

EDUPHORE IAS WEEKLY CURRENT AFFAIRS

Topic of the Week: Who will police the police?

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- The question came up during hearing of a case in a court.
- A court in Pehowa in Haryana's Kurukshetra acquitted a washerman in a four-year-old bicycle theft case saying "this matter has shaken the conscience of this court".
- Police officer manipulated the entire police system and investigating authorities to settle personal vengeance against an innocent person.
- Absolutely ill motivated and "botched up investigation", where some police officers misused their powers to harass an innocent person for the simple reason that he dared to file a complaint against one of their colleagues and succeeded in getting the officer punished by a court of law.
- The judgement has brought up the topic of 'Police Reforms' up again as it is seen much needed in various present stances.

Police: About the Organisation

- Under the Constitution of India, police is a subject governed by states. Therefore, each of the 29 states have their own police forces. The centre is also allowed to maintain its own police forces to assist the states with ensuring law and order. Centre maintains seven central police forces and some other police organisations for specialised tasks such as intelligence gathering, investigation, research and record-keeping, and training.
- The responsibilities of the state and central police forces are different. State police forces are primarily in charge of local issues such as crime prevention and investigation, and maintaining law and order. While they also provide the first response in case of more intense internal security challenges (e.g., terrorist incident or insurgency-related violence), the central forces are specialised in dealing with such conflicts. For example, the Central Reserve Police Force is better trained to defuse large-scale riots with least damage to life and property, as compared to local police. Further, the central forces assist the defence forces with border protection.
- The primary role of police forces is to uphold and enforce laws, investigate crimes and ensure security for people in the country.

State Police Forces

- Police forces of the various states are governed by their state laws and regulations.
- Some states have modelled their laws on the basis of a central law, the Police Act, 1861. States also have their police manuals detailing how police of the state is organised, their roles and responsibilities, records that must be maintained, etc.
- State police forces generally have **two arms: civil and armed police**. The civil police is responsible for day-to-day law and order and crime control. Armed police is kept in reserve, till additional support is required in situations like riots.
- A police district is an area declared so by the state government. It is considered the most important supervisory and functional unit of police administration because the officer in charge of the district (i.e. Superintendent of Police or SP) has operational independence in matters relating to internal management of the force and carrying out of law and order duties.
- A police station (typically headed by an Inspector or Sub-Inspector) is the basic unit of police functioning. It is engaged with registration of crimes, local patrolling, investigations, handling of various law and order situations (e.g., demonstrations and strikes), intelligence collection, and ensuring safety and security in its jurisdiction. A police station may have several police outposts for patrolling and surveillance.

Central Police Forces

Assam Rifles (AR): Guards India's borders with Myanmar.

Border Security Force (BSF): Guards India's borders with Pakistan and Bangladesh.

Indo Tibetan Border Police Force (ITBP): Guards the border with China.

SashastraSeemaBal (SSB): Guards India's borders with Nepal and Bhutan.

Central Industrial Security Force (CISF): Provides security to critical infrastructure installations, such as airports, atomic power plants, defence production units and oil fields.

Central Reserve Police Force (CRPF): Deployed for law and order, counter-insurgency, anti-naxal and communal violence operations.

National Security Guards (NSG): Specialised in carrying out counter-terrorism, counter-hijacking and hostage-rescue operations. In addition, it provides VIP security and security for important events.

Central Police

Central Police Organisations

Intelligence Bureau (IB):	<ul style="list-style-type: none">The IB is the central intelligence agency for all matters related to internal security, including espionage, insurgency and terrorism.
Central Bureau of India (CBI)	The CBI is an investigating agency set up under the Delhi Special Police Establishment Act, 1946. It is responsible for investigating serious crimes having all India or inter-state ramifications, such as those related to corruption, financial scams and serious fraud and organised crime (e.g., black marketing and profiteering in essential commodities). Typically, the CBI takes up an investigation: (i) on the order of the central government with the consent of state government, and (ii) on the order of the Supreme Court and High Courts.
National Investigation Agency (NIA)	The NIA is an investigating agency set up under the National Investigation Agency Act, 2008. It is responsible for investigating offences against the sovereignty, security and integrity of the country punishable under eight specified laws, such as the Unlawful Activities (Prevention) Act, 1967 and the Anti-Hijacking Act, 1982. NIA takes up an investigation on the order of the central government, either on the request of a state government or

