to the training aspect of it. Time and again the Hon'ble Courts have lamented upon the shoddy investigations being conducted by the investigating officers owing to lack of training in the field of law and while dealing with sensitive issues. Despite issuance of directions to the police, the government is yet to frame extensive guidelines for periodic training of investigating officers in different aspects of the field of law viz., cyber crime, NDPS cases, sexual offences etc.

The second hypothesis which states that *“the existing infrastructure is not properly equipped to meet the contemporary challenges and issues”* also stands proved

on account of various reasons. The conditions of police stations are not up to the mark. Despite budgetary allocations earmarked for improvement of infrastructural facilities given to the police, it is seen that the same largely remains on paper. While conducting empirical research by way of questionnaires and personal interviews, it was found that the police stations were not equipped with state-of-the-art facilities. They lacked modern and sophisticated artilleries, bullet proof jackets, bullet proof vehicles so that the police personnel may perform their duties fearlessly. Further, during personal interviews, it was revealed that even the limited protective gears provided to them were of inferior quality. The committees and commissions set-up from time-to-time also lamented upon the said aspect of poor quality of protective gear for the protection of police personnel who are otherwise required to apprehend criminals in a hostile environment. Despite facing numerous terrorist and criminal attacks (such as the 26.11.2008 Mumbai attacks; 27.07.2015 Gurdaspur attack when few armed terrorists donning the army uniforms target the Dina Nagar police station in Gurdaspur (Punjab), Bikru incident when dreaded criminals armed with adequate stock of bullets and weapons, open-fired at the raiding team which was insufficiently armed, leading to loss of many police personnel including senior officers), it is ironical that the Government has failed to learn any lesson from the past. As regards the State of Haryana, it is observed that the police is largely unarmed with sophisticated weapons especially when the State has been witnessing communal clashes and mass agitations from time-to-time.

Further, it was observed during interviews that training of police personnel is a mere routine formality and nothing substantial is achieved during such sessions. Improper training of police personnel in cyber crimes and modern investigation techniques and non-separation of law and order from investigation has led to low conviction rate which highlights that police is not sufficiently equipped to deal with contemporary issues.

Another infrastructural issue pertains to the housing facility provided to the police personnel in the State of Haryana. At the time of conducting empirical research, it was revealed that there is dearth of Government Accommodation as a result of which many police personnel were forced to stay on requisitioned houses which otherwise has its own challenges. Even, the Government Accommodation so provided is not up to the mark as

the police personnel complained about the size, the quality of material used in construction and absence of timely repairs and renovations. Besides, the benefit of Old Pension Scheme is not available to those officials who joined after 2006 and the New Pension Scheme is subject to market fluctuation which does not guarantee any fixed monthly returns after retirement.

During the course of data collection, it was accepted by the police personnel that they work under immense political pressure and pressure by extraneous sources which causes negative impact on their personality, work efficiency and health. The colonial mindset of the political masters using police for their selfish interests still prevails in the country which is a cause of major concern. The various ways in which the ruling governments exercise their authority on police is by inducting their favourite officers in the police organization; transfers, postings and promotions. Many a times, favourite officers are re-inducted in the organization post retirement. The recent case is that of appointing a retired officer as Investigating Officer under PC Act¹ which was questioned in the case of *Dheeraj Garg v. State of Haryana and Ors.*,² as the same was not in sync with the Police Act. Also, the state governments let no stone unturned in appointing their personal favourite to the top DGP posts, bypassing the norms of Prakash Singh case directives which categorically states that “*the Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to the rank by the UPSC (Union Public Service Commission) on the basis of their length of service, very good record and range of experience for heading the police force.*” The said favouritism has been employed in Haryana from time-to-time. The police which ought to protect and act as the custodian of rule of law is ultimately made to work as per the whims of their political masters. In case the police personnel refuses to follow the orders, the general course that follows is frequent and abrupt transfers without any rhyme or reason, disciplinary inquiries, stalling the increments and delayed promotions by citing one or the other reason and even suspension in certain cases. Thus, in the entire process, he is made

¹ The Prevention of Corruption Act, 1988.

² CM-12246-CWP-2023, decided on 07.11.2023(P&H).

to choose between two options- follow his conscience and abide by the law of the land or go against the conscience and follow the diktats of the ruling government. One thing common in both the cases is that there is immense pressure, dissatisfaction and adverse health issues. Thus, even though the various Committees and Commissions have been setup in India and the directives have been issued in the Prakash Singh's case aiming at independence and protection of rights of police personnel, but the same are being blatantly violated, leaving no substantial relief for the plight of police personnel in Haryana.

6.2 SUGGESTIONS REGARDING LEGISLATIVE AMENDMENTS

I. Legislative Amendments Warranting Strict Implementation of the Model Police Act, 2006 and adopting the guidelines of the Apex Court in Prakash Singhs' Case.

