

## POLICE REFORMS PERTAINING TO INVESTIGATION OF CRIME: AN ANALYSIS

ADVOCATE PREM SINGH BISHT<sup>1</sup>

### ABSTRACT:

Police Reforms are ongoing necessary processes in a society in order to check or put an end to the arbitrary power, while at the same time respecting and protecting the human rights of citizens in a civilised society. Thus, Police Reform pertaining to Investigation is mostly about reforming the public perception of legitimacy of Police action as an organisation by adherence to basic structure doctrine such as Rule of Law and Due process of Law in its day to day working.

Constitution is fundamental Law, Custom, Convention and Rules governing a Nation. On the other hand Constitutionalism in a literal sense is a broad philosophy wherein government obtain power from the citizens, which is limited by Constitution itself. Constitutionalism in India is deeply embodied in its ancient values, assimilating culture and philosophical thought thereby embracing not only the virtue of humanity and justice but also reflecting in our national emblem "Satya Mev Jayate". The study at hand envisions to explore the modalities of Police Reforms pertaining to Investigation by comparing, contrasting, analysing and synthesising the findings and applicability of various Committees and Commissions on Police Reforms. The effort will also be made to study the need of Police Reforms pertaining to Investigation in the light of the Constitutional commitment, Legislative initiatives, judicial pronouncements and the best practices in contemporary Indian scenario.

**Key Words:** Investigation, Constitutionalism, Police Reforms, Legislative initiative judicial pronouncement.

### I. INTRODUCTION:

It is said that lodging of FIR and subsequent Investigation of crime by Police set the wheel of Criminal Justice System in action, Police being an integral and important part of the criminal justice system. It will not be over exaggeration to say that truthful and unbiased Investigation is the first step of Justice delivery system. Investigation of crime is conducted by Police as per the procedure laid down in Criminal Procedure Code 1973, yet collection of evidence is as per the Indian Evidence Act, 1872 and crime registered to be Investigated is largely governed by Indian Penal Code, 1860 and other

---

<sup>1</sup> Former IPS (MP), Currently PhD scholar at Amity Law School, Amity University Haryana.

applicable relevant Acts. There has always been a question mark on Police Investigation. The Investigation of Crime is guided by the above statues as well as under close supervision of senior Police officers, drawing power under the provision of section 36 of Criminal Procedure Code. Now the question arises why Police Investigation right from the FIR is not largely relied by the Courts and public in general. In fact, a journey into the legacy of these statues mentioned above relates to colonial time which itself reveal to some extent the age-old procedure of Investigation with vested agenda of erstwhile rulers. Surprisingly it is still in practice to some extent. It is also worthwhile to explore, what went wrong and where have we have failed to account for this? Also to what extent the Investigation by Police is in unison with the spirit of the law of the land? The Constitution of India came into force on 26th of January, 1950 much after the Indian Penal code, 1860, Indian Evidence Act, 1872 and Police Act, 1861. Therefore, we need to ponder upon the reasons for the inconsistency in Investigation of Crime in the light of our Constitutional commitment in a modern-day Indian society. The basic structure Doctrine which emanates from the Constitution and must be held for the survival of Democracy. Investigation of Crime is also an aspect where the Rule of Law and Due Process of Law must hold for justice. In fact, these basic Doctrines could provide an acid test in this regard. The Police Investigation must adhere to the Constitutional commitment of transparent and unbiased investigation under the umbrella of independence of Judiciary. In fact, the very independence of Judiciary has far reaching ramifications to bring within its ambit the Investigation of Crime by a Police particularly when ordered by Court itself to be monitored e.g. formation of SIT etc. A Police officer while performing his duty of conducting Crime related Investigation under the Cr.P.C has a statutory functions and is expected to be answerable to the Court of Law, right from when FIR was lodged till the investigation is over and case land up in the Court of competent Jurisdiction. Here comes the pertinent question whether the Investigation so conducted falls within the domain of Administrative Law or more precisely is it an Administrative function? Since the answer is not affirmative, therefore to ponder upon how Investigation can be insulated from Executive and Political interference and alike is imperative in order for it to be fair, just and transparent? At the same time we must not forget that the Investigation of Crime by Police is an integral and significant part of our Criminal Justice System.

