

## **Old British Police System In India And Its Reforms: Issues And Challenges In Present Scenario**

**Dr. Supinder Kaur** , Professor, department of Laws, Panjab University Chandigarh.

**Dr. Robin Kumar**, Post doctoral fellow (ICSSR), department of Laws Panjab University Chandigarh.

### **ABSTRACT**

*The Police are constituted body of persons authorize by the law, to prevent the crime. It is constituted body of persons to set up by the state to enforce the law and order. The National Police Commission recorded as far back as 1979 that "the present culture of the police framework seems a continuance of what acquired under the British system when the police worked savagely as a specialist in supporting the administration in power. This issue of absence of lucidity in control likewise lies in The Police Act, 1861 which is silent on 'superintendence' and 'general control and directions. There are a number of boards established for police change, in particular Ribeiro Committee on Police Reforms (1998), the Padmanabhaiah Committee on Police Reforms (2000), yet Police reaction constantly reflects the bias of the ruling party. The Supreme Court in Prakash Singh Case gave directions to State governments with the changing the ethos and working way of the Police. But, till date, these have not seen the light of the day.*

**Key Words: Police, Reforms, Committee, Commission, Role**

### **Introduction:**

*"Policemen so cherish their status as keepers of the peace and protectors of the public that they have occasionally been known to beat to death those citizens or groups who question that status"*

**- David Mamet**

### **Historical Background:**

In 1861, the British Government introduced the Indian Councils Act, 1861 for professionalized the police organization in India. It presented another unit of police, called Superior Police Services, later known as the Police. The most elevated position in the administration was the controller general for every region. The position of auditor general was compared and positioned with brigadier, and comparative positions in the Indian Armed

Forces. In 1902–03, a police commission was set up for the Police changes under Sir Andrew Fraser and Lord Curzon. It suggested the arrangement of Indians at official level in the police. Indians could rise just to the positions of Inspector of police, the senior N.C.O. position anyway; they were not part of the police. From 1920, Indian Imperial Police was open to Indians and the entrance examination for the service was conducted both in India and England.<sup>1</sup>

A 1999 stamp dedicated to the 50th commemoration of IPS Prior to Independence, senior cops having a place with the Imperial Police (IP) was delegated by the Secretary of State based on a serious assessment. The principal open common help assessment for admission to the administration was held in England in June 1893 and the ten top applicants were selected as probationers in the Indian (Imperial) Police. It is beyond the realm of imagination to expect to pinpoint an accurate date on which the Indian Police came officially into being. Around 1907, the Secretary of State's officials were coordinated to wear the letters "IP" on their epaulets so as to recognize them from different officials not enlisted by the Secretary of State through assessment. In this sense, 1907 could be regarded as the starting point. This administration gives senior authorities to the police powers. You can turn into an IPS official and even proceed to turn into the most elevated positioning police official in the nation (Director General of Police/DGP) by clearing the UPSC common administrations test and securing the rank required. The Indian Councils Act of 1861 by the British made an expert police administration in India. This set up the Superior Police Services (later renamed Indian Imperial Police). Here, the Inspector General was the leader of the commonplace police organization. The regions separated into areas were going by the Superintendents of Police and enrolment was done by designation. This was done in two different directed in June 1893 and the best ten applicants in the legitimacy list were named as probationers in the Indian Imperial Police. The Commission suggested the arrangement of Indians at the officials' level (this was not allowed before). In any case, Indians could just promote to the position of Inspector of Police and were not viewed as a piece of the Indian Imperial Police. official from the British Army were selected or more youthful children of the landed nobility in the United Kingdom were named. The designation arrangement of enrolling officials was surrendered in 1893. A consolidated serious assessment was begun to select officials to the

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<sup>1</sup> Bhullar, Colonel (Retd) Pritam (19 July 2015). "A worrisome slide in Army's status". *Hindustan Times*. Retrieved September 2017.