One of the basic objectives of the directives issued in the Prakash Singhs' case was to secure independence of the police and to protect the police from unwarranted interference from the political masters. The seven directives were issued in this regard ranging from separation of law and order from investigation; minimum tenure of police officials at one station; fixed norms for selection of DGPs, creation of Police Establishment Boards for deciding transfers, posting etc. A Model Code of Police, 2006 was thus drafted which was to serve as guide for all the States

Status of implementation

Despite judicial intervention in the case of Prakash Singh & Ors. v. UOI & Ors., wherein it was observed that the existing Police Act has become obsolete and therefore it was recommended that the Model Police Act be adopted by each State/ UT, but due to the lackadaisical attitude on the part of the States and UTs, the same has not been incorporated in terms of the guidelines of the Prakash Singh's case directives. In this regard, the Parliamentary Standing Committee 237th Report on Police- Training, Modernisation and Reform had made a serious observation on the implementation level. It observed that even after the passage of 15 years not all the States and UTs have adopted the Model Police Act in lines with the aforesaid directives. It thus implies that the implementation of the Model Police Act has been smartly circumvented in order to

fulfill the personal interests, which practice is jeopardizing the human rights of the police personnel in the country (including the State of Haryana). The Police Act once in sync with the Model Police Act would bring uniformity and further improve the service conditions of the police across the country.³

Some important amendments required in this respect are stipulated below:

1. Eight hour regime along-with shift system and amendment to Section 51⁴ of the Act

Section 188 of the Act,⁵categorically states that the average working hours must not normally exceed eight hours a day. The Act also provides for compensation and facilities in case they extend up-to 12 hours.

Section 51⁶ of the Act states that “*every police officer shall be considered to be always on duty and may at anytime be deployed in any part of the State or outside the State.*”

From the aforementioned sections, it can be easily inferred that both the sections run contrary to each other. Further, many police personnel informed that they have been deployed in Assam and other places during elections, poll duty etc.

As the provision of the Model Police Act is consciously flouted, it is therefore suggested that amendment to the said effect be brought in Section 51 of the Act,⁷ as eight hour work regime once ensured would greatly benefit the police personnel as it would ensure proper work-life balance and would greatly reduce the undue burden on the police personnel. However, to ensure the eight-hour shift system, the number of cadre/posts are required to be increased proportionately (discussed in forthcoming paras) which would require decision at the administrative level. The proposed amendment to Section 51 is stated hereinbelow:

³ *Ibid.*

⁴ The Haryana Police Act, 2007.

⁵ The Model Police Act, 2006.

⁶ The Haryana Police Act, 2007.

⁷ *Ibid.*

Existing provision- Section 51- *“every police officer shall be considered to be always on duty and may at any time be deployed in any part of the State or outside the State”.*

Proposed Amendment-Section 51- *“the State Government shall take effective steps to ensure that the average hours of duty of a police officer do not exceed eight hours a day”.*

2. Fixed tenure of minimum two years at one station and amendment of Section 13 of the Haryana Police Act

As per the recommendations of various committees and commissions set up for police reform; the Prakash Singhs’ guidelines and Model Police Act, the term of one officer at one station should be at-least two years to maintain continuity, cause less convenience to the personnel and their families, for thorough investigation of a case and for the benefit of the people generally. However, the results were disappointing and it was found that the norm of two years is not followed religiously. *Section 13 of the Haryana Police Act, 2007* states *“that an officer posted as Inspector General of Police of a range or Superintendent of Police of a district shall have a minimum term of one year.”* The said term is not certainly in lines with the recommendations discussed above and hence the same may be increased to two years as directed by the Hon’ble Court and suggested by committees. Also, the term of 2 years must not be limited to only IG and SP and the assurance of tenure must be extended to all police personnel alike.

Existing Provision- Section 13(1)-*“An officer posted as Inspector General of Police of a range or Superintendent of Police of a district shall have a minimum term of one year.”*

Proposed Amendment- *“The police personnel in the State of Haryana shall serve a minimum of two years in a posting. However, in case any officer is to be transferred before the expiry of the minimum term, the competent authority must record detailed reasons for the transfer and adequate compensation shall be provided for untimely transfer except in cases of promotion.”*

3. Investigation to be separated from law and order

The guidelines laid down in the Prakash Singhs’ case and the Model Police Act, 2006 have categorically stated that law and order should be separated from investigation wing. Section 12 (3) of the Haryana Police Act, 2007 also provides that *“there shall be a crime investigation unit of appropriate strength in each police station.”*

However, the said provision remains a dead letter as the primary data collected in the research reveals that there is no such bifurcation of law and order from the investigation and that owing to the shortage of staff, the police personnel are made to perform multifarious functions.

