



# **POLICING IN INDIA: EXPLORING THE EXCESSIVE USE OF FORCE AND EFFICACY OF ACCOUNTABILITY MECHANISMS.**

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## **ABSTRACT:**

Recently, India has witnessed numerous reports of excessive use of force by the police against ordinary citizens, commonly referred to as police brutality. Various states within the country operate under distinct rules and practices for their police forces and officials. Unfortunately, citizens often bear the brunt of police actions, whether through acts of cruelty or negligence in addressing their grievances, especially the treatment of the vulnerable section is unbearable. The unwarranted and aggressive use of force by police personnel in India has become an alarming concern, leading to numerous incidents of custodial torture, death, and other severe human rights violations. The concept of police accountability is getting submerged day by day.

This paper examines various case studies from across India that highlight instances of alleged police misconduct like the police atrocities during the Covid 19 pandemic and encounters in the states like Hyderabad (rape case) and in Uttar Pradesh and also the custodial death which was a major issue in Tamil Nadu and evaluates key judicial decisions on such matters and the implication and enforcement of these decisions compiled by the states practically. The research discusses the establishment of oversight mechanisms, (For instance Police Complaints Authorities (PCAs) as per Prakash Singh's judgment) which laid the groundwork for comprehensive police reforms. Despite these efforts, the actual implementation of reforms has been uneven, with political resistance and bureaucratic inertia undermining their effectiveness. The paper aims to identify the core issues affecting police accountability, including political interference, inadequate training, overburdened personnel, and other systemic challenges that are often unaddressed.

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This paper also seeks to examine another critical aspect, the public's support for such unlawful acts when they perceive these actions as delivering justice. Additionally, it explores the international standards regarding the use of force by law enforcement officials and assesses India's adherence to these norms. The paper also seeks to propose measures to mitigate the excessive aggressiveness in police actions while ensuring the maintenance of law and order within the state through legal frameworks.

**Keywords:** Police Brutality, Human rights Violations, Public support, Judicial Oversight, Accountability.

## INTRODUCTION:

The Indian criminal justice system has been embedded in itself as the police force since the British era. They are entrusted with protecting the people and maintaining the Law and Order. But now common people have developed a sense of fear towards approaching the police for any help which is their duty because of the reports and news they hear every day regarding their brutal behavior towards the common complainants or the ones in their custody. For instance, in cases of custodial deaths, a significant issue is the stark gap between the number of recorded cases and the conviction rates. This has persisted for over a decade, from 2005 to 2019. Notably, from 2011 to 2019, no police officer was convicted for custodial deaths.<sup>3</sup>

Sometimes, there is another stand where some of the police personnel consider it to be a shortcut to justice. Another major problem is there is a trend of people supporting this kind of violence as a form of speedy justice. Police's extensive use of force is rising day by day. A 2022 report by the National Human Rights Commission revealed more than 1,300 custodial deaths within a year, underscoring the urgent need for independent oversight.

This issue has to be addressed at its depth cause and we must come up with an efficient solution to curb this because the Violence inflicted by one citizen upon another, merely due to their position of authority, cannot be overlooked, as it directly contradicts the principles of democracy and the fundamental values enshrined in our Constitution.

## POLICING IN INDIA:

The police system in India has evolved over time, significantly changing under British rule with the enactment of legal codes. The Police Act of 1861, except in some provinces, was the first law to formally organize the Indian police for crime detection and prevention. Today, the Ministry of Home Affairs oversees central law enforcement agencies, while state police maintain law and order. Policing is a State subject under the Seventh Schedule of the Constitution, with state governments framing regulations. However, central organizations exist for specialized purposes. Certain laws, like the Armed Forces Special Powers Act, grant extensive powers to security forces, allowing lethal force, warrantless arrests, and searches. While justified as measures for public order, these provisions often lead to human rights

<sup>3</sup> Data on Police Organizations 2019, Indian Bureau of Police Research and Development.

violations. The broad authority given to law enforcement raises concerns about misuse, highlighting the need for reforms to ensure accountability and prevent abuse of power

### **POLICE EXCESSIVE USE OF FORCE IN INDIA:**

Most People are well aware of the police's high-handed behavior, often witnessed in the form of officers slapping individuals or brutally beating them with lathis or showing their authority in any other form under the pretext of maintaining law and order. However, the deeper reality of police brutality remains largely obscure, with public perceptions shaped more by cinematic portrayals than actual experiences(as we are more exposed to the Films than this actual news)—only the victims truly understand the harsh truth. This section delves into case studies that shed light on the real extent of police torture and its consequences.

### **THE THOOTHUKOODI ENCOUNTER - ANTI-STERLITE PROTEST:**

On May 22, 2018, a protest against the proposed expansion of the Sterlite copper smelter plant in Thoothukudi turned violent when police opened fire on demonstrators, killing 13 people and injuring 102 others. The protesters had been opposing the plant due to its pollution of local water bodies, which had led to severe health issues among residents. Some police personnel were also reportedly injured during the incident.