Indian Police. This test was held in London. The main such test was directed in June 1893 and the best ten applicants in the legitimacy list were named as probationers in the Indian Imperial Police. The Commission suggested the arrangement of Indians at the officials' level (this was not allowed before). In any case, Indians could just promote to the position of Inspector of Police and were not viewed as a piece of the Indian Imperial Police. From 1920 onwards, Indians were permitted to be a piece of the Indian Imperial Police and the serious test for the equivalent was held in London and India. From 1907, officials right now coordinated to wear the letters "I.P" on their epaulets to recognize them from officials who were not selected by the serious test by the Secretary of State. In 1917, the name Indian Police Service was first alluded to in a report by the Islington Commission. In 1932, the name changed to just Indian Police. In 1948, in an independent India the Imperial Police was officially replaced by the Indian Police Service (IPS)<sup>2</sup>

## **RESEARCH METHODOLOGY**

Non doctrinal study of on the topic “Old British Police System in India and Its Reforms: Issues and Challenges in Present Scenario” has to be done so that detail research can be done in the same regard. For this study statistics has to be collected. This can be done from different resources like Journals, Yearbooks, Books, Dictionaries, law Reviews, varies committees, different commissions, Newspapers and Judicial Pronouncements of Indian courts.

## **OBJECTIVES OF STUDY**

- To analyse the various statutory provisions regarding police protection in India.
- To examine the present legal regime that governs the conduct of the various institutions regarding institution of police.
- To assess the working conditions of police and initiatives taken by the government to reforms the police system in India.

## **RESEARCH HYPOTHESES**

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<sup>2</sup> Available at <https://blog.ipleaders.in/the-indian-police-act-and-police-reform-in-india> last visited 4 march, 2020.

In the above discussions I had taken up the topic of Old British Police System in India and Its Reforms: Issues and Challenges in Present Scenario. The Research Hypothesis of this topic made it clear that the nation needs to improve Police reform and make stricter laws which do not exist in present. It also has to be made sure that the no laws in this concern have been passed by the elected members of the parliament. First and last important reason is that the laws are not implemented by the authorities with complete dedication.

## **OVERVIEW OF POLICE ORGANISATION:**

### **State Police Forces**

Police forces of the different states are administered by their state laws and guidelines. A few states have demonstrated their laws based on a central law, the Police Act, 1861. States additionally have their police manuals enumerating how police of the state is sorted out, their jobs and duties, records that must be kept up, and so forth.<sup>3</sup>

### **Hierarchy of Police**

State police forces by and large have two arms: common and armed police. The common police are liable for everyday peace and wrongdoing control. Armed police is kept for possible later use, till extra help is required in circumstances like mobs, Common police powers comprehensively stick to the progressive structure; each state is isolated into different field units with the end goal of successful policing: zones, ranges, regions, sub-divisions or circles, police headquarters and stations. For example, a state will include at least two zones, each zone will contain at least two territories, and reaches will be sub-separated into the other field units along these lines. The key field units in this arrangement are the police area and the police headquarters.<sup>4</sup>

### **Indian Police Act, 1861:**

The Indian Police Act, 1861 was administered by the British just after the revolt of 1857 to acquire productive organization of police in the nation and to prevent any future rebellions. This demonstration has proceeded in spite of the Indian being changed from a

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<sup>3</sup> Model Police Manual: Volume 1, Bureau of Police Research and Development, available at <http://www.bprd.nic.in/WriteReadData/userfiles/file/1645442204-Volume%201.pdf>; "Police Organisation in India", Commonwealth Human Rights Initiative, 2015 last visited on April, 5 2020.

<sup>4</sup> Model Police Manual: Volume 1", Bureau of Police Research and Development, available at <http://www.bprd.nic.in/WriteReadData/userfiles/file/1645442204-Volume%201.pdf> last visited April, 7 2020.

