

---

# DOCTRINE OF POLICE STATE AND ITS IMPACT ON DEMOCRATIC NORMS: A HUMAN RIGHTS CONCERN

---

Huma Khan<sup>1</sup> & Dr. Mirza Juned Beg<sup>2</sup>

## ABSTRACT

Police are one of the most important organisations of the society. The policemen, therefore, happen to be the most visible representatives of the government. In an hour of need, 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.<sup>3</sup>The police are expected to be the most accessible, interactive and dynamic organisation of any society. Their roles, functions and duties in the society are natural to be varied on the one hand; and complicated on the other. Broadly speaking the twin roles of the police are maintenance of law and maintenance of order. However, the ramifications of these two duties are numerous, which result in making a large inventory of duties, functions, powers, roles and responsibilities of the police organisation. Vesting of varied powers in the hands of police, while necessary to perform their duties on the other hand leaves door to misuse and hence infringement of Human Rights. This article will deal with Powers of Police, incidents of misuse of power, and impact of police state on democratic norms.<sup>4</sup>

**Keywords:** Police, power, democratic, Human Rights.

---

<sup>1</sup> Research Scholar, Faculty of law, Integral University, Lucknow.

<sup>2</sup> Assistant Professor, Faculty of Law, Integral University, Lucknow.

<sup>3</sup> K. Mohan Phani, "function, roles and duties of police in general", (1991), AIR Journal Section, P. 129

<sup>4</sup> Available at <https://www.legalserviceindia.com/legal/article-61-violation-of-human-rights-by-police-authorities.html>, (accessed on 5/07/22)

## INTRODUCTION

*“It has always been a mystery to me how men can feel honoured by the humiliation of their fellow beings.”*

- Mahatma Gandhi

A police state is any jurisdiction in which the government controls the day-to-day lives of its citizens by using coercive power. The police in a police state serve as a tool of social control, either instead of or in addition to serving as law enforcement officers. Political dissent might be deemed illegal in a police state, and the government might prevent its citizens from leaving. Historical examples of police states include authoritarian regimes such as Nazi Germany, the Soviet Union and South Africa under apartheid. Modern authoritarian regimes such as Myanmar and North Korea in the early 21<sup>st</sup> century have been considered police states by some observers.

## KEY CONCEPT OF POLICE STATE

A police state describes a state where its government institutions exercise an extreme level of control over civil society and liberties. There is typically little or no distinction between the law and the exercise of political power by the executive, and the deployment of internal security and police forces play a heightened role in governance. A police state is a characteristic of authoritarian, totalitarian or illiberal regimes (contrary to a liberal democratic regime). Such governments are typically one-party states, but police-state-level control may emerge in multi-party systems as well.<sup>5</sup>

Originally, a police state was a state regulated by a civil administration, but since the beginning of the 20<sup>th</sup> century it has “taken on an emotional and derogatory meaning” by describing an undesirable state of living characterized by the overbearing presence of civil authorities.<sup>6</sup>

A political unit characterized by repressive governmental control of political, economic, and social life usually by an arbitrary exercise of power by police and especially secret police in place of regular operation of administrative and judicial organs of the government according to publicly known legal procedures.<sup>7</sup>

---

<sup>5</sup> B. Chapman, “Government and Opposition” 3:4 *The Police State* 428–440 (2007).

<sup>6</sup> Tipton, Elise K. (17 december 2013) *The Japanese Police State: Tokyo in Interwar Japan*. A & C Black pp.14 ISBN9781780939742. (Retrieved 5 September 2014)

<sup>7</sup> <https://www.merriam-webster.com/dictionary/police%20state>

A government that controls the activities of its citizens using a police force or military is a police state. Before World War II, there was a rise of police states in Europe.

A police state is often known as a “dictatorship” or a “totalitarian administration.” The first instance of a police state can be found in Austria in the 1850s, when a national police force was in charge of maintaining order. The meaning differs based on the values of the person using the word - some feel a police state exists if the government uses electronic or digital surveillance, while others believe a police state requires the loss of more freedoms.