Following public outrage, both the CBI and an inquiry commission were tasked with investigating the case. On August 14, 2018, as per the directive of the Madurai Bench of the Madras High Court, the CBI took over the case from the CB-CID and later filed a chargesheet against 101 individuals, including police inspector Thirumalai, who was subsequently promoted to DSP.

The Aruna Jegadeesan inquiry panel, which conducted a four-year investigation at a cost of ₹5.5 crore, held 17 police officers responsible for excessive force and identified four revenue officials for administrative lapses. Among them were one IAS officer, three IPS officers, one DSP, three inspectors, two sub-inspectors, and eight constables, many of whom were later promoted. The commission also recommended departmental action against then-collector Venkatesh for his role in the incident and legal proceedings against three special executive magistrates/deputy tahsildars for allegedly issuing shooting orders without justification.

Despite these findings, no prosecutions have taken place to date. While some officers faced suspensions, justice remains elusive for the victims' families. Following the CBI report, the Madras High Court ordered the Tamil Nadu Directorate of Vigilance and Anti-Corruption to investigate the assets of all accused police and government officials. However, the court also criticized the CBI for failing to identify the real perpetrators behind the firing. The court declared "We are of the view that the police firing on anti-Sterlite protesters in 2018, which resulted in the deaths of 13 people, was a premeditated act,". This was ruled by the court in response to the petition filed by an activist Henri Tiphagne in 2021

In 2024, the Supreme Court stayed the investigation ordered by the Madras High Court, further delaying justice. The incident remains a symbol of the region's ongoing struggle for justice and accountability.

## **THE HYDERABAD FAKE ENCOUNTER:**

On November 29, 2019, police arrested three minors and Md Arif for the gang rape and murder of Disha, a veterinary doctor, whose burnt body was found under an overpass in Chattanpally. The crime, committed on the night of November 27-28 near Hyderabad, caused nationwide protests. On December 6, 2019, all four accused were killed at Chattanpally.

Following a writ petition, the Supreme Court formed a Commission of Inquiry on December 12, 2019, led by ex-SC judge VS Sirpurkar, with two other members. The commission found that police officers, responsible for the suspects' safety, acted with common intent to kill them. Post-incident actions like falsifying records and withholding evidence further confirmed their complicity.

The commission recommended prosecuting the three officers who fired the shots under IPC Section 302 (murder). Additionally, seven other officers, including ACP V Surender, should face charges under Sections 302 r/w 34 (common intent) and 201 (evidence tampering).

It dismissed the police claim that they snatched the accused who didn't know how to use the pistol weapons and fired, citing inconsistencies like the lack of bullet evidence and minor injuries sustained by officers. It also raised concerns over the deliberate withholding of CCTV footage and other evidence.

In the above incident, we can clearly see that police have misused their power and have done the things granted.

## **SATHANKULAM CUSTODIAL DEATH CASE:**

The Sathankulam custodial death case refers to the tragic deaths of Jayaraj (59) and his son Bennix (31) due to alleged custodial torture by the police in Sathankulam, Thoothukudi district, Tamil Nadu in June 2020. The case sparked widespread outrage across India, drawing attention to police brutality and custodial violence.

The expert opinion provided by the Central Forensic Science Laboratory (CFSL), New Delhi, confirmed that the bleeding injuries sustained by the deceased Benniks and Jeyaraj occurred within the premises of the Sathankulam Police Station. The DNA profiles derived from the exhibits collected from the walls of the police station, as well as other items, were consistent with the DNA profiles obtained from the bloodstained clothing and other materials associated with the deceased individuals.

Additionally, CFSL's expert analysis established that the DNA profiles obtained from the materials, including the clothing of the deceased and evidence from the police station, were consistent with the DNA profile of Smt.J. Selvarani, the wife of deceased Jeyaraj and the mother of deceased Benniks.

In summary, the findings from CFSL, New Delhi, confirm that the blood found on various material objects seized from the Sathankulam Police Station, including the wooden lathi used by the accused police officers during the torture of the deceased, as well as blood stains on the walls of the police station, belong to Benniks and Jeyaraj. Therefore, it is conclusively established that both Benniks and Jeyaraj were subjected

to severe torture by the accused police officials during the evening of June 19, 2020, and the night of June 19-20, 2020, inside the Sathankulam Police Station.

### VACHATHI VILLAGE POLICE BRUTALITY:

Vachathi, a village in Tamil Nadu's Dharmapuri district, was a key point for sandalwood smuggling from the Chitteri Hill Ranges. Some villagers acted as intermediaries for smugglers, prompting the Tamil Nadu Forest Department and Police to take action.

On June 20, 1992, a raid by 269 officials from the forest, police, and revenue departments led to vandalism, illegal detention, and sexual violence against village women. In response, 18 women filed complaints and a writ petition was submitted.

The Madras High Court, in *A. Nallasivan vs. State of Tamil Nadu*, recognized that while some villagers were involved in smuggling, they were exploited by more powerful operators. The court ordered a CBI investigation, which led to a charge sheet in 1996 against 269 officials for crimes under IPC sections 376, 323, 427, and 342, and the SC/ST (Prevention of Atrocities) Act, 1989.

