

# Human Rights and Police: An Indian Perspective

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## Abstract

The research study tries to find out the relationship between Human Rights protection and policing. Human Rights are inalienable rights. These rights are available to all human beings just being a human. The fight for justice, freedom and human dignity is eternal and the values inherent in human rights will always constitute a benchmark for humanity. Thus, human rights are what make us human. They are the principles by which we create the sacred home for human dignity. Human rights are the expression of those traditions of tolerance in all cultures that are the basis of peace and progress. 'Human Rights' is a twentieth century name for what has been traditionally known as 'natural rights', 'birth rights' or, in a more exhilarating phrase, the 'rights of man'. So, it is the foremost duty of the state to promote and protect the human rights of its citizens. There are many agencies of the government through which it tries to safeguard the human rights. Police is the important agency of the government, which duty is to protect the human rights. There is a close relationship between policing and human rights. Police is a State List subject under Indian Constitution. The Indian Police Act, 1861 shapes the organization, management and functioning of the police department in India. It is blamed that before Independence the British misused the Indian Police, and after Independence it is being misused by the Indian Politicians and governments in power for their narrow interest. We do not find substantial change in the role and behavior of Indian Police over the seventy eight years of Indian Independence. Indian People do not have trust on the Police, rather approaching to the police for the protection of human rights the tendency among people is to run away from the policing in India. Also, there is a nexus between criminals and police in India. Indian police are blamed to be inefficient and non-professional to the great extent. With such a hypothesis, the research paper tries to find interrelationship and interdependence between human rights and policing in India. Here, the problems, challenges and limitations of Indian police are also required to be addressed while investigating the role of police in the promotion and protection of human rights in India. The paper aims to find out some workable solutions after comprehensive study of human rights and policing in India.

**Keywords:** Human Rights, Police, Act, Code, Fair trial.

## Introduction

Human Rights are those inherent rights in human nature, without which one cannot live a dignified life as a human being. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. The denial of human rights and fundamental freedoms not only is an individual and personal tragedy, but also creates conditions of social and political unrest, sowing the seeds of violence and conflict within societies and nations. Thus, promotion and protection of human rights are essential in the interest of individual, society and nation.

Article 1 of Universal Declaration of Human Rights reads –

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Section 2(1)(d) of the Protection of Human Rights Act, 1993 defines human rights as follows –

“Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India”.

Police is one of the main agencies of the governments, which duty is to protect human rights. There is a direct and critical interrelationship and interdependence between policing and human rights. Police is a subject of State List in Indian Constitution. The organization, management and functioning of the police department are essentially based on the Indian Police Act, 1861. The concepts of Human Rights, though the British claim that they knew from the time of their Magna Carta, were to be incorporated in the Indian Police Act, 1861. The accountability of Police for human rights violations was not at all a concern for the English at the time when they drafted the Indian Police Act in 1861 and at any time afterwards.

When India became Independent, all states in India drafted their State Police Acts and even there the experts, who drafted the Acts were more concerned with the drafting of the Acts in tune with the Indian police Act, 1861 rather than doing the same keeping in mind the principles of human rights as guaranteed by the Indian Constitution and police accountability.

The Indian police force operates within a complex and often contradictory framework. On the one hand, its constitutional and statutory mandate is to serve as the primary protector of human rights, upholding the rule of law and ensuring the safety and dignity of every citizen. On the other hand, it is frequently criticized and documented as a key perpetrator of human rights abuses, including custodial violence, extrajudicial killings, and arbitrary arrests. This study provides an in-depth analysis of this duality, examining the legal foundations that govern police conduct, the specific roles the police are tasked with, and the systemic challenges that lead to a significant gap between their mandated duties and operational realities. The analysis reveals that the problem is not a lack of legal provisions but a pervasive culture of impunity, political interference, and insufficient accountability. While the judiciary, through landmark judgments, has attempted to mandate far-reaching reforms, the lack of political will has rendered these efforts largely ineffective. A path toward a rights-based policing paradigm requires a fundamental shift in institutional culture, backed by structural reforms and the consistent implementation of judicial directives to ensure that the police truly become a professional, accountable, and people-centric service.