It's interesting to see how the term "police state" came to be in the English language. It's only a transcription of the German word *Polizeistaat*. *Policistaat* was one of the trio of categories used to identify features of distinct states in German constitutional and administrative law. The *Rechtstaat* and the *Justistaat* are the other two types. The *Polivéistaat* was a product of Prussia in the 18th century. Following the devastation of the Thirty Years War, Prussian officials came to the conclusion that only a state built on interdisciplinary, strict control, and economic self-sufficiency could provide a solid foundation for survival. This involved breaking the feudal powers of the aristocracy, substituting for them as the principal instrument of government a civil service wholly obedient and responsive to the rulers of the state, and creating a powerful army capable of protecting the heartland of Prussia, if necessary wars of expansion. The permanent possibility of war became the basis of stable government, and stable government, even at the pr of war, was the major blessing a state could bestow on its citizen.

## **MEANING OF WELFARE STATE**

A welfare state is a government “of the State to protect and promote the economic and social welfare of its citizens is a core role. It is equality of opportunity, equitable distribution of wealth, and those who are unable to avail themselves of a better life for at least based on the principle of the responsibility for the public.<sup>8</sup> Welfare state is financed through tax redistribution and often “mixed economy” is known as a type such as taxation for people with higher incomes typically includes a large income tax, called a progressive tax.

In the police state big landmark of liberal democracy is parliament; an independent judiciary, a free press, and freedom of expression were abolished or put into abeyance.

---

<sup>8</sup> Available at <https://www.britannica.com/topic/welfare-state> (visited on 7/07/22)

## INDIAN POLICE SYSTEM AND EXPECTATION OF PEOPLE

What do the public expect of the police? At a time of limited resources and shifting demand police forces are being forced to make difficult choices about priorities. If we look into the current world reality we can see that there is a considerable gap between what the public expect of the police and the current direction of travel within the service, around which there is a considerable degree of political and professional consensus.<sup>9</sup>

Most observers reject the idea that the police are simply crime fighters. According to the College of Policing non crime related incidents make up 83% of calls to police Command and Control.<sup>10</sup> This is not a new phenomenon: the police mission has always been characterized by its breadth. In 1974 Bittner wrote that the role of the police is to be on hand when “*something is happening that ought not to be happening and about which someone better do something now.*”

The police are expected to prevent crime, to help those in immediate danger, to investigate offences, to catch criminals, to sustain public order and to protect people, particularly vulnerable people, from harm. During the 2000s the police were asked to take on a greater enforcement role around antisocial behavior. This was arguably the consequence of the gradual erosion of informal social controls over the post war period as society became more mobile, atomized and diverse. The weakening of informal mechanisms of social control is likely to have been responsible for an increased demand for a visible police presence on the street and increased calls on public service professionals to intervene in matters that in the past were handled by communities themselves.<sup>11</sup>

However, public opinion data shows that the public’s view of what the police should be doing hasn’t changed as fast as the demand coming through to police control rooms. When asked about priorities the public typically favors crime prevention, emergency response and catching criminals over the growth areas of sustaining public order and protecting the vulnerable from harm. This is not just true of the ‘what’ but also of the ‘how’. If you ask the public how they want the police to go about their work they say pretty much what they have

---

<sup>9</sup> Available at <https://www.police-foundation.org.uk/2016/09/great-expectations-what-do-the-public-want-from-the-police/> (accessed on 4/07/2022)

<sup>10</sup> Available at <https://paas-s3-broker-prod-lon-6453d964-1d1a-432a-9260-5e0ba7d2fc51.s3.eu-west-2.amazonaws.com/s3fs-public/2021-03/demand-on-policing-report.pdf> (accessed on 4/07/2022)

<sup>11</sup> *Ibid.*

always said: they want more bobbies on the beat, speedy response to calls for help and for the police to be accessible and to engage with local communities.<sup>12</sup>

It strikes me that if a representative sample of the public had been in attendance at the Excellence in Policing conference they would have been surprised at the (correct) focus on harm and vulnerability.