	suomoto (i.e. on the central government's own authority).
Bureau of Police Research and Development (BPRD)	<ul style="list-style-type: none"> The BPRD was set up with the mandate to identify the needs and problems of the police forces in the country. Its responsibilities include: (i) promoting use of science and technology in police work, (ii) monitoring and assisting with the training needs of police forces, (iii) assisting state police forces with modernization, and (iv) assisting the centre in developing quality standards with respect to police equipment and infrastructure.
Training Academies	<ul style="list-style-type: none"> Two key national training academies that come under the central government are the Sardar Vallabhbhai Patel National Police Academy and the North Eastern Police Academy. The Sardar Vallabhbhai Patel National Police Academy in Hyderabad is responsible for conducting training courses for IPS officers, and for trainers of various police training institutions in the country. The North Eastern Police Academy in Meghalaya is responsible for training police personnel of the north east states.

- operational decisions, or that unlawfully influence police personnel transfers, recruitments, etc.

Independent Complaints Authority Police accountability

- Police forces have the authority to exercise force to enforce laws and maintain law and order in a state. However, this power may be misused in several ways. For example, in India, various kinds of complaints are made against the police including complaints of unwarranted arrests, unlawful searches, torture and custodial rapes.
- To check against such abuse of power, various countries have adopted safeguards, such as accountability of the police to the political executive, internal accountability to senior police officers, and independent police oversight authorities.
- Accountability to the political executive vs operational freedom: Both the central and state police forces come under the control and superintendence of the political executive (i.e., central or state government). The Second Administrative Reforms Commission (2007) has noted that this control has been abused in the past by the political executive to unduly influence police personnel, and have them serve personal or political interests. This interferes with professional decision-

making by the police (e.g., regarding how to respond to law and order situations or how to conduct investigations), resulting in biased performance of duties.

- To allow the police greater operational freedom while ensuring accountability, various experts have recommended that the political executive's power of superintendence over police forces be limited. The 2nd ARC has recommended that this power be limited to promoting professional efficiency and ensuring that police is acting in accordance with law.

The National Police Commission (1977-81) suggested that superintendence be defined in the law to exclude instructions that interfere with due process of law, or that influence

- There is a need to have an independent complaints authority to inquire into cases of police misconduct. This may be because the political executive and internal police oversight mechanisms may favour law enforcement authorities, and not be able to form an independent and critical judgement.
- Example: New York City Police has a Civilian Complaint Review Board comprising of civilians appointed by local government bodies and the police commissioner to investigate into cases of police misconduct.
- India has some independent authorities that have the power to examine specific kinds of misconduct. For example, the National or State Human Rights Commission.

Overburdened force

- The 2nd ARC has recommended that one way to reduce the burden of the police forces could be to **outsource or redistribute some non-core police functions (such as traffic management, disaster rescue and relief, and issuing of court summons) to government departments or private agencies**. These functions do not require any special knowledge of policing. This will also allow the police forces to give more time and energy to their core policing functions.

Constabulary related issues

- **Qualifications and training:** The constabulary constitutes 86% of the state police forces. A constable's responsibilities are wide-ranging, and are not limited to basic tasks. For example, he is expected to exercise his own judgement in tasks like intelligence gathering, and surveillance work, and report to his superior officers regarding significant developments. He assists with investigations, and is also the first point of contact for the public. Therefore, a constable is expected to have some analytical and decision-making capabilities.
- The **Padmanabhaiah Committee** and the Second Administrative Reforms Commission noted that the entry level qualifications (i.e. completion of class 10th or 12th in many states) and training of constables do not qualify them for their role. It should be raised for entry into the civil police to class 12th or graduation.
- Constables, and the police force in general, should receive greater training in soft skills (such as communication, counselling and leadership).
- **Promotions and working conditions:** Promotion opportunities and working conditions of constables are poor, and need to be improved. Generally a constable in India can expect only one promotion in his lifetime, and normally retires as a head constable, which weakens his incentive to perform well. This system may be contrasted with that in the United Kingdom, where police officers generally start as constables and progress through each rank in order. Further, in India sometimes superiors employ constables as orderlies to do domestic work, which erodes their morale and motivation.
- **Housing:** Providing housing to the constabulary (and generally to the police force) to improve their efficiency and incentive to accept remote postings.