### **Policing and Human Rights in India**

After India embraced democracy, the politicians started misusing the police, they have seen enough how the British misused the Indian police for their advantages for narrow party or personal benefits, which in due course is said to have demoralised the police service causing serious distortions in their professional efficiency. In such a milieu, the police became a liability for the people in so far they were counted as the first agency responsible for human rights violations and sacrifice of professional ethics in law and order management. In this context, Dr. Madhav Menon says, “If the trend were to continue, one may argue that the police can soon become a serious threat to democracy and rule of law instead of being supportive of constitutional democracy in India”.

Besides the constitution, the Code of Criminal Procedure, 1973 in India deals with the protection of human rights to people who are accused of having committed offences. The Code of Criminal Procedure contains a number of provisions for a fair trial, for giving special protection to women and children, etc. In Indian Evidence Act, 1872 there are provisions, which make a confession inadmissible, if it is obtained by threat, coercion or torture, etc. Sections 330 and 331 of the Indian Penal Act, 1860 make causing hurt to extract confession an offence. Section 348 makes wrongful confinement to extort confession as offence. The Police Manuals and Police Act make several parameters to regulate the police conduct and activities. Department circulars and government orders also give directions to how the police should function respecting human rights. In spite of all, a number of atrocities might be seen in police functioning. Third degree methods in investigation are more common than admitted by the police. In Ram Sagar Yadav's case, the Supreme Court of India observed that the custodians of law and order do use their position for oppressing innocent citizens, who look to them for protection. Police being it monopoly service of government, the citizens have no option left with them to approach any other agency for getting protection. In India, police are blamed to have failed to accept the fact they are accountable to the people for human rights violations. There is no substantial change in police behaviour even after seven and half decades of independence.

Police as a law enforcement agency have a duty to see that they do everything to see that the people in a democratic country enjoy their rights freely. Man has certain rights, which are universal, inalienable, inherent, fundamental and basic, the enjoyment of which is the foundation of freedom, justice and peace in the world. But, history of mankind hitherto shows that man has not been allowed to enjoy these rights by diverse means of administrative, political, social, economic, cultural, fiscal exertions of don'ts. The police, as a part of the administrative set up and often as the coercive weapon of the governments in power have a lot of power invested on them. The improper use, or better the misuse of power and authority by the police has been found to be causally responsible for the denial of some of these inalienable rights of man in the past and even today. In doing so, some police officers do not understand that they are violating the human rights of the people for whose welfare and protection the service is created and maintained.

Police take people into custody in very many ways under the banner of questioning them or in the name of suspicion against them, etc. They often write that while patrolling was done, a person was found running when he saw the police-vehicle. On questioning him, he said different addresses, which reasonably gave a suspicion in the minds of police that he was there to commit an offence and thus he was taken into custody. Once a person has been taken into custody, he knows that it is better for him to keep silence and suffer the consequence, for otherwise the police may foist upon him a criminal charge under some law or other. Allegations are made against some police functionaries that they register cases against such people even under the Narcotic Drugs and Psychotropic Substances Act, which ensures hard punishment.

The Terrorists and Disruptive Activities (Prevention) Act, 1995 and the Armed Forces (Special Powers) Act, 1959 are two pieces of legislation considered to be grave threats to people's liberty because of their oppressive nature and ineffective remedies. The definition of terrorist and disruptive activities is indeed very large and the scope of terrorism is enlarged and extended to commissions covered under the ordinary criminal laws of the land. Many of the procedural rights guaranteed for the citizens under the criminal procedure are denied to proceeding under these Acts.

Further, preventive detention is justified under Article 22 of the Constitution of India and it is justified for the security of the State. The law empowers the governments with extraordinary authority to arrest and detain people for which there is the necessity of a subjective satisfaction of executive authority. In some of the western countries – Great Britain, U.S.A., etc. the laws of preventive detention are not applicable during peace times, whereas in India the position is different. Allegations are there that the laws are misused against political adversaries by the ruling government and its executive machinery. Section 41 of the Criminal Procedure Code, 1973 insists that there should be reasonable suspicion or credible information, etc. against a person to be arrested to the fact that he is involved or likely to be involved in a commission of a crime. There should be objective grounds for the arrest of people, whereas for the application of preventive detention laws, there is the need only for a subjective satisfaction. Again allegations are there that the law is very much misused by the authority. In fact, most of the police are regarded by the public as power drunk, corrupt, immoral, without professional ethics and agents of the ruling clique.