The case dragged on for years, with multiple legal delays. In 2011, a Dharmapuri court convicted 215 officials with sentences ranging from 1 to 7 years. On September 29, 2023, Justice P Velmurugan upheld these convictions and:

- Increased compensation for each rape victim from ₹15,000 to ₹10 lakh, with 50% recovered from the convicted officials.
- Ordered action against negligent public officials and medical personnel.
- Directed the state to offer government jobs or self-employment training to victims.
- Mandated development programs in Vachathi for its sustained growth.

This case stands as a landmark judgment in addressing state violence, caste oppression, and legal delays in India.

### POLICE EXTRA-LEGAL ACTIVITIES DURING COVID-19 LOCKDOWN:

The Covid-19 pandemic led to massive lockdowns worldwide, creating some of the worst governance crises of the twentieth century. Law enforcement agencies were responsible for implementing restrictions, leading to inevitable tensions between the public and the police. A study titled '**Policing in the Covid-19 Pandemic**'<sup>4</sup>, conducted across 10 states—NCT of Delhi, Uttar Pradesh, Bihar, West Bengal, Andhra Pradesh, Tamil Nadu, Kerala, Karnataka, Maharashtra, and Gujarat—revealed striking findings. While 56% of people observed police assisting civilians, a comparable 58% also witnessed frequent use of force. Additionally, one in three (33%) reported regular conflicts between police and civilians, and a majority (55%) admitted to fearing the police during the lockdown.

<sup>4</sup> National Library of Medicine, National Centre for Biotechnology Information.

During the lockdowns, perceptions of the police varied by social class. Poor and lower-class individuals were more fearful, especially of police violence. They also found police instructions more intimidating during this period.

During the lockdown, CHRI documented at least 20 deaths resulting from police actions. Among them, 17 individuals were allegedly beaten or caned in public, while three died in custody. Of these, 14 succumbed to their injuries, three died by suicide, and three passed away in police custody. The CHRI report provided a detailed account of each victim's condition, their families' circumstances, and the complaints filed with the NHRC.

On analyzing this condition of the police use of force excessively during the lockdown time several high courts have highly condemned the police on their acts and some courts even took suo motto on the media reporting of police beatings and investigated the matters and high courts have advised the police to maintain sympathy in their acts and also in some cases, certain police personnel were even questioned for booking charges on some marginalized groups wantedly.

Some other acts include,

- I. Police in multiple locations marked people's foreheads and hands with shaming messages, accusing them of violating lockdown rules. (In Jammu and Karnataka)<sup>5</sup>
- II. In some states, police departments set up "selfie points" to forcibly take pictures of people with officers alongside humiliating captions. (Kolhapur, Maharashtra)<sup>6</sup>
- III. Another humiliating tactic involved staging an aarti, misusing a religious ritual for policing. Videos show police offering bananas and showering flowers on alleged lockdown violators(Kanpur).<sup>7</sup>

To some, it seems to be some initiative taken to implement a lockdown effectively and some have taken it as a fun which they pass by through news. But some were seriously affected by it.

## **PROBLEMS FOR THE LACK OF ACCOUNTABILITY:**

### **Pressure of Politicians on the Police:**

For a long time, the police have often been manipulated by politicians and the ruling government in various ways. This, in turn, negatively affects the services that should be provided to the people, as their interests are not given priority. According to a study titled Status of Policing in India Report 2019<sup>8</sup>, 72% of police respondents believed that they were influenced by politicians while investigating cases involving influential individuals. The mention of the State Government's superintendence in Section 3 of the Police Act of 1861 does not mean that the political executive can override the decisions of Police Chiefs. Their

<sup>5</sup> Times Now Digital, 'CORONA LOCKDOWN VIOLATOR' stamp on forehead - Jammu Police's punishment for violating lockdown,' ; Basavaraj Kattimani, "Karnataka: Youngsters caught violating lockdown have a lesson stamped on their forehead," The Times of India

<sup>6</sup> Kolhapur cops publicly shame lockdown violators," The Deccan Chronicle, 15 April 2020