4. Appointment of DGP to be in strict compliance with the Prakash Singhs' guidelines

The Hon'ble Apex Court in Prakash Singh's case directed that "*the Director General of Police shall be appointed from amongst the three senior-most officers of the department empanelled by Union Public Service Commission.*"

Existing Provision -Section 6(1)-*"the State Government shall appoint the Director General of Police from amongst the officers holding the rank of Director General of Police."*

Section 6(2)-*"the Director General of Police so appointed shall have a minimum tenure of one year irrespective of his normal date of superannuation."*

Proposed Amendment to Section 6(1)-*"Director General of Police shall be appointed from amongst the three senior-most officers of the department empanelled by Union Public Service Commission."*

Proposed Amendment to Section 6(2)-*"the Director General of Police so appointed shall have a minimum tenure of two years irrespective of his normal date of superannuation."*

5. Amendment in the provision relating to State Security Commission i.e. Section 26 and Section 29

As per the Hon'ble Apex Courts' directives in the Prakash Singh's case, the States were required to constitute State Security Commission to be led by Chief Minister or Home Minister as Chairman with DGP of the State to be its ex-officio secretary. Although, the Haryana Police Act, 2007 contains specific provisions relating to the establishment of State Police Board enshrined under Sections 25-30 of the Act but the composition of the Board does not confirm with the directives of the Hon'ble Court or with the Model Police Act, as the ratio of official and independent members is higher than that recommended by the Court or the Committees.

The Haryana Police Act, 2007 seems to have deliberately ignored the provisions of the Model Police Act regarding appointment of independent members on the recommendation of selection panel comprising of retired Chief Justice of a High Court, Chairman of State Human Rights Commission and Chairman of State Public Service Commission whereas under the Haryana Police Act, 2007, the independent members are to be nominated by the State Government.

Thus two aspects require special attention. Firstly, the purpose of appointing independent members gets nullified once the State Government comes into picture as the object of Constitution of State Commission was to avoid interference by State Governments. Hence such nomination would imply colourable exercise of power by State Government through such nominees. Secondly, neither the Supreme Court directives nor the Model Police Act recommends the membership of Advocate General as Member of the Board whereas the Haryana Police Act provides for the same. It is crystal clear that office of Advocate General is generally considered as a political post. By inserting 'or' gives a clear steering to the State Government to appoint the Advocate General instead of High Court Judge who would be comparatively independent in the functioning. Even the ratio of official and independent members is higher in comparison with the Model Police Act. Furthermore, as per the Model Police Act, independent members can be removed from the Board by two-third majority of members, whereas under the Haryana Police Act, they can be removed as per the whims of the State Government.

The aforesaid factors clearly highlight the real intention of State Government in carefully mincing words to make the selfish ends meet and also goes on to show that the Haryana Police Act is not in sync with the directives issued by the Supreme Court, pursuant to which the Model Police Act, 2006 was drafted whose main object was to reduce political interference in the working of the police. Therefore, it is proposed that necessary amendments in Section 26 of the Haryana Police Act, be incorporated vis-à-vis the composition of State Police Board so as to reduce the State Government Authority over the same.

Existing Provision- Section 26(1)(d)-“*a retired High Court Judge or Advocate General Haryana*”

Proposed Amendment- Section 26(1)(d)- “*a retired High Court Judge.*”

Existing Provision 26(1)(h)– “*three non-political persons (hereinafter referred as “Independent Members”) of high integrity, expertise and competence in administration, law enforcement and security related matters shall be nominated by State Government*”

Proposed Amendment- Section 26(1)(h) “*three non-political persons (hereinafter referred as “Independent Members”) of high integrity, expertise and competence in administration, law enforcement and security related matters shall be nominated by selection panel comprising of retired Chief Justice of High Court, Chairman of State Human Rights Commission and Chairman of State Public Commission (instead of State Government).*”

Existing Provision- Section 29-“*An Independent Member may be removed from the State Police Board by the State Government*”

Proposed Amendment- Section 29- “*An Independent Member may be removed from the State Police Board by the majority of 2/3rd members of the Board.*”

6. Amendment in Section 34(1) and (2) pertaining to the Police Establishment Committee

For the purpose of deciding the transfer, postings, promotions and other service related matters of officers below the rank of Deputy Superintendent of Police, the Apex Court and the Model Police Act contained provision relating to constitution of Police Establishment Board comprising of the Director General of Police and four other senior officers of the Department.

The recommendations were made binding and only under exceptional circumstances, the State Government could interfere with the decisions of the Board after recording reasons.

The said Board was also given the power to hear appeals from the officers of the rank of Superintendent of Police and above regarding their promotion and transfer and disciplinary proceedings.

The Haryana Police Act, although contains provision for the setting up of the Police Establishment Committee but the same is again not in sync with the recommendations and directives of the Hon'ble Court.

Existing provision- Police Establishment Committee- Section 34(1) – *“The State Government may constitute a police establishment committee (hereinafter referred to as the “establishment committee”) with the Director General of Police as its Chairperson and two other senior officers not below the rank of Inspector General of Police posted within the police organization of the State as members for administrative matters.”*

Section 34 (2)- *“The establishment committee may prepare an action plan for improving the infrastructure facilities, professionalism, general discipline in the service, modernization, training, welfare of the police personnel and any other work assigned by the State Government.”*

Proposed Amendment- Police Establishment Committee- Section 34(1)- *“The State Government shall constitute a police establishment committee(hereinafter referred to as the “establishment committee”) with the Director General of Police as its Chairperson and two other senior officers not below the rank of Inspector General of Police posted within the police organization of the State as members for administrative matters.”*

Proposed Amendment to Section 34 (2)*“The establishment committee shall prepare an action plan for improving the infrastructure facilities, professionalism, general discipline in the service, modernization, training, welfare of the police personnel and any other work assigned by the State Government.”*

The aspect relating to infrastructure facilities, modernization, training, welfare of police personnel are of utmost importance and the betterment of these aspects go a long way in ensuring protection of human rights of the police personnel. By careful insertion of word ‘may’, the State Government smartly got away with the responsibility of ensuring better working conditions, infrastructure and altogether a better quality of life to the police personnel. Such provisions and careful choice of words have been causing lot of hardships for the police personnel and thus require urgent amendments.