The suspects in a crime have a variety of rights. In a study conducted by interviewing 304 accused people acquitted by session courts reveal that most of them were not highly educated people. 9.54 percent were found to be illiterate, 32.24 percent had studied below standard V, 28.29 percent between Standard V and VIII, 20.40 percent between standard VIII and X. They, as a rule, are ignorant about their own rights when they are caught by the police in connection with the commission of crime, and as cannot argue out their rights to the police. Consequently, they are condemned to suffer in police custody.

The Article 21 of the Constitution of India reads that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 22 of the Constitution says –

1. No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by a legal practitioner of his choice.
2. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of his arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

Thus, to know the grounds of arrest is a fundamental right in India and a human right everywhere. There are many cases in which police officers became angry, when they were asked to show their identity cards and authority for arrest. Some police officers think that such questions or enquiries by the people are a sort of insult to their authority and uniform. This is found to be main reason why people whom the police take into custody by informal arrest follow them without questioning the grounds of arrest and their authority to arrest.

There have been cases in which people were detained in police stations in the pretext of questioning them for hours and days together and in some instances they may be allowed to go home every evening with instructions to come to police station on the next day in the morning. Paucity of time for the police to question people and the overburdening of the work, etc., are cited as the causes for the delay in questioning people. Some people, who were detained by the police for mere questioning, complain that the time for the police alone is important for them and the same for the people are not so. The same is found to be the case with their argument for work or over work for them. According to many people, this sort of approach is nothing, but their blatant violation of human rights in any civilized community where law is respected.

## N.H.R.C. Report and Police Atrocities Cases

Annual Reports of National Human Rights Commission show that human rights of citizens are being violated by police itself, rather to protect it. Clause 2.36 of chapter -2 of the Annual Report 2017-2018 of National Human Rights Commission says that the complaints, received in the Commission, cover a wide range of issues such as alleged human rights violation due to negligence by a public servant in the prevention of such violation, alleged custodial deaths, torture, fake encounters, police high-handedness. The Commission also took cognizance of the intimation received regarding deaths in police encounters and police custody. Also, *Suo motu* cognizance was taken by the Commission in this regard.

Number of cases registered in National Human Rights Commission according to its Annual Reports 2017-2018 are as follows:

Year	2013-14	2014-15	2015-16	2016-17	2017-18
Death in Police Encounter	137	188	179	169	164
Custodial Death (Judicial)	1577	1588	1668	1616	1636
Custodial Death (Police)	140	130	151	145	148
Police	32968	34954	35533	27845	26391

Source: NHRC Annual Report 2017-18

Clause 4.6 of the NHRC Annual Report 2017-18 says, “Custodial violence and torture is so rampant in India that it has become almost routine. It represents the worst form of excesses by public servants entrusted with the duty of law enforcement. The Commission regards crimes like rape, molestation, torture, false encounter in police custody as manifestations as a systematic failure to protect human rights of one of the most vulnerable and voiceless categories”. According to the National Human Rights Commission Report, human rights violations are committed with impunity under the shields of “uniform” and authority within the four walls of a police station, lock-up and prison, where the victims are totally helpless.

## B.H.R.C. and Human Rights Violations related complaints

We can see year-wise and subject-wise complaints of Human Rights Violations and their disposal at Bihar Human Rights Commission in the following table:

Complaints Disposed in BHRC (Year-wise/Subject-wise)

Sl. No.	Subject	Upto 2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1.	Children	14	06	10	12	11	07	14	01	05	01	14
2.	Education	74	59	63	101	132	51	80	36	17	11	00
3.	Health	38	45	48	38	71	61	82	80	41	18	62
4.	Jail	349	177	175	145	204	188	156	150	76	20	186
5.	Judiciary	36	15	6	18	18	14	07	22	03	00	11
6.	Labour	33	18	10	18	17	21	21	13	09	11	19
7.	Mafias/	337	342	532	684	564	737	643	363	233	131	90