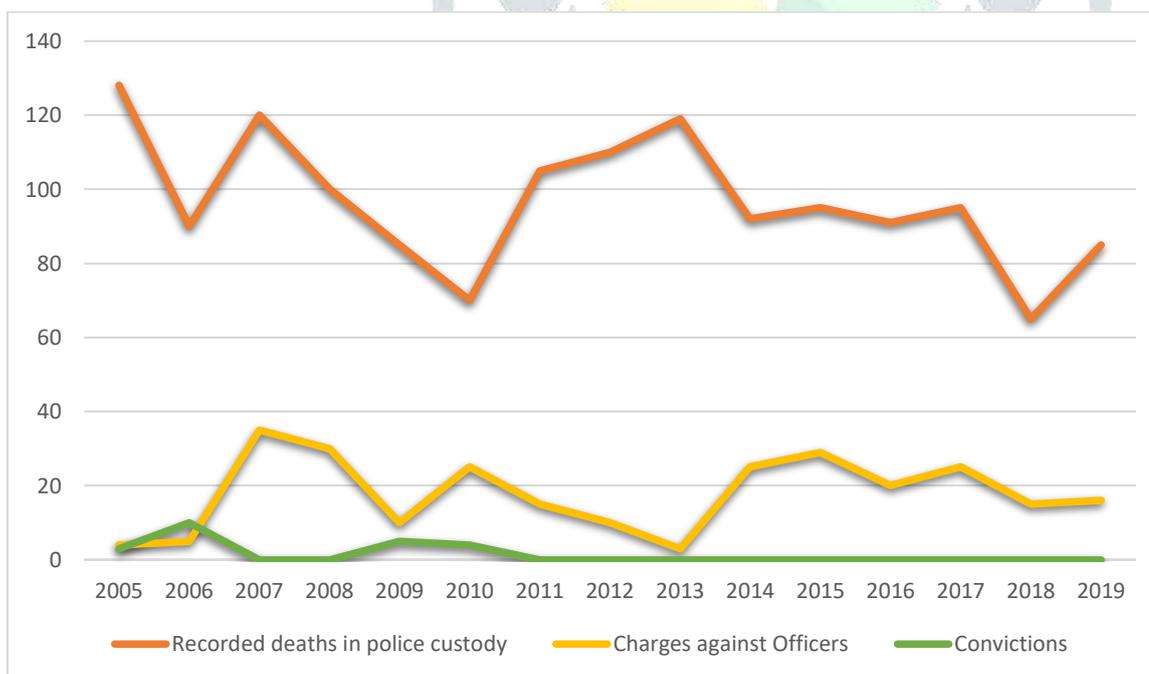
<sup>7</sup> HT Correspondent, "In this UP city, police perform aarti, give bananas to lockdown violators

<sup>8</sup> Status in Policing in India Report, 2019; Common Cause & Lokniti – Centre for the Study Developing Societies (CSDS)

role should be to monitor police work, act as a safeguard against the misuse of power, and ensure that the police serve the people effectively. Although accountability of all state organs to the government is a fundamental requirement in a republic, this principle is being taken to an extreme, turning accountability into a tool of coercion rather than governance.

### Victims suffer the most – Lesser Conviction of Police:

The report by the National Crimes Reports Bureau(NCRB) has shown the lesser conviction of the Police for custodial deaths consistently. This clearly shows the systematic failure of the Criminal Justice System. Police often alter the pieces of evidence against them and try to escape from the justice system. It is reported in many cases where the accused are threatened to lie before the Magistrate on the torture given by them in custody and accept the offense regardless of whether they have committed it or not they accept it due to their fear of the Police. The Judiciary and other Inquiry commissions are also helpless as they often have to decide the cases by relying on the report of the Police. In most cases, it could be seen that the Officials who are engaged in these kinds of activities believe their act is right if they feel that this is the best possible punishment that the accused could get based on their consciousness and there is a misconception that the Minor offenses can be given Punishment rather than the Trial. In a 2019 survey by Common Cause<sup>9</sup>, 37% of police officers felt that minor infractions warranted informal penalties rather than formal court proceedings. Furthermore, a staggering 83% of respondents believed that physically assaulting suspects to obtain confessions was justified and acceptable. Anyway, a brutal act must be punished. So the State must ensure that These harsh acts by the Police are punished.



### The growing distance between the police and the public:

The use of unnecessary force during arrests creates fear and mistrust, as individuals may feel vulnerable to excessive or unjustified violence. This sense of insecurity discourages people from approaching the police,

<sup>9</sup>2019 survey by Common Cause Common Cause & Lokniti – Centre for the Study Developing Societies (CSDS)

even when they need help. Similarly, Harassment and intimidation, such as repeated questioning without valid suspicion or the use of aggressive language, can make individuals feel targeted or unfairly treated. Improper searches and seizures, particularly when conducted without a warrant or beyond legal boundaries, are seen as violations of privacy and personal rights. Such actions diminish the public's confidence in the police's ability to uphold the law fairly. Displays of power, like deploying a large number of officers in certain areas, can create an atmosphere of control rather than protection. Registration of FIRs are less than the actual crime committed because lesser filing of FIRs means lesser recording of crime rates. The Supreme Court's landmark decision in *Lalita Kumari vs Government of Uttar Pradesh (2013)*<sup>10</sup> established that when a victim's statement reveals details of a cognizable crime, the police must mandatorily register an FIR, thereby initiating a formal investigation.

Caste-based discrimination is also shown by the police. Lastly, threatening legal action in unjustified situations, such as the unwarranted threat of arrest or fines, reinforces that police use their authority to coerce rather than serve the public. Together, these behaviors contribute to a lack of trust, making the public less likely to engage positively with law enforcement, ultimately widening the gap between the two.

#### **People's encouragement of this Brutality:**

The one who fears these acts of discrimination sometimes supports it when they feel that the person who is accused of such a crime is so sensitive and they deserves that punishment and people focus often on speedy justice. It is agreed that Justice delayed is Justice denied, on the other hand, it must also be important that an accused person is innocent until he is proven guilty by the court and everyone must be heard in the court and given a proper trial. The court must decide he is guilty, then only he must be punished. The encouragement and support given to these acts is so cruel.