II. General Suggestions:

- (1) **Time-bound and quick promotions-** During personal interview, it was learnt that majority of the police force constitute the constable ranked police personnel with delayed and limited avenues for promotion. It was further found that large numbers of respondents were unhappy with their career progression growth as they usually remained stagnant at one post throughout their life. They stated that they were appointed as a constable and may retire as a constable and only a few would get the opportunity to be promoted to the rank of inspectors. Even the Parliamentary Standing Committee 237th Report on Police Training, Modernisation and Reform had found that most of the States were not following *incentive-linked promotion schemes* or any kind of extra-ordinary performance linked promotion schemes for promotion of constables. It was thus recommended that the States must conduct departmental exams on a regular basis coupled with incentive-linked promotions.⁸ The example of the pattern followed in armed forces and other similar counterparts was cited for assistance. Hence such kind of welcome steps would not only increase their efficiency but would also bridge the gap between them.
- (2) **Need for increase in the existing workforce-** It was reported that there was 21% shortfall in the police force having direct bearing on the efficiency of the police leading to increased workload and thereby forcing the police personnel to work overtime in stressful and trying circumstances. It is noted that this shortfall has led to serious occupational stress and it was seen that the common people were on the receiving end of increased stress level. Therefore, it is suggested that the MHA must advise all the States and UTs to conduct police recruitment drives for recruitment of police personnel at different ranks in a streamlined and time-bound manner.⁹
- (3) **Need for improvement in sanitation conditions-** As per the empirical data collected, it was noticed that the sanitation problem persist in majority of police

⁸ *Ibid.*

⁹ *Ibid.*

stations and this plight was also highlighted by the police personnel during the course of personal interviews, thereby causing grave inconvenience to them. Sanitation along-with adequate, clean and potable water is one of the basic and fundamental rights enshrined under Article 21 of the Constitution. It is worth mentioning that due to the reporting of crime by public, the police stations witness huge footfall, therefore, facility of proper sanitation and clean drinking water is the basic requirement which needs to be addressed in each and every police station. Moreso, the Parliamentary Standing Committee 237th Report on Swacchta/sanitation campaign in police stations noted that citizens carry a legitimate expectation on the conditions of police stations and hence it becomes incumbent that the condition of police stations must be in good shape.¹⁰

- (4) Curb in deployment of excessive workforce in VIP and bandobast duties-**A large number of police personnel are deployed on VIP Duties and security of VIPs from time-to-time in Haryana. The said practice requires an urgent consideration.

During the course of interviews of police personnel, an urgent attention was drawn on this aspect and the police personnel lamented that excessive VIP Protocols lead to excessive burden as the duty hours extend for hours together and the leaves etc. howsoever urgent gets cancelled.

The frequent VIP and bandobast duties, thus takes a heavy toll on the already burdened police personnel. The Hon'ble Prime Minister has deprecated the practice of VIP Culture time and again. As law and order and security of general masses becomes a duty of the police. However, extending security cover takes VIP culture overtones which are required to be curbed and the cover must be extended only to those who actually need it based on 'actual threat perception' revised and updated from time-to-time as observed by the Hon'ble Courts time and again and not as a mere status symbol. Also, there must be a separate wing created for the given purpose.

¹⁰

Ibid.

- (5) **Regular training programs for police personnel-** Constant and regular training given to the police officials must not only be limited to investigation techniques but also on stress management, proper health management, soft skills, handling of sensitive issues, on cyber laws and forensics. The interviews with police personnel revealed that police trainings are a mere eyewash and the instructors and experts do not actually encourage such knowledge sharing and training initiatives due to which the training sessions are reduced to a mere paper work formality. Hence, it is required that regular trainings may be imparted on various aspects stated above, with good incentives for officials and trainers who impart training. The concern regarding trainings etc., was also highlighted in the Parliamentary Standing Committee 237th Report on Police- Training, Modernisation and Reform.¹¹
- (6) **Proper housing facility to be ensured to police personnel** – During the course of interviews and data collection, it was observed that most of the police personnel confessed that the condition of the government accommodation was far from normal. Either the accommodations were not available due to shortage or even if available they were uninhabitable owing to their dilapidated structure. Housing is one of the basic primary needs of every individual and given the field work involved in the profession, the police personnel are not at peace even after reaching their homes. The houses on requisition are no less problematic given the formalities and conditions attached thereto. Therefore, the Government of Haryana must assure clean, spacious, pollution free and state of the art accommodation to the police personnel for better efficiency at work.
- (7) **Holiday homes for police personnel-** As the life of police personnel is mainly devoted to service of the people and they get very little or no time to relax, leisure and spend quality time with their loved ones, it is suggested that holiday homes specially meant for police personnel and their families be constructed in various places within and outside the States to increase their zeal as well as to incentivize

¹¹ *Ibid.*

them. The said recommendation was also made in the Padmanabhaiah Committee on Police Reforms (2000). Further, it must also be ensured that the police personnel be sanctioned weekly offs apart from availing their entitled leaves for the purpose of rejuvenation and performance of their personal and social obligations.