British settlement to a sovereign Republic. The National Police Commission, 1979-81 (NPC) felt the requirement for change and henceforth it went on draft a Model Police Act in its Eighth Report submitted in 1981. Tragically, this proposed charge, which was created as a reaction to the setting of the occasions, and routed to end a portion of the ills that plague policing, has not been received by any state. All things considered, it has filled in as the format for early activities for some, who is attempting to replace the outdated Police Acts in their states with progressively applicable enactment. A couple of glaring models from the ongoing history of the disintegration of the standard of law or of significant infringement of residents' privileges coming about because of an inappropriate sort of political power over the police are the counter Sikh uproars of 1984, destruction of Babri Masjid on 6-12-1992, inaction in enlisting or seeking after instances of corruption, tricks and fakes including legislators. The police was additionally glaringly abused for political purposes during the Emergency (1975-1977). This issue of political importance was additionally managed by the NPC in its 1979 report. The National Police Commissions in 2000 recognized unpredictable captures by the police as a central wellspring of humiliation. The Report said the intensity of capture must be utilized uniquely in the rarest of rare cases and that a claim of the commission of an offence can't establish as a ground for capture. In the absence of any powerful responsibility instruments and occasional survey of execution is making the police lose the certainty of general society. Another issue is that the boundless indiscipline and high-handed mentalities towards law and systems are disintegrating the confidence of individuals in the police. The individuals these days have practically zero trust in the police. The Police Act, 1861 vests the superintendence of the police lawfully in the hands of the state government. Right now, the Head of Police (Director General/Inspector General) makes the most of her/his responsibility for at the pleasure of the Chief Minister. She /he might be expelled from the post whenever without relegate any reasons. Such a situation has brought about wide-spread politicization of the police where progressively, faithfulness is owed not to the law however to the decision political tip top. Another issue with the present enactment is that the main free authority with the ability to control or investigate the police abundances is the National Human Rights Commission (NHRC). The Commission has ability to just push the Government, In the event that any state, government will not acknowledge the NHRC's recommendation, there is no arrangement in law that engages the Commission to drive the administration to execute its advice. It can obviously move to the higher courts and look for

bearings. The NHRC had given four summonses to the Director General of Police, Bihar, in the course of the most mirrors the law based nature of India's nation and the changing occasions.<sup>5</sup>

**Police Reform in India:**

The Commission attracted consideration in 2002 and procedures to the need to act clearly on the more profound inquiry of Police Reform, on which suggestions of the National Police Commission (NPC) and of the National Human Rights Commission have been pending regardless of efforts to have been made up on. The Commission included that ongoing incident in Gujarat and, to be sure, in different States of the nation, underlined the need to continue immediately to execute the changes that have just been prescribed so as to safeguard the honesty of the researching procedure and to protect it from unnecessary impacts'.

Other than the Home Minister, all the Commissions and Committees above noted, have extensively reached a similar resolution on the issue of the need for police changes. There is an assembly of perspectives on the need to have;

- State Security Commission at State level;
- Simple method for the appointment of Police Chief and giving him a fixed tenure;
- Separation of examination work;
- Another Police Act, which ought to the unbiased desires of the individuals

It has been contended that a statutory State Security Commission with its recommendations binding on the Government should have been established long before. The fear communicated is that any Commission without giving its report restricting impact would be ineffectual. Over 25 years back, for example, in August 1979, the Police Commission Report prescribed that the examination undertaking ought to be past any sort of intercession by the official or non-official. For the division of examination work from lawfulness even the Law Commission of India in its 154th Report had prescribed such partition to guarantee speedier examination, better mastery and improved compatibility with the individuals without obviously any watertight compartmentalization taking into account the two capacities being

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<sup>5</sup> *Ibid*

intently between related at the ground level. We expect that the State Governments would give it due thought and would pass appropriate enactments on prescribed lines, the police being a State subject under the Constitution of India. It might additionally be noticed that the nature of Criminal Justice System in the nation, to an enormous degree, relies on the working of the police power. Hence, having respect to the bigger open intrigue, it is completely important to give the imperative bearings. Nearly ten years back, in *Vineet Narain & Ors. v. Union of India & Anr.*<sup>6</sup> this Court held that the critical requirement for the State Governments to set up the essential instrument and guided the Central Government to seek after the matter of police changes with the State Governments and guarantee the setting up of a system for selection/arrangement, transfer and posting of not simply the Chief of the State Police yet in addition all cops of the position of Superintendents of Police or more. The Court directed a slightly structural changes in CBI. First, the CBI director shall have a “minimum tenure of two years, despite the date of his superannuation”. Second, the Central Vigilance Commission (CVC) "will be responsible for the working of CBI" . Third, the CVC chief shall be selected by a panel comprise of the prime minister, home minister and the leader of the opposition from a panel of “outstanding civil servants”. mainly , the Vineet Narain judgement settled that the “transfer of an current Director, CBI in an extraordinary condition, including the necessitate for him to take up a more significant duty, should have the approval of the selection committee”. This committee should be consists of the PM, the leader of the Opposition and the CJI. The Court communicated its stone that in certain States the residency of a Superintendent of Police is for a couple of months and moves are made for capricious reasons which has discouraging impact on the police power as well as strange to the imagined sacred equipment. It was seen that separated from discouraging the police drive, it has