#### **Work burden:**

The Indian police force's frustration with their work is a significant factor contributing to police brutality and custodial violence. As one Bengaluru-based police officer noted, "People are frustrated with the police, without realizing that the police themselves are frustrated with the policing system"<sup>11</sup> (CNN, 2020). This frustration stems from various sources, including inadequate resources, excessive workload, and political pressure.

For instance, India's police force is severely understaffed, with nearly 20% of sanctioned posts vacant (Government of India, 2020)<sup>12</sup>. This shortage leads to prolonged working hours, with officers working an average of 14 hours a day<sup>13</sup> (Common Cause, 2019). Moreover, the police budget allocates a meager 1.3% for training personnel and 1.8% for modernization (Government of India, 2019)<sup>14</sup>.

<sup>10</sup> *Lalita Kumari vs Govt. Of U.P. & Ors* AIR 2014 SC 187

<sup>11</sup> Indian police use violence as a shortcut to justice. It's the poorest who bear the scars By Mohit Rao

<sup>12</sup> Government of India Press Release, 2020

<sup>13</sup> Common cause Report, 2019

<sup>14</sup> Government of India press release, 2019

The pressure to deliver results, coupled with inadequate resources, drives police officers to resort to violent means to achieve their goals. As Prakash Singh, a former head of police, observed, "Experience shows that if there is no enforcement, no one will obey the law. And for this, the fear of the police is a must"<sup>15</sup> (CNN, 2020). This mindset perpetuates a culture of violence within the police force.

Addressing the root causes of police frustration is crucial to mitigating police brutality and custodial violence. This requires a multi-faceted approach, including increasing resources, improving training, and promoting accountability within the police force. By acknowledging the police's frustration and working to address its underlying causes, we can create a more just and equitable society for all.

## **TIMELINE OF POLICE REFORMS-REPORTS OF COMMITTEES:**

### **NATIONAL POLICE COMMISSION,1979:**

In 1979, the National Police Commission (NPC) was established to evaluate policing practices and provide recommendations for reform. It recommended mandatory judicial inquiry in some cases, Police inquiry board, State Security Commission, Special investigation cells and reforming recruitment and training procedures, norms for police stations, police accountability and Model Police Act. However, none of these recommendations were adopted by any government.

**RIBEIRO COMMITTEE,1998:**( Constituted on the directions of the SC in Prakash Singh v Union of India)

The reports recommended a Police Performance and Accountability Commission (PPAC) in each State to oversee police performance, ensure accountability, and prevent premature transfers. A District Police Complaints Authority was proposed to handle complaints of police excesses. A Police Establishment Board was suggested to regulate transfers, promotions, and rewards. The DGP was to be appointed by the Chief Minister from a UPSC-led panel. It rejected a State Security Commission at the Centre, emphasizing Supreme Court oversight of the CBI. It supported the NPC's proposal for a Central Police Committee and urged replacing the Police Act of 1861 with a new law. States were advised to establish an Independent Police Recruitment Board for non-gazetted ranks.

### **PADMANABHAIAH COMMITTEE (2000):**

The reforms emphasize better recruitment, training, professionalism, and accountability. Sub-inspector hiring should increase until a 1:4 ratio with Constables is achieved, with rigorous training for both. Community policing should be promoted, and Constables classified as skilled workers. A 2-year tenure policy and independent committees should curb political interference. Investigation should be separate

<sup>15</sup> Indian police use violence as a shortcut to justice. It's the poorest who bear the scars By Mohit Rao

from law and order, with a specialization in cybercrime and counter-terrorism. Judicial inquiries in custodial deaths and rapes should be mandatory, and the outdated Police Act of 1861 should be replaced.

#### **MALIMATH COMMITTEE (2002-2003):**

It recommended to Enhancement of training facilities and forensic science laboratories, the Enactment of a new Police Act to modernize law enforcement, the Creation of a central law enforcement agency to handle federal crimes, the Division of the investigation unit from the law-and-order department within police stations, Strengthening investigative capabilities by increasing personnel, Formation of a State Security Commission for better governance and oversight.

#### **2<sup>nd</sup> ARC RECOMMENDATIONS, 2005:**

It recommended improving Police accountability, working conditions and public relations, crime prevention, collection of witness statements, welfare of the police after retirement and security, social welfare, etc....

**POLICE ACT DRAFTING COMMITTEE (also known as the Soli Sorabjee Committee)** in 2006, which created a new draft bill to replace the colonial-era 1861 Police Act. Despite these efforts, very little progress was made on the ground to improve policing or implement the recommendations from any of these committees or commissions.

#### **NITI AYAYOG:**

The state should be encouraged with fiscal incentives to form the Model Police Act, 2015, Non-core functions to be given to the private agents or other government departments, Taskforce to be introduced to look into non-core functions, Representation of women must be increased, Moving POLICE and PUBLIC ORDER to the concurrent list.

#### **THE SUPREME COURT'S STAND:**

Supreme Court of India has come up with several judgments to implement police reforms in India.