- (8) **Menstrual leaves for women police personnel-** During interviews, it was noticed that this was another challenge for female personnel on duty. Generally, women in corporate or government sectors have fixed working hours. The female corporate employees are even given the option of work from home. However, the same facility cannot be availed by the female police personnel. NITI Aayog and Smt. Nirmala Seetharaman (Finance Minister) had suggested special leaves to female employees during menstruation which is a welcome step and may be given to female police personnel so that they can take ample rest. Moreover, such leaves not only cater to the humanitarian aspect but are amongst the best practices followed by various countries like Indonesia, Japan and others. Even the private establishments like Byjus, Zomato, Swiggy, have a special period leave policy.
- (9) **Crèche facility for children-** The research indicated that the plight of mother police personnel was no less. Owing to their hectic schedule, they were not able to even spend the minimum time with their babies. No crèche facility could be found while conducting the empirical research. Moreover, the child care leaves although available, could not be easily availed by the female police personnel. Hence, it is suggested that crèche facility be made available at workplace with proper provision of nursing rooms.
- (10) **Cashless medical treatment facility-** During empirical research, it was revealed that police personnel in Haryana were medically covered. But there was practical difficulty in availing the said service. In event of emergency such as accident, heart stroke or any similar emergency requiring immediate medical treatment, the ailing police personnel is required to make cash payment and later on claim reimbursement. This practice though transparent has its own flaws as the family of such personnel may not be able to make the immediate arrangement of the lump-

sum amount. Hence, it is suggested that in dire emergency situations, the cashless medical facility may be provided to the personnel to avert the danger of loss of life.

- (11) **Diet money should be increased-** The police personnel do not follow a 9-5 desk job unlike other counterparts. Hence, the nutrition packed food cannot be brought for home given the erratic schedule and exigencies at workplace. Thus, the Government of Haryana has made a provision of diet money. Initially, it was Rs. 20/- per day which was later increased to Rs. 40 per day/-. Even the hike is not in sync with growing inflation as well as the prescribed dietary intake. It is therefore, suggested that it should be increased to atleast Rs.120 per day.
- (12) **Provision for restroom and adequate seating facility at workplace-** As per the responses received during personal interviews as well as questionnaire, either there was no provision for rest-rooms or there was one but was inadequate. It was also observed that in few police stations there were around 100-150 police personnel posted, but they lacked adequate infrastructure to accommodate all of them simultaneously. Hence, the police stations, police posts must be spacious, properly ventilated with adequate restroom facility so that periodic rest can be assured to those personnel who serve for long hours.
- (13) **Provision for yoga, meditation and exercise at workplace-** Recently, the States of Haryana and Assam raised a hue and cry about the fitness of the police personnel with State of Assam going a step further to force the police personnel to either come back in shape or seek retirement within a short prescribed deadline. Such directives, in the absence of proper infrastructure, irregular working hours, scanty or no weekly offs frequent night duties and other essential amenities pose more health risks on the already suffering lots. The directives sounded more of a diktat rather than a genuine concern for the men in uniform. Further, health and weight loss cannot be achieved over night and needs a series of lifestyle and other dietary changes. Hence, the State Government must first ensure an eight hour duty shift with compulsory weekly off and then ensure adequate provisions for good workout rooms in each police

station and further should also promote sports among the personnel and conduct tournaments, marathons and yoga sessions. Further, in house facility of food should be provided to prevent the police personnel from consuming high calorie junk food. Provision can also be made to organize webinars and seminars with dieticians and health experts to bring about real change and ensure good fitness of police personnel.

- (14) **Provision for health check-ups of the police-** In the empirical study, it was found that although majority accepted that there were routine health check-up camps organized for them, but on the aspect of aftercare treatment, the situation was different. Large healthcare groups like fortis, apollo have been organizing camps especially for police personnel, but there was no such provision for tie-up for further treatment and that the treatment in such hospitals was beyond their reach. Hence, it is suggested that keeping the importance of police personnel in mind, there should be tie ups with good hospitals so that their life as well as the life of their dependents can be saved in times of crisis.
- (15) **Redressal against physical and mental harassment at workplace-** The police personnel work under tremendous stress round the clock. At times, the pressure is related to work, pressure from seniors, pressure from political masters, pressure from people and their abusive manner, pressure owing to lack of sleep, rest and inability to meet familial demands and other social responsibilities. Besides, the responses state that there is no adequate and cogent complaints redressal mechanism in place where the aggrieved can approach and seek redressal which further adds to the problem. Hence there should be stress busting sessions in place, round-the clock grievance redressal mechanism, need for interference only when required and protection of police personnel from undue harassment. Besides, the public should also be trained and educated while dealing with police. The good work of police should be highlighted and not the bad one as always.
- (16) **Counseling support for dealing with excessive pressure at workplace-** Since the task of police is hectic and involves a lot of public dealing, it becomes

important that their physical as well as mental well being is ensured simultaneously. Many-a-times, police personnel face incidents which cause adverse impact on their mental state and are required to be addressed promptly. Thus, there must be counseling sessions conducted from time-to-time and also provision must be made for 24*7 counsellor support online or through telephone.