In any country Police as an organ of governance is entrusted with the duty of maintenance of public order and Prevention and Investigation of Crime leading to timely detection. The Police as per Seventh Schedule of the Constitution of India, comes under State List hence, it is for the State to provide for a better Police service to its people. At the same time, with crores of cases under trial/Appeal in various Court of Law at a given point of time, simply indicate that most of the citizens

in one way or other experience interaction with Police in lifetime once or on more occasions for varied reasons e.g. complaint, traffic check, passport or job verification, etc. Now the question arises why in a welfare state like India, with democratic governance, a common man has such a low assessment of our Police Force and why there is a tendency to avoid or escape interaction with Police? These questions tell upon the working of Police as an organisation and is the pressing reason for Policing Reforms related with Investigation.

It has always been a keen interest to explore how polity, society and law interact with each other and what is the interconnectedness among them. Also, to know how Indian Police can be made more professional and people friendly in this age of globalisation by removing the constraints involved and adhering to newer techniques and modes of scientific Investigation of Crime to promote Rule of Law in true sense.

The study at hand has been made in the backdrop of the failure of Law and Order machinery from time to time as is evident from the Investigation of incident of blatant misuse of Political power during the emergency period (1975-1977) by the than government at center, wide spread anti-Sikh riots of 1984, Assault on the Allahabad High Court on 13-9-1994, excesses committed on now Uttarakhand state agitators at Muzaffarnagar, U.P on 1-10-1994, etc. Beside this causal attitude of registration of Crime leading to inaction and lack of pursuance in cases of corruption scams, and frauds involving Politicians and mighty people, seems to be on rampant. These excesses committed by the Police were vividly brought out in the Report of the Shah Commission of Enquiry (April 1978). This led the Government of India (Janta Party) at that time. It led to appointment of a National Police Commission to undertake a review of the entire system and working of Police department including Investigation aspect. The Commission submitted eight comprehensive Reports containing recommendations by covering almost all aspects of Police Organisation and its working. We must not forget that Constitution of a country is a living organism and it needs to be evolving to keep pace with the needs and aspiration of society for establishing Rule of Law.

## **II. HISTORICAL PERSPECTIVE:**

Security, safety and enduring peace is sine qua non or for the prosperity of any society. Historically emergence of Police is as old as origin of any organised society worldwide. This was imperative for the larger objective of securing Public order and bringing perpetrators of Crime to book. In this context in Rig Veda and Atharva Veda do mention about certain type of Crime known to the people of that time. However in British Raj Police service was the most important pillar of Administration beside Civil Services and Army, introduced by Lord Cornwallis. Later on in the year 1774, Warren

Hasting was instrumental under the Company rule to initiate several measures, which culminated later on as an Act of 1861 dealing with Police job, its working and its responsibilities.

Since than Indian Police to some extent is still under the influence of an archaic and Colonial Police Laws passed way back in 1861, I.P.C 1860, Indian Evidence Act, 1872, etc. Historically, it appears that Police Act came just after the so called mutiny of 1857 in 1861 to restrict and control the freedom struggle in India in order to serve the interest of the Crown under a Police State. Was it incidental or an experience of erstwhile rulers to apply the same on Indian people, who were demanding autonomy and freedom from oppression, or was it based on the colonial ruler's experience of that time in dealing with the similar situation of Irish Revolution back home so called Irish War of Independence? We must ponder upon these questions. It is ironical that today even after 75 years of independence as a Welfare State we are still awaiting Police Reforms to meet the pressing aspiration of Society. It seems as the Act of 1861, is out of sync with India's Constitutional and Criminal Law framework. What we as people of India, need is the Law suitable for a democratic governance by taking away arbitrary powers of Police in a modern-day parlance. Since Constitutionalism is deeply embodied in our ancient values, assimilating culture and philosophical thought thereby embracing not only the virtue of humanity and Justice e.g. "Satya Mev Jayatey", but it also cherishes the ideals which inspired our freedom struggle.