The subordinate echelons of the police are often known to extort money at every step which is a common feature all over India with only a few good exceptions. At the same time the tasks which are the liability of the police are quite often neglected outright and performance occurs only at a price which affects the public image of the organization; the gross result is rampant corruption and abuse of human rights. They are desperately depended on and pampered by the politicians in all states and the central government and have carved out good prospects for themselves in the shape of a bloated cadre with copious sinecures for their advancement in quick steps thanks to politicians.<sup>13</sup>

The system of accountability was pretty much flawed in India as the police were policed by themselves through inter-disciplinary authorities who are rarely challenged in the higher Courts. This system had two major faults which was lack of transparency as the Police department would not undertake an action to in turn after their image or their powers and additionally the lack of credibility in the inquiry into a citizen's complaint against the police.<sup>14</sup>

### **ROLE OF POLICE IN PUBLIC PROTECTION: MYTH & REALITY:**

More recently the public protection part of the police role has expanded with growing public concern about high harm offences such as domestic, sexual and child abuse. On top of all the crime prevention and investigation part of the police role has been made much more complex by the arrival of an internet based society.

The gap between public expectations and what the police increasingly have to do contain a danger. If we move toward a world, in particular with the increasing application of harm indices as tools for the deployment of officers, in which public protection tasks are prioritized over

---

<sup>12</sup> *Ibid.*

<sup>13</sup> Ganguly, T. K. (2009). A discourse on corruption in India . New Delhi: Alp Books Publications.

<sup>14</sup> *The Padmanabhaiah Committee on Police Reforms - A Critical Analysis of Some Important Recommendations*

[https://humanrightsinitiative.org/programs/aj/police/india/initiatives/analysis\\_padmanabhaiah.pdf](https://humanrightsinitiative.org/programs/aj/police/india/initiatives/analysis_padmanabhaiah.pdf) (accessed on 04/07/2022 2:00 pm)

traditional crime, there is the potential for a public backlash. We saw some of this in the response to the Leicestershire burglary trial. In that case all that was being proposed was that forensic teams did not attend every attempted burglary, simply because it is known that the chances of picking up any useful forensic material are very low.<sup>15</sup>

When the public are given real examples of the type of cases the police deal with day to day, they do priorities protecting the vulnerable from harm over less serious volume crime. This leads me to conclude that if we are to close the expectations gap, the service needs to engage in a major exercise in public education about what it is that the police actually do.<sup>16</sup>

### **INSTANCES OF HUMAN RIGHTS VIOLATION BY POLICE:**

Sometimes police brutality hampers human rights in many ways. There are many police officials who wrongly use their powers on public without any authority. There are many police officials who manipulate the public in such a way that the individuals do not have an option but to act according to the police. According to *Article 3 and 5 of Universal Declaration of Human Rights*, every individual has a right to life, liberty and security and any individual shall not be subjected to any type of torture cruelty or unnecessary punishment. According to *Article 7 of International Covenant on Civil and Political Rights* everyone has the right to personal freedom and protection.

The Police brutality in India has increased over the years and includes within its ambit physical, mental and even sexual torture. While rational behind the violent acts are attributed to the lack of manpower in the Police, inadequate facilities, meagre incomes and political pressure to get accurate results.<sup>17</sup> Custodial torture has been present since decades wherein the Police, in order to obtain evidence, statements or any other key aspect required for investigation, torture the victims physically and mentally which in many cases leads to the death of the person.

This inhumane behavior of the Police has been glorified through different works of art and this coupled with other factors has unfortunately established a certain untrustworthy and devious

---

<sup>15</sup> Available at <https://www.bbc.com/news/uk-england-leicestershire-33788264> (accessed on 08/07/2022)

<sup>16</sup> *Ibid*

<sup>17</sup> Mohit Rao, *Indian police use violence as a shortcut to justice. It's the poorest who bear the scars*, CNN <https://edition.cnn.com/2020/12/02/india/police-brutality-india-dst-intl-hnk/index.html> (accessed on 5/07/2022)

reputation of the Police in the eyes of many.<sup>18</sup>

Below are a few examples depicting how police brutality results in violation of human rights:<sup>19</sup>