(17) Sexual harassment complaints cell to be ensured at each police station-

Sexual harassment at workplace is a matter of grave concern. Each women police personnel is entitled to feel safe while at workplace. While there must be adequate sensitization of all police personnel while dealing with their female counterparts, there must be a dedicated sexual harassment complaints cell established in each police station and thana to ensure time-bound redressal.

(18) Outsourcing of less important tasks to ease out excessive burden-

In order to ease out the excessive burden of the police personnel, there must be segregation of essential functions with those of non-essential functions and the functions which are primarily non-essential may be outsourced. The non-core functions like service of Court summons, verification of past history and address of general public could well be outsourced to other departments which would help the police to focus on their core and essential duties.

(19) Reception facility-

In order to improve the image of police in the minds of general public, the concept of reception akin to the corporate sector must be introduced so as to reduce any kind of fear and hesitation in the minds of public while approaching the police station. This would help in building better public-police relationship which would go a long way in maintaining peace and harmony in the society as the police can equally bank upon the public for assistance in prevention and detection of crime.

(20) Revival of Old Pension Scheme-

During personal interviews, many of the police personnel mooted for the revival of Old Pension Scheme rather than the New Pension Scheme which is based on market fluctuations. The Old Pension Scheme would thus provide better social security to police personnel compared to New Pension Scheme.

- (21) **Adequate facility of good schools for the children of police personnel at Government rates-** This facility must be provided in districts for providing better quality education and securing the future of the children and also to accommodate children whose parents face mid-term transfers.
- (22) **Community policing-** As the name suggests, community policing establishes a unique relationship between the public as well as the law enforcement officials in crime prevention and day-to-day problem solving. It works on the principle of creation of strong bond between police and citizens living in a particular locality. The local public if allowed to work proactively may significantly contribute in maintaining peace and harmony in the society. The process not only works in crime detection and prevention but also brings the police closer to the public and also instills a sense of responsibility on the local population. Notable community policing models which may be employed for assistance are Janamaithri Suraksha Project: Kerala and Joint Patrolling Committees of Rajasthan.
- (23) **Training and sensitization of general public while dealing with police-** The attitude of general public is generally hostile with the police and is not cordial. Police works for the benefit of people and once the people start giving due respect to police, the general issues of brutality by police and day-to-day clashes would fade away. The public thus needs to adopt a humanitarian approach towards them and should provide access to water, food or tea while the police officials are deployed on field duty.
- (24) **State of the Art arms and ammunition be provided to the police-** Haryana has been witnessing frequent incidents of mob lynching; sand mining and land mafia's retaliations; communal clashes; drug trafficking; farm violence, thereby leading to frequent attacks on police personnel and police stations. It is seen that the police is equipped with outdated arms and artillery, which requires constant upgradation in order to meet the aforesaid situation. Therefore, latest and state of the art weapons; protective gears and bullet proof jackets be provided to the police personnel. It is also suggested that appropriate budget be allocated for modernization of the police infrastructure.

It is therefore concluded that the human rights issues of police personnel in Haryana are not adequately addressed and there is an urgent need to bring about various structural, institutional and behavioural reforms. The said process requires active cooperation from the general public, the police, the members of legal fraternity and most importantly the political will (of getting away with the colonial mindset and let the police abide by the Constitution and not their personal whims) as the Constitution mandates that police should uphold the rule of law in the country. It is also high time that the colonial mindset of misusing the institution of police must be deprecated by the Governments, the public and the media alike. The recommendation of the Parliamentary Standing Committee 237th Report on Police- Training, Modernisation and Reform, had suggested that for the transfer and postings of police personnel in a more judicious and impartial manner, the creation of Police Establishment Board (PEB) in terms of the guidelines issued in the Prakash Singhs' case was imperative and the same needs to be adopted by each and every state. ¹²

Thus, it may be stated that the said process no doubt is going to be slow yet significant as the police has been undergoing lot of challenges and thus the time is ripe to bring them at the same pedestal as that of other counterparts as they remain to be human even after donning the khakhi uniform.

¹²

Ibid.

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ANNEXURE - I

QUESTIONNAIRE USED TO ELICIT RESPONSE FROM THE POLICE PERSONNEL IN HARYANA

CONFIDENTIAL FOR RESEARCH PURPOSES ONLY

(The information sought is for a doctoral research on “*Human Rights of Police Personnel: A Socio- Legal Study with Reference to the State of Haryana.*” The data will be strictly confined to research purposes only.)