Nonetheless, it would not be out of place to mention herein that post and pre Indian Politics has gone in a long way to shape the contemporary Indian Politics in a complex manner. Modern India is simply 'Sui generis', which stands out distinctly from the alternative political models of Liberalism, French Republicanism, Atheistic Communism or Islamic Theocracy.<sup>2</sup> Having adopted the Westminster model of parliamentary democracy, governance in India is based on a unique model in which social, political, economic and cultural matrix has a dynamic role to play. Independent India was confronted with several challenges, the first and foremost was to shape a nation by accommodating the diversity of its society. The second challenge was to establish democracy. The Constitution guaranteed Fundamental Rights to its citizens taking care of minorities and provided an opportunity to every citizen based on adult franchise. The makers of the Constitution went for a Parliamentary form of government to ensure that competitive politics will take place within a representative democratic framework. In this scenario we know that modern day society is governed Law of the land and Police is largely entrusted with this responsibility. It is also pertinent to mention herein that Constitutionalism and Law are intimately connected ideas about how power can be limited, including

---

<sup>2</sup> Ramachandra Guha in India after Gandhi: The History of the World's Largest Democracy, London: Picador, 2007, pp. 767-71.

Police to refrain them from becoming arbitrary in their action. It becomes more important as primary function of Police Force is to uphold and enforce Law. Although it is also said that Police being a state apparatus the Law governing it are always a product of different spatial, temporal variable & situational exigencies.

It would not be out of place to mention herein the findings of AHL Fraser, at the time of Erstwhile British rulers in 1902, who clearly underlined that the Policing in India is ill equipped in terms of training, organisation, bad supervision making it inefficient with public perception as corrupt, and oppressive. It has utterly failed to ensure the good will and cooperation of community at large. It is strange that since 1902, much is still needed to be done in this direction. Although in post independent India Constitution was drafted with due caution to be a holistic document aiming to secure a welfare state. However the Police as an organisation remained unchanged, which is the hall mark of a society based on democratic governance, being the most responsible and visible arm of governance for implementation as well as maintenance public order. Police being a state subject so after independence certain states endeavour to bring new Police Acts but to our dismay these were merely a new version or replica of Colonial time, Police Act. We must not forget that the security and wellbeing of people of any nation, is directly related with the efficiency of the Law enforcing wing of governance i.e. Police Force of that Nation. Therefore, time is ripe to ponder upon the Constitutional imperative of bringing about desired Reforms pertaining to investigation of Crime.

### **III. VARIOUS COMMISSION AND COMMITTEES:**

The guiding framework for Police functioning in general and related to Investigation in particular to a large extent is the Police Regulations of colonial time, Penal Code 1860, Evidence Act 1872, and Code of Criminal Procedure, 1973 etc. General perception is that they seems to be out of sync with independent India's Constitutional and Criminal Law framework. Police is empowered to Investigate the Crime impartially but how impartially it conducts Investigation has always irked the eye of Judiciary and of common people. Historically the Police so established has been subservient to Political masters in power and hence, lacks accountability. Consequently, Police seems to become repressive and vulnerable to corruption, abuse of power, atrocities, violation of Human Rights, etc. This situation led to imminent danger of people to lose their faith in Police as an organisation and to that extent as a Law implementing arm of the governance. The need for Reforms was felt way back in 1977, twenty years after independence when the Janta Party led Central Government appointed the first National Police Commission (NPC) to address the issue. The NPC made recommendations that amending the 1861 Police Act itself will not serve the purpose and came out with eight reports and a

Model Police Act which is yet to be pursued vigorously nationwide. The Political interference in the working of the Police and its disastrous consequences on the Rule of Law in the country were examined by the various National Police Commissions. A review of following available literature was made for the purpose of this study:

### **1. Gore Committee on Police Training (1971-73):**

It was formed to review the training aspect of Police countrywide from the rank of Constabulary to I.P.S. While examining the needs of training the committee entered into the course of other dimensions of Police functioning and identified certain areas requiring systemic reforms. Committee<sup>3</sup> came up with number of recommendations including investigation, out of which 45 related to bringing about structural changes in Police System. These reform related recommendations were not translated into action as they relates to Legislative action, action by Government and by Police department itself.