	Underworld											
8.	Minorities /SC/ST	117	68	45	38	52	35	28	78	46	11	34
9.	Miscellaneous	1586	674	668	650	1039	1207	2321	2955	2653	1780	2863
10.	Police/Armed Forces	1929	1310	1563	1881	2082	1983	2086	2263	1751	647	2231
11.	Pollution/ Ecology/ Environment	45	19	09	09	11	14	22	18	11	06	16
12.	Poverty Alleviation	119	64	72	83	77	60	45	46	23	17	00
13.	Religion	15	00	04	09	05	00	01	01	00	00	04
14.	Remand	01	00	00	00	00	00	01	00	00	00	01
15.	Service Matters	1015	554	639	768	831	812	1075	806	505	464	699
16.	Women	377	234	229	255	298	282	345	328	258	119	220
17.	Others	121	02	16	04	20	647	206	131	87	05	602

Source: Official Website of BHRC

Above table clearly shows that the number of complaints against police atrocities is the highest. Complaints registered regarding Mafias/Underworld and Jail are directly or indirectly related to the actions of the police. By analysing the above table, we find that the trend of complaints is the same over the years. In other words, the cases of violations of Human Rights by the police are not decreasing, rather it persist.

## Role of Police in creating Criminals

We find that the police has greater hands in creating criminals. It can be understood by the recent cases of Vikas Dubey, Uttar Pradesh; Praveen Jha of Benipatti, Madhubani, Bihar, etc. We witness that a young man of bold personality or having small law breaking tendency turns into a veteran criminal largely due to the illegal bias or favour of the police. For bribe or due to the other reasons, the police unduly favours those persons, who break laws. In due course, the person commits crimes and sometimes most heinous crimes like rape and mass killings. We witness that some innocent police persons also become the victims of such criminals. It is alleged that Vikas Dubey killed many police persons, whereas Praveen Jha has allegedly killed five persons of the same family. It appears that in these cases some police favoured them for some times or long times. It raised their courage and in due course they committed serious and heinous crimes.

## Landmark Judicial Interventions

The judiciary has adopted a proactive role in addressing police misconduct and imposing accountability where the executive and legislature have failed. In a series of landmark judgments, the Supreme Court has provided a blueprint for how police conduct should be aligned with constitutional principles.

**D.K. Basu v. State of West Bengal (1997):** This case, initiated by a letter to the Supreme Court highlighting instances of police torture and custodial deaths, led to the establishment of binding procedural safeguards and guidelines for arrest and detention. These guidelines included mandatory identification of arresting officers, the preparation of an arrest memo, informing family or friends of the arrest, and regular medical examinations. The significance of this ruling is that its guidelines were later codified into statutory law through amendments to the Cr.P.C., effectively transforming judicial principles into legal requirements.

**Lalita Kumari v. Govt. of Uttar Pradesh (2014):** In response to a case where police refused to register a First Information Report (FIR), the Supreme Court ruled that the registration of an FIR is mandatory for a cognizable offence. This judgment was a critical step toward ensuring that police inaction does not infringe upon a citizen's right to legal protection and access to justice.

**Prakash Singh v. Union of India (2006):** This is arguably the most significant judicial intervention aimed at comprehensive police reform. The Supreme Court issued seven crucial directives to both the central and state governments to bring about structural changes. The judgment's premise was that the police's "commitment, devotion and accountability...has to be only to the rule of law" and not to political masters.

### **The Prakash Singh Directives: A Blueprint for Reform**

The directives issued in the Prakash Singh judgment constitute a comprehensive blueprint for systemic reform. They are -

1. **State Security Commission:** To be established to protect police from political pressures.
2. **Fixed Tenure for the DGP:** To ensure professional stability and insulate the position from arbitrary transfers.
3. **Minimum Tenure for other Officers:** Mandating a minimum two-year tenure for officers at the zonal, district, and station levels.
4. **Separation of Law and Order from Investigation:** To encourage specialisation and ensure speedier, more expert investigations.
5. **Police Establishment Board (PEB):** To be set up to decide transfers, postings, and promotions for officers up to the rank of Deputy Superintendent of Police.
6. **Police Complaints Authority (PCA):** To inquire into public complaints of serious misconduct, such as custodial death, grievous hurt, or rape in police custody.
7. **National Security Commission (NSC):** To be set up at the union level for the selection and placement of Chiefs of Central Police Organizations.

Despite the judiciary providing this comprehensive blueprint, the snippets explicitly state that "none, except the State of Sikkim, has complied with all the directions". The persistent non-implementation is primarily attributed to a lack of "political will". The fact that these directives from 2006 remain a central point of discussion and are still largely unimplemented demonstrates a persistent institutional failure. It reveals that true reform is not a matter of legal knowledge, but of political and institutional commitment.