1. **Name** : _____
2. **Age** : _____
3. **Gender** : Male [] Female []
Other []
4. **Designation** : _____
5. **Years of service** : 0-10 years [] 10-20 Years []
20-30 Years [] More than 30 Years []
6. **Current place of posting**: _____
7. **Average salary** : _____
8. **Promotion Prospects**: _____
Promotion within 10 years of service: []
Promotion between 10-20 years of service []
Promotion between 20-30 years of service []
No such fixed time frame []
9. **Average number of working hours served each day**
0-8 Hours [] 8-12 hours []
12-18 hours [] More than 18 hours []
10. **Frequency of night duties**:
Everyday [] Very frequent []
Less frequent [] Depends upon the situation _____

- 11. Provision of weekly offs:**
 Yes [] No []
- 12. Weekly or other offs:**
 Can be easily availed [] Difficult to avail []
- 13. Facility of food, tea and potable drinking water at workplace**
 Yes [] No []
 Yes, but needs to be improved _____
- 14. Condition of toilets and bathrooms at workplace**
 Good and hygienic []
 Average and may be further improved []
 Bad and highly unhygienic []
- 15. Any provision for restrooms, crèche at workplace**
 Yes [] No []
 Yes, but needs improvement _____
- 16. Any provision for yoga, meditation or exercise at workplace**
 Yes [] No []
 Yes, but needs improvement _____
- 17. Any provision of health check-ups?**
 Yes [] No []
- 18. Frequency of health check-ups in case answer to question 17 is yes**
 Monthly [] Quarterly []
 Every six months []
 No such fixed time-frame _____
- 19. Any serious health issue faced currently**
 Yes [] No []
- 20. Specific health issue faced in case answer to question 19 is yes**
 Diabetes [] Cardio-vascular []
 Kidney []
 Others – please specify _____

- 21. Status of medical insurance facility**
- Yes, medical insurance is provided and is adequate []
- No, medical insurance facility provided []
- Yes, but the insurance facility needs improvement []
- 22. Average number of years served at one station**
- Less than one year []
- Between one to two years []
- More than two years []
- No such fixed time, can be transferred any time []
- 23. Level of independence at workplace**
- Can work independently without any interference []
- Interference only in urgent cases warranting quick action []
- There is complete lack of independence []
- 24. Any instance / instances of physical or mental harassment faced at workplace**
- Yes [] No []
- 25. Please specify if answer to question 24 is yes.**
-
-
- 26. Whether there is any complaints resolution mechanism**
- Yes [] No []
- 27. Any instance of sexual harassment faced at workplace**
- Yes [] No []
- 28. Whether there is any sexual harassment complaints cell at workplace**
- Yes [] No []
- 29. Level and quality of redressal if answer of question 28 is yes**
- Quick and easy []
- Cumbersome and time consuming []
- Just for namesake and does not serve any purpose []
- 30. Is the workplace sufficiently armed with weapons, latest artillery and safety gears**
- Yes [] No []

- 31. Quality of artillery, protection gears and bullet proof jackets available at workplace**
- Outdated and poor quality []
- Modern and good quality []
- 32. Level of security at workplace**
- Highly secured and protected []
- Fairly secured and protected but requires improvement []
- Insecure and unprotected []
- Highly insecure and unprotected and requires immediate attention []
- 33. Whether CCTV Cameras are installed at workplace**
- Yes [] No []
- 34. Any instance of mob violence faced while on duty**
- Yes, but less frequent []
- Yes, very frequently []
- Never []
- 35. Relation between police and public according to you**
- Warm and cordial and needs no improvement []
- Cold and full of distrust, requires immediate attention []
- Satisfactory, but needs improvement []
- 36. Accommodation provided by Government or living on requisition**
- Yes, living in Government Quarters []
- No, living on requisition []
- 37. Quality of Government Accommodation if answer to question 36 is (a)**
- Very good [] Good []
- Average, requires improvement []
- Bad and requires immediate attention []
- 38. Living with family or alone**
- Alone [] With family []
- 39. Any specific reason if answer to question 38 is (a)**
-

40. Level of job satisfaction

Highly satisfied [] Fairly satisfied []

Not satisfied [] Highly dissatisfied []

41. Any suggestions? Please mention in detail_____

ANNEXURE- II

QUESTIONNAIRE USED TO ELICIT RESPONSE FROM THE GENERAL PUBLIC

CONFIDENTIAL FOR RESEARCH PURPOSES ONLY

(The information sought is for a doctoral research on “*Human Rights of Police Personnel: A Socio- Legal Study with Reference to the State of Haryana.*” The data collected through this questionnaire will be strictly confined to research purposes only.)