The Supreme Court, in the case of People's Union for Civil Liberties v. State of Maharashtra<sup>16</sup>, emphasized that encounters pose a threat to the fundamental right to life and undermine the rule of law, necessitating a comprehensive and impartial investigation. Although the court laid down guidelines for investigating encounter cases, these directives have not been adhered to adequately. In 1996, Prakash Singh<sup>17</sup>, a retired IPS officer, filed a writ petition in the Supreme Court in the public interest, advocating for police organizations to be insulated from political interference, particularly concerning transfers and postings and

<sup>16</sup>People's Union for Civil Liberties v. State of Maharashtra No. 47 of 2011

<sup>17</sup> Prakash Singh & Ors vs Union Of India And Ors 2006 SSC 1

implementation of NPC's recommendations. This petition gained renewed attention in 2006 when the Supreme Court introduced Police Reforms and the Revised Police Act to regulate and transform law enforcement agencies. Prakash Singh, who had previously served as the Director General of Police (DGP) in Uttar Pradesh and Assam, pursued this legal battle after his retirement, filing a Public Interest Litigation (PIL) to push for systemic changes in policing. In a landmark judgment in September 2006, the Supreme Court directed all States and Union Territories to implement police reforms, marking a significant step towards ensuring accountability and professionalism in law enforcement.

### **1.State Security Commission:**

Police use of force has no limits and there was no power to control them as there was no supervisory. So there was a need for the implementation of a committee to question the illegal actions of the police. Even though there are statutory enactments available in each State this would serve as an effective solution that would help in laying down the policing policy clearly and keep a look on the performance of the police. So it will look to honest, unbiased, and accountable policing.

### **2.Selection and Security of Tenure of DGP:**

There is arbitrariness in the appointment of the members in the higher posts. This judgment gave the criteria for the appointment of a DGP based on length of service, service records, and the range of experience.

### **3.A Two-year term for SPs and SHOs:**

Ensuring that other police officers are also provided with a minimum of two year term( including Superintendents of Police in-charge of a district and Station House Officers-in-charge of a police station)

### **4.Separation of Investigation and Law and Order Police:**

The separation of the investigation wing from the ones who maintain the law and order is important as the expertise and specialization in the work are necessary for more quality work and to reduce the burden of the investigation team and make them focus more.

### **5.Establishment of Police Board:**

Subjective appointments, transfers, and promotions in the police force lead to influence peddling, patronage, fear, and demotivation. To address this, the Court has mandated the creation of a Police Establishment Board in each police force. Comprising the DGP and four senior officers, the Board will: (i) handle transfers, postings, promotions, and service matters for officers up to the rank of Deputy Superintendent of Police (DSP); (ii) recommend postings and transfers for senior officers; (iii) act as an appellate forum for grievances from SPs and above; and (iv) review overall police functioning. This ensures internal control over service matters, reducing corruption and political interference.

## 6. Police Complaints Authority:

The Court has ordered the establishment of a Police Complaints Authority at both state and district levels to address public complaints against police misconduct.

- State-level Authority: Investigates serious misconduct by officers of SP rank and above, including custodial death, grievous hurt, and rape.
- District-level Authority: Handles similar cases for officers up to DSP rank, adding extortion, land/house grabbing, and serious abuse of authority.

The Authority must have full-time members with proper remuneration and staff support for inquiries. Its recommendations for disciplinary or criminal action, including FIR registration, are binding, replacing internal police investigations.

## 7. National Security Commission:

They work to prepare a panel for the selection and placement of Chiefs of the Central Police Organisations

In *Anitha Thakur v St of Jammu and Kashmir and Ors*, 2016, when the migrants of Jammu and Kashmir led a peaceful protest of march up to Delhi to resolve their problems and when they reached Katra in J&K, Police had beaten them and tortured them. SC has observed in this case that, The use of police force is unwarranted in peaceful assemblies but may be justified if a crowd turns violent. However, excessive or brutal force, even after order is restored, violates human rights and dignity. Human rights activists argue that such misuse of authority threatens the rule of law.<sup>18</sup>

In the 2020 case of *Paramvir Singh Saini v. Baljit Singh & Others*,<sup>19</sup> the Supreme Court recognized the occurrence of violence and crimes within police stations. In response, it directed that CCTV cameras be installed in every police station, ensuring that the recorded footage could serve as evidence in cases involving allegations of harm or excessive use of force.