### **2. National Police Commission (NPC) (1977– 81):**

Headed by Shri Dharma Vira ICS, (Retd), a thorough review and working environment of Indian Police was taken up first time in post independent India. NPC<sup>4</sup> submitted eight Reports on various issues pertaining to bring Reforms in Policing such as (i) on Constabulary, covering Pay Structure, Housing, Career Planning, Grievances redressal mechanism , etc. (ii) Welfare Measures, measures for minimising Political and Executive Interference, redefining police duties and responsibility through a new Act for Police, Transfer Posting, etc. (iii) dealing, inter alia with Village Police, Corruption in Police, Postings and Tenure of SHO/SP, including Police and vulnerable sections etc. (iv) Dealing with Investigation, Trial, Prosecution, etc. (v) Dealt with Recruitment of Constabulary and SI, training, Women Police, Police-Public Relations, etc. (vi) Dealt with IPS, Police and students, communal Riots & Urban Policing, etc. (vii) studied organisational and structural aspect of Police, Armed Police, Delegation of Financial Powers to Police officers, Traffic Police, Performance Appraisal and Disciplinary Control, etc. and (viii) Commission also focused on making police force more accountable, better performing with least complaints against Police, enactment of new Act, etc. It is surprising that these Eight Report containing 291 'actionable recommendations' relating directly

---

<sup>3</sup>Gore Committee on Police training (1971-73)

<sup>4</sup>National Police Commission (NPC) of (1977– 81)

or indirectly with Police Reforms, unfortunately most important recommendations are still awaiting implementation.

### **3. Ribeiro Committee on Police Reforms (1998):**

This Committee came into existence as a result of directive issued by Apex Court based on a Public Interest Litigation pertaining to Reforms in Police. The Ribeiro Committee<sup>5</sup> systematically analysed the various recommendations made by NPC (1977-81), with a focus on the key issues related with desired Reformation in Policing. The Commission submitted five important recommendations e.g guidelines for selection and appointment of DGP, process of State Security Commission, Complaint Board to deal with complaint against police personals etc.. These recommendations in many States are in the waiting in government archive.

### **4. Padmanabhalah Committee on Police Reforms (2000):**

The Ministry of Home Affairs (MHA) government of India was instrumental in appointing this Committee. It worked under the chairmanship of K.Padmanabhalah, a former Secretary of Union Home Ministry. The Padmanabhalah Committee<sup>6</sup> inter alia, examined Policing in modern age, Recruitment and Training process, nature of work and accountability of Police, Police behaviour, Police Administration, Police Infrastructure, Political and Criminal nexus of Policing, Police Investigation and Prosecution, Community Policing, vulnerable Sections, rising terrorist and militancy related threats, Organised Crime, Federal Offences, problems and challenges of Policing in north east and key role of MHA in all these affairs. The Committee came out with a number of recommendations and observation on above mentioned issues.

### **5. Group of Ministers on National Security (2000-2001):**

Kargil Review Committee report was instrumental in setting up this Committee, in view of imminent threat to National Security. It was mandated to focus on task forces each one dealing exclusively with strengthening of the Intelligence gathering and sharing Apparatus, Internal Security, Border Management and the Management of Defence. It was an integrated approach for the overall peace and security, as per the promise made by a State under Social Contract on which most of the modern

---

<sup>5</sup>Ribeiro Committee on Police reforms(1998)

<sup>6</sup> Padmanabhalah Committee on Police Reforms (2000)

democracies are based. In the chapter dealing with Internal Security and Intelligence Apparatus the Group of Ministers<sup>7</sup> assigned a crucial role for the Police pertaining to National Security and laid emphasis on it. This can be related with the scheme for reforming Police as an important aspect of society which is consistently engaged in intelligence gathering by interacting with public at large as a part of their routine job.. The committee came out with number of recommendations which fall within the purview of Centre and states, some are with financial implications.

#### **6. Malimath Committee on Reforms of Criminal Justice System (2001-03):**

The Malimath Committee<sup>8</sup> went to probe into the issues pertaining to Reforms in Police working. It probed deeply into the basic principle of criminal justice system in India which comprises of Investigation aspect of Police, pleading process of government prosecutors, judicial trial and subsequent punishment to the perpetrators of crime. It came out with a number of recommendations. Beside above six major national level Commissions several State Level Commission were also constituted by various States Governments relating to Reforms in Police functioning.