Crime investigation

- They lack the training and the expertise required to conduct professional investigations. They also have insufficient legal knowledge (on aspects like admissibility of evidence) and the forensic and cyber infrastructure available to them is both inadequate and outdated.
- In light of this, police forces may use force and torture to secure evidence.
- Reform: Own specialized investigation units within the police force that are responsible for crime investigation. These units should not ordinarily be diverted for other duties.

Police-public relations

- Police requires the confidence, cooperation and support of the community to prevent crime and disorder. For example, police personnel rely on members of the community to be informers and witnesses in any crime investigation.
- The police-public relations is unsatisfactory if people view the police as corrupt, inefficient, politically partisan and unresponsive.

Police infrastructure

- Modern policing requires a strong communication support, state-of-art or modern weapons, and a high degree of mobility.
- The police infrastructure on account of weaponry, vehicles and police telecom network is either updated or short in supply.

Some serious concerns about the Police workculture

1. 1731 ppl died in custody in 2019-National campaign against torture report 2019.
2. Cases of so called **instant justice**(but illegal) by encounters of accused (not convicted). Example Disha case in which four rape accused were killed in a police encounter.
3. Fake encounters and brutal methods of interrogation
4. **Custodial killings** – One of the most recent case is of Father-son Jayaram and Benicks. who were killed in police custody in Tamil Nadu . They were arrested on pretext of opening shop during lockdown. Being found guilty of the charge they would have face imprisonment of three months.
5. **Torture** is integral part of police culture all over country.
6. Local policemen think of themselves as sovereigns in their own little territory, executors of ‘laws’ they invent on the go.

Reasons for present police culture

- Colonial Legacy
- Overburdened police
- Culture of impunity
- Internal coverups are common
- Many recruits become perpetrators after a few years in the field. Work pressure and unfair treatment by supervisors

Supreme Court judgements

1990s: Joginder kumar vs State of UP DK Basu vs State of West Bengal

- Guidelines were passed to try and secure two rights in context of any state action – right to know and right to life.
- Through guidelines, court sought to curb power of arrest and ensure that an accused is made aware of critical information regarding her arrest and also this convey to friends and family.
- Code of Criminal Procedure (Amendment) Act, 2008 gave statutory backing to these judicial guidelines.

Prakash Singh vs Union of India (2006)

- In September 2006, the court issued various directions to the centre and states including: SC pushed through new legislation for governing police forces to be passed by States across India.
- It gave a robust setup for accountability that contemplated a grievance redress mechanism.
- However, several states remain in contempt of the Supreme Court’s judgement.

Specific guidelines:

1. Constitute a **State Security Commission in every state** that will lay down policy for police functioning, evaluate police performance, and ensure that state governments do not exercise unwarranted influence on the police.
2. Constitute a **Police Establishment Board in every state** that will decide postings, transfers and promotions for officers below the rank of Deputy Superintendent of Police, and make recommendations to the state government for officers of higher ranks.
3. Constitute **Police Complaints Authorities at the state and district levels** to inquire into allegations of serious misconduct and abuse of power by police personnel.
4. Provide a minimum tenure of at least two years for the DGP and other key police officersto protect them against arbitrary transfers and postings.
5. **Separate the investigating police from the law and order police** to ensure

Nilabati Behera v. State of Orissa:
Court made sure that the state had to be compelled to pay compensation.

- speedier investigation, better expertise and improved rapport with the people.
6. Constitute a **National Security Commission** to shortlist the candidates for appointment as Chiefs of the central armed police forces.

Way forward

- India needs to ratify UN convention on torture(signed 1997).
- Draft law on torture.
- Scientific investigation, use of technology- videorecording, camera, DNA analysis, Body cameras on beat policemen.
- Institutional apathy
- Lower courts role- 'Remand norm than exception'.
- Leadership, sacred duty to foster a culture of obedience to the law.
- The media task is to identify and highlight unethical leadership

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