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<sup>6</sup> AIR 1998 SCC 226 brief Facts of the case were that, On 25th March, 1991, one Ashfak Hussain Lone, alleged to be an official of the terrorist organisation Hizbul Mujahideen, was arrested in Delhi. Subsequent upon his cross examination, assaults were led by the Central Bureau of Investigation (CBI) on the premises of Surrender Kumar Jain, his siblings, relations and organizations. Alongside Indian and remote money, the CBI held onto two journals and two scratch pad from the premises. They contained itemized records of huge instalments made to people recognized uniquely by initials. The initials related to the initials of different high positioning government officials, in force and our of intensity, and of high positioning administrators. Nothing having been done in the matter of exploring the Jains or the substance of their journals, the current writ petitions were recorded in 1993, in the open enthusiasm under Article 32 of the Constitution of the India.

additionally the antagonistic impact of politicizing the work force and, consequently, it is essential that quick measures are taken by the Central Government.<sup>7</sup>

### **Supreme Court directions in *Prakash Singh v. Union of India's case*;<sup>8</sup>**

Considering the expansive changes that had occurred in the nation after the sanctioning of the Indian Police Act, 1861 and non attendance of any far reaching audit at the national degree of the police framework after freedom regardless of radical changes in the political, social and monetary circumstance in the nation, the Supreme Court had given following suggestions:

- **To Set up a Police Establishment Board (PEB)** –To set up a board for postings, transfers and other related issues of cops. To Make proposals on postings and moves over the position of Deputy Superintendent of Police under Deputy Superintendent of Police.
- **To Constitute a State Security Commission (SSC)** - To give statutory power to frame the rules and guarantee that the state government doesn't practice baseless impact or pressure on the police.
- **Transparent DGP Appointment** - To ensure that the DGP is designated through authority based straightforward process and secures fix tenure of two years.
- **Minimum and Fixed Tenure** -To guarantee that other cop on operational obligations (remembering Superintendents of Police in charge of a region and Station House Officers accountable for a police headquarters) is likewise given a fixed tenure of two years.
- **Police Complaints Authority** - To Set up a Police Complaints Authority (PCA) at state level to ask into open protests against cops of our more the position of Deputy Superintendent of Police in instances of genuine unfortunate behaviour, including custodial passing, offensive hurt, or assault in police guardianship and at area levels to

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<sup>7</sup> Available at <https://iasexamportal.com/current-affairs/police-reform-in-india> last visited on 2 march 2020.

<sup>8</sup> AIR 2006 SC 356. In the present case, the three judge bench of the Supreme Court has laid down guidelines with regards to new police reforms. In the moment case, the court contemplates the cases alluded, the acts/commission reports considered, the purpose for such rules and the impacts of the judgment.

ask into open grievances against the police work force beneath the position of Deputy administrator of Police in instances of genuine wrongdoing

- **Separate Police wing** - To separate the investigation and law and order branch of the police.
- **National Security Commission** - To set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organizations (CPO) with a minimum tenure of two years.<sup>9</sup>

### **Committee's and Commission on Police Reform:**

#### **Khosla Commission:**

It is the Constitutional duty of the State to give a fair and helpful police administration that will assist with protecting the interests of the individuals. Under the Indian Constitution, policing is a state subject and thus the State Governments being liable for giving an effective police power. The vast majority of the states in India has separate enactments managing the control of the police in that state. The Indian Police Act was sanctioned by the inside in the year 1861. As indicated in Section 23 of the demonstration, it will be the obligation of each cop immediately, to obey and execute all requests and warrants legitimately gave to him by any capable power; to gather and impart insight influencing the open harmony; to preclude the commission of offenses and open annoyances; to identify and carry offenses to equity and to catch all people whom he is lawfully approved to secure, and for whose worry adequate ground exists; and it shall be lawful for every police-officer, without a warrant to enter and inspect, any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.<sup>10</sup>