#### **IV. JUDICIAL INITIATIVE:**

##### **1. Sharad Birdichand and Sarda v. State of Maharashtra<sup>9</sup> AIR 1984/ SC 1622:**

In this landmark verdict the Apex court dealt with the question of law pertaining to evidence related onus of burden of proof and the circumstantial evidence. This verdict discovered the golden principle relating to evidence based on the circumstances of the case: (i) The circumstances ought to be established clearly to prove the guilt of an accused facing trial of a case (ii) The facts, established must be in line with the hypothesis that accused is guilty of Crime (iii) circumstances ought to be conclusive in nature (iv) They ought to exclude each attainable hypothesis except the one to be tested and finally (v) it is necessary to have a complete sequence of proof leading to connected occurrences from which it is enough to infer or establish that accused is guilty of crime. This verdict has helped in guiding police investigation by laying stress during investigation on circumstantial evidence in cases where there is no eye witnesses and also there is a lack of material evidence.

---

<sup>7</sup> Group of Ministers on National Security (2000-2001)

<sup>8</sup> Malimath Committee on Reforms of Criminal Justice System (2001-03)

<sup>9</sup> Sharad Birdichand and Sarda vs State of Maharashtra AIR 1984/ SC 1622



## **2. Nilabati Behera v. State of Orissa and Ors<sup>10</sup> (1993):**

In this landmark verdict the apex court held that in case of custodial deaths the award of compensation under article 32 and 226 of the Constitution of India, remedies is available to public law in accordance with the doctrine of strict liability that is vicarious liability for contravention of basic rights envisaged in part III, of Indian Constitution. The doctrine of sovereign immunity does not apply here.

## **3. DK Basu v. State of West Bengal (1996)<sup>11</sup>:**

This landmark verdict by the apex court was pertaining to prevent arbitrary arrest leading to custodial torture during the course of investigation, while taking the matter on a serious note the apex court issued a set of detailed directives for the first time to be followed in order to prevent arbitrary arrest leading to illegal detention during the course of investigation by Police. It was also held that vicarious liability of State will arise in cases of custodial violence leading to death of an individual during the course of investigation by Police. Unfortunately, not much have changed in this regard till date.

## **4. Vishakha and ors vs State of Rajasthan and ors<sup>12</sup>(1997):**

In this land mark verdict the Hon'ble Supreme Court of India held that for women at work place all kind of sexual harassment must be prevented by all means. Hon'ble Apex Court issued a set of guidelines to be followed by the Centre and states in this connection. In furtherance of this verdict an Act was enacted in 2013. This act contained detail provisions relating to Prevention of offences, Prohibition of offences and mechanism for Redressal. This verdict was widely circulated to sensitise society on sexual harassment to women at work place. Police officer involved in day to day investigation dealing with women crime were also sensitised on the issue.

## **5. Landmark Verdict of the Apex Court in Prakash Singh v. Union of India And Ors (2006):**

In 1996, Mr. Prakash Singh, a former IPS Officer, petitioned before the Hon'ble Supreme Court, under Article 32, urging to issue the directions to the Government of India to frame a new Police Act on the lines of the Model Act drafted by the National Police Commission. Finally, on 22-9-2006, the

---

<sup>10</sup> Nilabati Behera v. State of Orissa and Ors (1993)

<sup>11</sup> DK Basu v. State of West Bengal (1996)

<sup>12</sup> Vishakha and ors vs State of Rajasthan and ors(1997)

Supreme Court of India delivered a Landmark judgment on Police Reforms in Prakash Singh<sup>13</sup> v. Union of India case, thereby issuing and instructing the Central and State Governments to comply with a set of seven directives by laying down a practical mechanism to kick-start Police Reform in the country. Hon'ble Apex Court in this case delivered a set of seven directives, most important among them are endeavour by the state to separate the investigation wing from law and order duty, a fixed tenure of Police Chief (DGP) based on transparent process and creation of Police Establishment Boards. No State has completely complied with these directive issued by Supreme Court till date. In brief even after over a decade of this landmark judgement of Apex Court the Police Reforms are far away from realisation.