The latest case concerning police arrests and intimidation of human rights defenders is *Romila Thapar v. Union of India* (2018).<sup>20</sup>

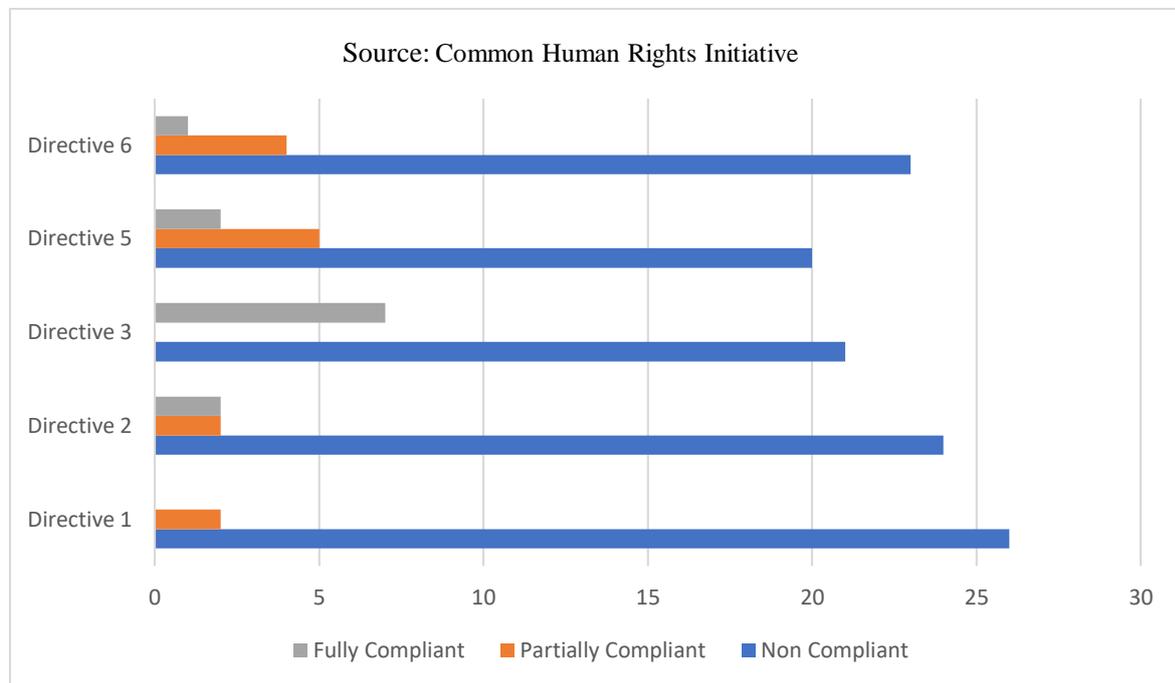
## COMPLIANCE OF THE STATES WITH IT:

No Indian State has complied completely with the Directives mentioned by the SC in the *Prakash Singh* Judgement. By the CHRI Report, directive 4 and directive 7 are excluded. On several parameters,

<sup>18</sup> Verdict by SC in *Anitha Thakur v St of Jammu and Kashmir and Ors*.

<sup>19</sup> *Paramvir Singh Saini vs Baljit Singh* AIR 2020 SC 871

<sup>20</sup> *Romila Thapar vs Union Of India* AIR 2018 SC 4683



**Directive 1-** Concerning the first directive Out of 28 states, 2 were partially compliant and 26 were non-compliant. Twenty-seven states have formed State Security Commissions (SSCs), with Odisha being the only exception. The Leader of the Opposition is excluded from the SSC in seven states. While 17 states include independent members in their SSCs, they lack a selection panel, and four states do not include independent members at all. Only Karnataka ensures that SSC recommendations are binding, while other states either weaken or omit this provision. Nine states fully comply with the requirement to prepare and table annual reports, while two require reports but do not mandate their tabling. Additionally, Maharashtra, Rajasthan, and Andhra Pradesh have taken steps to ensure the representation of marginalized groups within their SSCs.

**Directive 2-**By the analysis of compliance of Directive 2, 2 were compliant, 2 were partially compliant and 24 were non-compliant. Only Arunachal Pradesh and Nagaland fully comply with the directive. Twenty-three states omit UPSC shortlisting, giving sole discretion to state governments, while only five states include it. Additionally, five states assign the shortlisting role to the SSC, making them non-compliant. Regarding tenure, six states ensure a two-year term, two states provide only one year, and 13 states link tenure to superannuation. While 10 states establish removal grounds in line with the directive, 16 states have vague provisions that are open to misuse. Furthermore, 18 states do not require SSC consultation for the removal of the DGP.

**Directive 3-** On analyzing the directive 3, 7 were compliant with it and 21 were non-compliant.

Seven states fully comply with the directive. Sixteen states ensure a two-year minimum tenure, while Jharkhand and Maharashtra weaken this requirement by using vague terms like "generally" or "normally." Five states provide only a one-year tenure for selective ranks, and four states apply the tenure selectively rather than across all required ranks. Regarding removal grounds, 10 states adhere to the court's directive, whereas 16 states have ambiguous provisions that leave room for misuse.

**Directive 5-** For this one 2 were compliant and 5 were partially compliant and 20 were non-compliant. All states except Telangana have constituted Police Establishment Boards (PEBs). However, only Arunachal Pradesh and Karnataka fully comply with the directive regarding the composition, functions, and powers of the PEB. Five states partially comply by establishing PEBs with the required composition and authority for certain ranks but fail to include appeal functions or review police performance. Twenty states are non-compliant, with some including government officials in the PEB, limiting the board's powers, or excluding the authority to recommend or decide on promotions and transfers for senior officers. The lack of compliance undermines police leadership, affecting morale and accountability.