#### **Soli J. Sorabjee Committee:**

The Ministry of Home Affairs, Government of India, having pictured the since a long time ago felt the need to supplant the multi year old Police Act, 1861, set up a Committee of Experts, under the Chairmanship of Dr. Soli J. Sorabjee, previous Attorney General, Government of India. In 2005 to draft another Police Act that could meet the

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<sup>9</sup> Available at <https://blog.iplayers.in/the-indian-police-act-and-police-reform-in-india/> last visited on 29 Feb, 2020

<sup>10</sup> Available at <http://www.legalserviceindia.com/article/I253-Analysis-Of-The-Police-Act.html> last visited on 1 March, 2020.

developmental difficulties to policing and to satisfy the vote based goals of the individuals. The Committee had been entrusted to draft another Police Act taking into account the evolving job/obligation of police and the difficulties. The Preamble to the new Act focuses on that *"the police has a foremost commitment and obligation to work as indicated by the necessities of the Constitution, law and the law based goals of the individual, and expects it to be proficient and administration arranged and liberated from incidental impacts but then responsible to the individuals."* This means that the police should not work in violation of the constitution and service to the people of this country should be there main motive.<sup>11</sup>

### **The Malimath Committee's Recommendations on Police Reform:**

The Committee suggested separating the investigation branch from Law and Order. It also recommended setting up of a National Security Commission and State Security Commissions. To improve the investigations, it recommended a slide of ways, including the appointment of an Addl. SP in each district to maintain crime data, organisation of the expert squad to deal with prearranged crime, and a team of officers to search interstate or corporation crimes, and setting up of a Police Establishment Board to deal with posting, transfers, and so on.<sup>12</sup>

### **Gore Committee on Police Training:**

The Government of India constitutes the Committee to be known as the Gore Committee on Police Training. The recommendation made by the Committee covered a broad scope of issue involving the need to:

- To communicate necessary information and skill
- To make the right attitude
- To make effective decision making aptitude
- To promote critical and innovative thoughts
- To enlarge the content of police training for law and order and crime prevention to a greater sensitivity and understanding of human behaviour

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<sup>11</sup> Available at <https://www.thehindu.com/news/national/the-malimath-committees-recommendations-on-reforms-in-the-criminal-justice-system> last visited on march,4 2020.

<sup>12</sup> Available at <http://www.humanrightsinitiative.org/old/index.phpcommittee> last visited on 28 Feb, 2020.

- To develop communication skills and development of attitude that promotes service orient activities.<sup>13</sup>

### **Ribeiro Committee on Police Reform:**

The Ribeiro Committee, which had been set-up by the Ministry of Home Affairs following the ruling of the Supreme Court to reconsider and recommendation and for the execution of the recommendation of the National Police Commission, the Law Commission, NHRC and the Vohra Committee, has endorsed almost all of the recommendations of the National Human Rights Commission<sup>14</sup>

### **The Padmanabhaiah Committee on Police Reforms:**

The main recommendations of the Committee's area:

- The Police Act of 1861 must be replaced by a new Act.
- The State Government has to give high priority to the allocation of funds to the police.
- There must be a compulsory judicial inquiry into all cases of alleged rape of a woman or death of any person in police custody.
- Sections 25, 26 of the Indian Evidence Act must be deleted and confessions made to police officers of the rank of Superintendent of Police and above should be made relevant in evidence.<sup>15</sup>

### **Model Police Act, 2006:**

The central government set up the Police Act Drafting Committee (Chair: Soli Sorabjee) in 2005 to draft another model police law that could replace the Police Act, 1861. The panel presented the Model Police Act in 2006, which was circled to all the states in 2006. 17 states (Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Meghalaya, Mizoram, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand) passed new laws or altered their current laws considering this new model law.

Main features of the Model Police Act, 2006 include:

<sup>13</sup> Available at <https://nhrc.nic.in/press-release/nhrc's-recommendations-police-reforms-country> last visited on 27 February, 2020

<sup>14</sup> Available at [http://www.humanrightsinitiative.org/http://books.google.co.in/books?id=http://en.wikipedia.org/wiki/A\\_Philosophical\\_View\\_of\\_Reform](http://www.humanrightsinitiative.org/http://books.google.co.in/books?id=http://en.wikipedia.org/wiki/A_Philosophical_View_of_Reform) last visited on 29 Feb, 2020.