#### **6. Smt Selvi and others versus State of Karnataka<sup>14</sup> (2010):**

In this landmark verdict the Apex Court questioned the Constitutionality or Constitutional validity of Investigation in the use of scientific tools such as narco-analysis, brain mapping, polygraph, truth serum etc. The verdict lamented that such practice is unconstitutional and illegal in accordance with Article 20(2) and 21 of the Indian Constitution. The consent of a person is a must for undergoing such scientific tests. A detail guideline in this connection was also issued, to be observed for conducting the Investigation of Crime under similar situation.

#### **7. Lalita Kumari versus Govt. of UP and others<sup>15</sup> (2013):**

In this landmark verdict the apex court held that it is mandatory to register an FIR, if such information pertains to commission of a cognizable offence. However in cases of matrimonial disputes or family disputes or commercial disputes or cases of medical negligence and in corruption cases a preliminary enquiry may be held to be completed within seven days, with an entry in the General diary of concerned Police Station regarding speaking reasons to register or not.

#### **8. Mukesh and another versus State of NCR Delhi (2017)<sup>16</sup>**

In this landmark verdict, which is popularly known as Nirbhaya case verdict Hon'ble Supreme Court while dealing with issues of definition of Rape under section 375 of IPC broadened its scope and held

---

<sup>13</sup> Prakash Singh v. Union of India And Ors (2006)

<sup>14</sup> Smt Selvi and others versus State of Karnataka (2010)

<sup>15</sup> Lalita Kumari versus Govt. of UP and others (2013)

<sup>16</sup> Mukesh and another versus State of NCR Delhi (2017)

that death penalty be awarded in the rarest of rare case and in exceptional cases juvenile to be dealt at par with adult. This landmark verdict paved the way for criminal Law Amendment Act, 2013 to be enacted to tackle the offences of sexual assault effectively.

#### **9. Police reforms against the backdrop of TP Sen Kumar<sup>17</sup> case of 25-04-2017:**

This landmark verdict lamented that a lot needs to be done in the field of Reforming Police system, keeping in view of the way it functions. No doubt Indian Police lack autonomy and professionalism in their day-to-day functioning. In this landmark verdict Apex Court categorically demonstrated by reinstating DGP Kerala T.P Sen Kumar, which was indicative enough that Police officer cannot be an object of scapegoat of Politician in power. It is pertinent to ponder upon the role and functions assigned to Police force in a democratic set up like ours.

#### **10. Shakti Vahini versus union of India and others<sup>18</sup> (2018):**

This case is popularly known as Khap Panchayat (honour killing) case. In the instant case the Hon'ble Supreme Court lamented that Khap Panchayat or such assembly should not take law into their hands. Beside this Court also ordered detailed guidelines for taking preventive, remedial and punitive measures to be followed to curb the menace of such crime.

#### **11. Sushila Agrawal and others versus State NCT of Delhi and another<sup>19</sup> (2020):**

In this landmark verdict Hon'ble Supreme Court dealt with the question of law relating to limit for granting anticipatory bail. Verdict was followed by a detailed guidelines to Investigating agencies and Court below. Detailed guidelines were issued by the Apex Court by interpreting the relevant provisions of section 438 and section 439(2) of Cr.P.C. In net shell Court held that anticipatory bail once granted should continue till the trial is over unless contrary is reported.

#### **12. Paramvir Singh Sani versus Baljit Singh and Anr<sup>20</sup> (2020):**

In this landmark verdict Hon'ble Supreme Court on 02-12-2020, issued exhaustive guidelines relating to the Investigation by the Law Enforcement Agencies. This verdict draws reference from

---

<sup>17</sup>Police reforms against the backdrop of TP Sen Kumar case of 25-04-2017

<sup>18</sup> Shakti Vahini versus union of India and others (2018)

<sup>19</sup> Sushila Agrawal and others versus State NCT of Delhi and another (2020)