**Directive 6-** Of the 23 State Police Complaints Authorities (SPCAs) constituted, 10 deviate from the requirement of a retired judge as chairperson, with some allowing retired government officials or police officers. Tamil Nadu blatantly violates this by appointing government officials to head the authority. Nine states include serving police officers as members, which undermines independent oversight. Seven states specify a selection panel for independent members, while only eight make PCA recommendations binding. Only five states appoint independent investigators to assist in inquiries.

For the 18 District Police Complaints Authorities (DPCAs), 11 states deviate from the requirement of a retired district judge, and eight include serving police officers as members, with some states lacking independent civil society members. Only four states have a selection panel for independent members, and only four specify binding PCA recommendations. Two states provide independent investigators for inquiries. With compromised compositions, these authorities are unlikely to effectively address police misconduct and brutality.

## **INTERNATIONAL STANDARDS AND THEIR COMPLIANCE TO IT BY INDIAN POLICE:**

India has signed and ratified several international conventions and frameworks that address the use of force by police, but their effective implementation continues to face legal, political, and institutional challenges. Below is India's position on these conventions:

### **1) Universal Declaration of Human Rights (UDHR), Article 7:**

India, as a founding member of the United Nations, supports the UDHR, which is a non-binding resolution. While the UDHR is not directly incorporated into domestic law, the Indian Constitution, particularly Articles 14, 19, and 21, reflects many of its principles, such as equality before the law and protection against arbitrary detention. India recognizes the importance of non-discrimination in law enforcement. However, challenges persist, especially in addressing disparities in the treatment of marginalized groups, including minorities and Dalits.

## 2) International Covenant on Civil and Political Rights (ICCPR):

India ratified the ICCPR in 1979, committing itself to uphold the rights enshrined in the covenant, such as the right to life, liberty, and security (Articles 6 and 9). This treaty prohibits excessive or arbitrary force by law enforcement, requiring India to ensure its practices align with these obligations. However, incidents of extrajudicial killings and police brutality indicate gaps in the practical implementation of these commitments.

## 3) Convention Against Torture (CAT):

Although India signed the CAT in 1997, it has not ratified the convention, which means it is not legally bound to its provisions under domestic law. Despite this, India has pledged to prevent torture and ill-treatment through national mechanisms and laws like Sections 330 and 331 of the Indian Penal Code (IPC), which criminalizes torture. However, these measures are often criticized for weak enforcement, and cases of custodial torture and police violence remain widespread. The lack of ratification has left India without the comprehensive anti-torture framework mandated by the CAT.

## 4) Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules):

India has endorsed the Nelson Mandela Rules as part of its human rights commitments. However, these standards are not enforceable under Indian law unless reflected in national legislation. Existing laws, such as the Prisoners Act (1952) and prison manuals, govern the treatment of prisoners. While practices like handcuffing and shackling as punishment are prohibited, concerns persist about overcrowded prisons, inadequate safeguards, and ill-treatment of detainees in police custody.

## 5) International Covenant on Civil and Political Rights, Article 26:

Article 26 of the ICCPR guarantees equality before the law and non-discrimination, principles that are enshrined in India's Constitution under Article 14 (Right to Equality). Police are expected to provide equal protection to all individuals, irrespective of their background. However, in practice, issues like bias against minorities, particularly religious and caste-based, remain significant challenges in law enforcement.

India has ratified key international human rights conventions like the ICCPR and UDHR and endorsed global standards like the Nelson Mandela Rules. However, translating these commitments into enforceable domestic laws and ensuring their consistent application remains a challenge. Issues like police brutality, excessive use of force, and human rights violations continue to undermine the full realization of these principles in practice.

## SUGGESTIONS AND THE WAY FORWARD:

- Measures should be implemented to restrict political interference in police work, ensuring that law enforcement remains impartial, professional, and free from undue influence.

- The Conviction rates among the accused police for abuse are so rare even after the adoption of the Model police act by many states. It must be addressed and the works of the Police Complaints Authority
- The Government must take steps to increase the number of people giving complaints against Police officials if they face any abuse. For that, the People must be educated about the institutions like Police Complaints Authority.
- Community Policing based models should be promoted. In countries like Japan and UK, this has been successfully functioning. Police must take the initiative to connect with the people more and encourage community welfare. A 2023 pilot program in Maharashtra that provided training to newly recruited officers resulted in a 12% decrease in reported cases of police misconduct. Such kinds of activities must be encouraged.
- Smart Policing Index must be given importance and it must be largely- upgrading the technology and forensic capabilities.
- To reduce the work burden the Police distribution across the states must be improved. And the funds given to States must be Improved. Provide better salaries, housing, and mental health support for officers. Enhance the police-to-population ratio to meet UN standards.
- Transfers and Promotions for the Police officials must be made transparent.
- Reduce the pendency of cases through specialized police units for different types of crimes.
- To prevent police from demanding bribes for filing complaints, a solution could be allowing complainants to submit their cases online as part of the policing system, with necessary evidence being required for verification.
- The recommendation of the NITI AAYOG to include police on the state subject is not advisable as it may create centre-state conflicts and federalism as a practice may be affected. As a process to implement has great complexity.

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