1. **Name:** _____
2. **Age:** _____
3. **Gender** : Male [] Female []
Other []
4. **Occupation/Profession:** _____
5. **City:** _____
6. **Who would you like to call in times of grave emergency?**
Police [] Army []
Fire brigade [] Hospital []
7. **Have you experienced any situation when you sought police assistance?**
Yes [] No []
8. **Did the police assistance reach on time?**
Yes [] No []
9. **Have you ever visited any police station?**
Yes [] No []
10. **Your experience in the police station in case answer above is Yes:**
Very good [] Good []
Satisfactory [] Bad []
Very bad []
11. **Kindly give reasons for the above response-** _____

12 What is your opinion about the infrastructure and condition of police stations?

Good, equipped with State of the art facilities []

Average but can be further improved []

Bad, in old and dilapidated condition which requires immediate attention []

13 Do you feel that the Police is overburdened and stressed?

Yes [] No []

14 The status of general fitness of police:

Fit and active []

Unfit and lethargic, requires immediate attention []

15 According to you what is the average time spent by a police personnel while on duty?

0-8 hours [] 9-14 hours []

15-19 hours [] 20-24 hours []

16 Would you support 8 hour duty norm for Police?

Yes [] No []

17 Your general opinion about police:

Helping, honest and polite []

Fairly satisfactory but needs improvement []

Non cooperative, corrupt and brutal []

18 Do you think that the police works under immense political pressure?

Yes , always [] Yes, sometimes []

No []

19 Is the police armed with latest weapons, arms and artilleries?

Yes []

Yes, but needs further improvement []

No, needs urgent attention []

20 Do you think that given the type of duty, the police is given due respect in India?

Yes [] No []

- 21 A lot is said and discussed against the police but less is said and done in favour of police. Do you agree to this statement?**
- Yes []
- Yes, partially correct []
- No []
- 22 Do you think that Human Rights of Police are not adequately addressed in India?**
- Yes [] No []
- 23 Reasons for the above response-** _____
- _____
- 24 Do you think that the police needs to be reformed?**
- Yes [] No []
- 25 Your valuable suggestions on what needs to be reformed and how you want your police to function?** _____
- _____

ANNEXURE-III

QUESTIONNAIRE USED TO ELICIT RESPONSE FROM THE LEGAL FRATERNITY

CONFIDENTIAL FOR RESEARCH PURPOSES ONLY

(The information sought is for a doctoral research on “*Human Rights of Police Personnel: A Socio- Legal Study with Reference to the State of Haryana.*” The data collected through this questionnaire will be strictly confined to research purposes only.)

1. **Name:** _____
2. **Age:** _____
3. **Gender:** Male [] Female []
4. **Occupation/Profession:** _____
5. **City:** _____
6. **Police plays an important role in the Criminal Justice System. Do you agree with the statement?**
Yes [] No []
7. **What is the level of co-ordination of Police with other organs/ wings of Criminal Justice System?**
Very good [] Good []
Satisfactory [] Bad []
8. **Do you think that police is responsible for delay in criminal trials as it fail to appear readily for evidence in Courts as prosecution witnesses?**
Yes [] Yes, sometimes [] No []
9. **As investigators, how would you rate the working of police?**
Police does its job well and needs no improvement []
Police is corrupt and intentionally resorts to shoddy investigation []
Police is overburdened, devotes very less time for investigation, leading to inaccurate results []
Police is not properly trained which is the reason for shoddy investigation []

10. Do you think that situation would change if the law & order wing and investigation wing are separated?
- Yes, to some extent []
- Yes, to a greater extent []
- Situation would remain unchanged []
11. What steps would you suggest for improving investigation of crimes by Police? _____
-
12. Do you believe that police is the first responder in times of crisis?
- Yes [] No []
13. Is the Police able to protect the rights of the citizens?
- Yes [] No []
14. Do you think that political interference on police functioning is affecting the criminal justice system?
- Yes, always [] Yes, sometimes []
- No []
15. What is your perception about police behaviour with public?
- Warm and cooperative []
- Fairly satisfactory but needs improvement []
- Cold and non-cooperative []
16. What is your opinion about the infrastructure and condition of police stations?
- Good and equipped with state of the art facilities []
- Average, but can be further improved []
- Bad, in old and dilapidated condition which requires immediate attention []
17. Is the police armed with latest weapons, arms and artilleries?
- Yes []
- Yes, but needs further improvement []
- No, needs urgent attention []
18. Do you feel that the Police is overburdened and stressed?
- Yes [] No []

- 19 Your opinion on the general fitness of police:**
 Fit and active, needs no improvement []
 Unfit and lethargic, needs immediate attention []
- 20 According to you what is the average time spent by a police personnel while on duty:**
 0-8 hours per day []
 9-14 hours per day []
 15-19 hours per day []
 20-24 ours per day []
- 21 Would you support 8 hour duty norm for Police?**
 Yes [] No []
- 22 A lot is said and discussed against the police but less is said and done in favour of police. Do you agree to this statement?**
 Yes []
 Yes, partially correct []
 No []
- 23 Do you think that Human Rights of Police are not adequately addressed in India?**
 Yes [] No []
- 24 Reasons for the above response-** _____

- 25 Do you think that the police system needs to be reformed?**
 Yes [] No []
- 26 Reasons in support of your answer-** _____

- 27 As protectors of human rights and as active agents of change, would you like to advocate human rights of police?**
 Yes [] No []
- 28 Your valuable suggestions:** _____