- **DEATH IN POLICE CUSTODY:** Due to tremendous torture in police custody many individuals end up losing their life. In order to teach a lesson or extort information from the accused(s), few police officials torture the accused(s) in such a way that they die during the investigation within the police custody itself. Asian Centre for Human Right's new report has revealed that more than a thousand people have died in police custody in India over the past eight years. The findings illustrate the government's failure in ensuring compliance with Supreme Court guidelines about torture and extra-judicial killings.<sup>20</sup>
- **TORTURE:** Police abuse and torture is a very common practice and has been prevalent in India for a long time. These techniques are also used when individuals accused of serious criminal offences are questioned by the police. In the intention of obtaining confessions or threats, the police uses extreme forms of physical damage to accused individuals.<sup>21</sup>
- **OVERCROWDING OF JAIL:** In India over one million criminal cases are reported every year. Each annual incidence of crime in the country necessitates the existence of a huge network of prisons and other institutions of correctional administration. In India the number of prison inmates per million of population is one of the lowest in the world. There are a total of 1,393 prisons of different categories and sizes, with an authorized inmate capacity of 320,450. One notable feature of the prison population in India is the large number of under-trial prisoners (240,098). This large number of under-trial prisoners has led to overcrowding in most of the prisons.<sup>22</sup>

---

<sup>18</sup> Sidharth Bhatia, *Bollywood portrayals: Blaming movies and not police is such a cop-out*, THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/blogs/et-commentary/bollywood-portrayals-blaming-movies-and-not-police-is-such-a-cop-out/>, (visited 5/07/2022)

<sup>19</sup> Available at [https://www.soolegal.com/roar/police-brutality-leads-to-violation-of-human-rights#:text=Police%20brutality%20means%20violation%20of,property%20damage%20and%20illegal%20encounter](https://www.soolegal.com/roar/police-brutality-leads-to-violation-of-human-rights#:text=Police%20brutality%20means%20violation%20of,property%20damage%20and%20illegal%20encounter.). (accessed on 8/07/2022)

<sup>20</sup> Available at <https://ijcst.journals.yorku.ca/index.php/ijcst/article/view/31097/28530>

<sup>21</sup> *Ibid*

<sup>22</sup> Shankardass, R. D. (2000). *Punishment and the prison: Indian and international perspectives*. New Delhi: Sage Publications.

**ROLE OF NATIONAL HUMAN RIGHTS COMMISSION (NHRC):**

The human rights commissions established under the Protection of Human Rights Act of 1993 provide another means of holding the police accountable in cases of misconduct. The most important of these commissions is the NHRC, which was established on Oct. 12, 1993. The NHRC undoubtedly has some achievements to its credit in terms of its efforts to make the police accountable for their actions. However, the commission's work has suffered due to certain infirmities and deficiencies in the law governing its operations. The commission, for example, is supposed to be completely independent, but there are certain provisions in the law, which underscore the dependence of the commission on the government for some of its requirements, such as manpower and finances. More importantly, the law does not authorize the commission to inquire into complaints of human rights violations committed by members of the armed forces. "Armed forces," as defined in the Protection of Human Rights Act, mean not only the army, navy and air force but also some central armed police organizations, like the Border Security Force (BSF) (Vadackumchery 1994). The law obviously weakens the NHRC's effectiveness in providing redress to the public in cases where violations have been committed by members of these forces, which are often deployed on law and order duty in disturbed areas. All that the commission can do in these cases under the Protection of Human Rights Act is to call for reports from the central government and make recommendations to the government. There have even been cases where the central government has denied the NHRC the records it sought (Saxena et al, 1994).

**CONCLUSION:**

So from the above discussion we can see that as per the current scenario of the police system and working of the police is adversely affecting the human rights of the people in so many ways and making of the police state and them unanimous powers is not safe for the democratic norms of the country. Although the constitution of India and the laws framed there under guarantee equality before law, equal protection of law and registration of complaints mandatory, the police who is the law enforcing agency of the executive is not performing its duty to the satisfaction of the victims, Despite the intervention of courts by suo moto taking cognizance of the sufferings of the victim published in the press and the Public Interest Litigation petition moved by the NGOs or other organisations in the High court and passing of severe strictures by the court and repeated instruction of the Government, the situation has not improved much. The victim are tossed from one police station to another on point of



jurisdiction or cases being registered, minimising the offences or treated as petitions much to the chagrin of the victim s. Whatever may be the law or the legal system, one can say that human nature being what it is, the personnel vested with power and authority on various considerations. The police have lost the virtue of their calling and been transformed from the members of the noblest profession to the role of assassin, psychologist, and predator. In attaining a position which is beyond their capacity to comprehend they become instruments of their own misconceptions, the victims of their own apprehension and the destroyers of what they stand legionaries, to protect.