<sup>15</sup> Building SMART Police in India: *Background into the needed Police Force Reforms*”, NITI Aayog, 2016,

- **Organisation and recruitment:** Each state will have one police administration, which will be going by the DGP. Direct enlistments to subordinate positions (for example beneath Deputy SP) will be made through a state level Police Recruitment Board. Enlistment to officials' positions will be through the Union Public Service Commission or State Public Service Commission.
- **Responsibilities:** The duties of the police serve will include: (I) authorizing the law unbiased, and ensuring life, freedom and human rights, (ii) safeguarding open request, and forestalling fear based oppressor, aggressor and different exercises influencing inward security, (iii) ensuring open properties, (iv) forestalling and exploring violations, (v) giving assistance in common or man-made fiascos, (vi) gathering knowledge, and so on. In police headquarters in urban territories and wrongdoing inclined provincial zones, examination of offensive and financial violations (e.g., murder, genuine instances of cheating) will be done by a Special Crime Investigation Unit, headed by an official at any rate of the position of a Sub-Inspector. Officials of these units will by and large not be occupied for some other obligation.<sup>16</sup>
- **Accountability:** The state government will practice administration over the police administration. This will incorporate setting down approaches and rules, setting gauges for quality policing, and guaranteeing that the police play out their obligations in an expert way. State Police Boards will be established in each state to outline rules, select officials who are able to be elevated to rank of DGP, and assess police execution. Police Accountability Commissions will likewise be set up by states to address protests of police wrongdoing. Anyway key police functionaries (e.g., DGP and police headquarters in control) will have a base residency of two years except if they have been indicted by a court, or suspended from administration, and so forth.
- **Service Conditions:** The state government will guarantee that the normal long periods of obligation of a cop don't surpass 8 hours (in outstanding circumstances, 12 hours). Sufficient protection inclusion will likewise be given to work force against any injury handicap or passing caused in line of obligation. A Police Welfare Board should likewise be

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<sup>16</sup> *Id at p, 34.*

set up to regulate and screen government assistance measures for police, including clinical help, bunch lodging, and lawful guide for officials confronting court procedures.<sup>17</sup>

## CONCLUSION

In the wake of finding out about the suggestions of all of the committee and commissions, nothing have been strictly taken by any administration. There has been little change in the conduct and working of the police. The general public has intentionally and economically very change, however; there is hardly any change in the police system. There has been little change of police functioning only in documents not in reality.

### Suggestions on Police Reform:

**Modern Policing**—Modern/community policing is a zone explicit practical procedure of working with the network for the avoidance and identification of wrongdoing, maintenance of open request and settling neighbourhood clashes and with the goal of giving a superior personal satisfaction. Community Policing ought to be engaged upon—SMART for example Severe and Sensitive, Modern and Mobile, Alert, Reliable, High-tech and Trained.

**Police Training**— Training should concentrate on getting attitudinal change in police so they become progressively responsive and delicate to residents' needs

**Reduce Gender Gap**—The second Administrative Reform Commission prescribed that the Representation of ladies in the police at all levels ought to be expanded through governmental policy regarding minorities in society with the goal that they comprise about 33% of the police.

**Improvement in Forensic Infrastructure** – There is a need to extend the forensic facilities and update them innovatively. Each area or a gathering of areas having 30 to 40 lakhs populace ought to have a measurable research facility.

**Improvement in Intelligence** – The intelligence gathering machinery in the field should be strengthened and simultaneously, made progressively responsible. Human insight ought to be joined with data got from diverse sources with the emphasis on expanded utilization of innovation.

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<sup>17</sup> *Ibid.*

**Independent Body-** The police department should be an independent body from the influence of the politicians

**Minimised Political Pressure-** There should be a minimum pressure on the police from the politician

**More Accountable-** police must be an accountable and more responsible towards the people not the politicians

**Separate Section-** There must be a police separation wings within the police. Investigation department should be separate from General Police. Law and order must be maintained by General Police.

**Re examine the Criminal Laws-** There is a need to re-examine the criminal Laws like Indian Penal Code, Criminal Procedure Code and Indian Evidence Act.

**Make Amendments –** There is also need to amend the outdated laws which were passed during the British period in India. There is also need to make amendments in the Laws so that Police machinery should make effective according to the situations