### **The Imperative for Institutional and Structural Reform**

The journey towards a professional, rights-based police force requires fundamental institutional and structural reforms that move beyond the colonial-era model of policing, which was designed to suppress,

not serve. A key step is to grant functional autonomy and insulate the police from political interference and "extraneous influences". The Model Police Act, 2006, echoed this need, emphasising a merit-based selection for the Director General of Police and ensuring security of tenure. The directives for separating law and order from investigation are crucial for streamlining policing and improving the quality of investigations. This functional separation is effective only if there are enough trained personnel and if political interference is reduced. The establishment of independent accountability mechanisms, such as Police Complaints Authorities and monitoring cells at police headquarters, is essential to address the pervasive impunity and bridge the trust deficit with the public.

### **Leveraging Technology for Transparency and Accountability**

Technology can be a powerful tool for both maintaining order and enforcing accountability. The Supreme Court's instruction to install C.C.T.V. cameras in every police station is a direct response to the issue of custodial violence and a move toward greater transparency. When used for accountability, C.C.T.Vs. can protect human rights, but the use of surveillance, in general, has also been criticised for disturbing the balance between privacy, a right under Article 21, and state interest.

### **Conclusion**

#### **A Path from Enforcement to Protection**

The analysis demonstrates that the Indian police force stands at a critical crossroads, operating within a fundamental tension between its constitutional mandate to protect human rights and its operational reality of systemic abuses. The core of the issue is not a lack of legal provisions but a pervasive culture of impunity, a legacy of colonial-era policing, and deep-seated political and institutional resistance to change.

The solutions to these challenges are not unknown. The judiciary, through landmark judgments like *D.K. Basu* and *Prakash Singh*, has provided a comprehensive and robust blueprint for reform, encompassing both procedural safeguards and structural changes. The N.H.R.C. serves as a vital oversight body, while initiatives such as Women Help Desks and specialised training programmes represent positive steps toward a more empathetic and people-centric force.

However, a piecemeal approach to reform is destined to fail. For example, installing C.C.T.Vs. will not be effective without a functional Police Complaints Authority to review the footage and a Police Establishment Board to take action against the officers. The separation of investigation and law-and-order wings is only possible if there is a sufficient number of trained personnel and if political interference is reduced. The journey from being a coercive instrument of the state to a rights-based service for its citizens is a long and arduous one, but it is an essential prerequisite for a thriving democracy. The ultimate challenge is not in identifying what needs to be done, but in mustering the political will to implement the necessary reforms consistently and without compromise.

To sum up, Human Rights are inherent rights. They are available to every person by birth just being a human. It is natural and universal. The essence of human rights is dignity of the individual. Human Rights are guaranteed by the Constitution of India and enforceable by courts in India. In theory, comprehensive human rights are available to the people of India, but in practice it is difficult to get one's human rights protected. The status of human rights violations in India is pitiable. There are many agencies of the government, which are responsible for the protection of human rights. The police is one of the main agencies of the government responsible for safeguarding the human rights. Although no



Indian governmental agency is efficient to protect the human rights, policing in India is in the worst position. Despite of human rights and other motivational trainings, Indian police continues to be inefficient and non-professional towards protection of human rights. The Reports of the National Human Rights Commission, New Delhi, and Bihar Human Rights Commission, Patna show that cases of human rights violations against police are the highest in the country. In more than seventy-eight years of Independence, there has been no substantial behavioural change in the policing in India. The politicians and governments continue to misuse Indian Police. The police and criminal nexus persist in India. On the other hand, there are certain genuine grievances of Police regarding terms and conditions of their service. They are not well equipped, protected and motivated to render their duties ethically. The ill governance and indifferent attitude of the government towards police in India affects their efficiency, which in turn make them unaccountable to the protection of human rights. Thus, only police cannot be blamed for persisting large human rights violation cases in India. The government, judiciary, media, non-government organizations, politicians, intellectuals, all are responsible for the promotion and protection of human rights in India. Of course, police is the main governmental agency, which can safeguard the human rights. So, there is a need to address the genuine grievances of police and make them efficient and professional by regular professional and motivational trainings. I hope that these measures could make Indian police accountable for the protection of human rights.

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