<sup>20</sup>Paramvir Singh Sani versus Baljit Singh Anr (2020)

shafhi Mohammad versus State of HP (2018), wherein Apex Court held that Central government (MHA) was nodal agency for creating Central Oversight Body (COB) for setting up a plan and videography of the Crime scene of Investigation. Also reference was made of DK Basu case, wherein detailed guidelines were issued earlier. The very basis of this verdict was malpractices in Investigation and abuse of power leading to torture and human right violation while dealing with suspects or accused persons detained for Investigation. It was categorically held that beside COB the State-Level Oversight Committees (SLOC) and District Level Oversight Committees (DLOC) are to be set up country wide covering all States and UT so that CCTV with night vision devices are installed in each and every police station, covering all places/ points. If there is a complaint of custodial violence CCTV footage must be provided.

A perusal of aforementioned review of literature clearly indicate that not much has been accomplished in bringing about desirable police reforms pertaining to methodology of investigation of crime to suit the needs and aspiration of society. The study at hand will attempt to explore causes and remedies in the light of Constitutional imperative.

## **V. BEST PRACTICES:**

In the aforementioned context a brief literature review was also undertaken in contemporary world situation, particularly UK and USA and FRANCE, as narrated below:

### **1. Police Reforms in UK:**

In England<sup>21</sup> the Government coined national targets with a "single mission" to cut Crime. Thorough overhauling of policing as a system was undertaken by making provisions for replacing police authorities by directly elected police and crime commissioners. Endeavour was made to foresee Police structure, ensuring local Political accountability and creating a Police complaint system. Reforms in England are way ahead in comparison to the Act of 1861 which they imposed on colonial India.

---

<sup>21</sup> UK Parliament 2021.

## **2. Police Reforms in USA:**

Reforms pertaining to Policing in United State of America<sup>22</sup> is a regular feature by formation of various Commissions on a routine basis, keeping in view of the needs and aspirations of society which is paramount for a democratic country. It is not only limited Commissions, but the recommendations are fully followed under a watchful society so that they get a Police which is public friendly and also ensures Rule of Law. In order to achieve all this, there are multiple organisation with multiple roles providing safe environment to the American people. The working and functioning of these multiple organisations often overlap which acts as a counter check. The types of policing comprises of Community Policing, Evidence based Policing, and Intelligence led Policing, Predictive Policing, Proactive Policing and Problem Oriented Policing. A study on how technology is imperative for Police reforms, was conducted by Matt Reynolds<sup>23</sup>. This study inter alia revealed that technological innovation is an essential element of efficient Policing. In 2011, California Law enforcement department was among the first to adopt Predictive Policing software related to facial recognition services. Also Predictive Policing is essentially a machine learning algorithms, based on past Crime data and is of immense use to solve complicated crime.

## **3. The study on Police reforms vs Policing reforms<sup>24</sup>**

This study reveals that, the Policing system in USA is distinct in the sense that it is neither centralised nor it is in the direct control of Federal government. In fact countrywide all Local/State/Tribal Law enforcing organs fall within the purview of local bodies. The study also revealed that to achieve sustainable Police Reforms, we must focus on Policing system than on Police i.e. Policies, Practices, Policing tradition, etc. The study concludes that we must not forget the role of Community Policing in improving Policing system in any country.

## **4. Police Reforms in France:**

This study by Mathieu Zagrodzki<sup>25</sup> Lambert is a forty year search for an ideal model of Policing. In France public safety and National security is weaved around twin system of Law enforcement i.e. Police Nationale and Gendarmerie Nationale both controlled by the Ministry of interior. Police

---

<sup>22</sup> Wikipedia Police Reforms in the United States.

<sup>23</sup> AB JOURNAL. com/AUTHORS/647941 by Matt Reynolds (18-8-2020)

<sup>24</sup> E-newsletter of COPS office/volume9/issue8/Aug2016 by Ronald L. Danis Director.

<sup>25</sup> Police reforms in France: 40 years of searching for a model, Matthieu- [zagrodzki@gmail.com](mailto:zagrodzki@gmail.com)

Nationale deals with urban area policing while Gendarmerie Nationale deals with the city area policing.

### **5. The study conducted by Sebastian Klovig Skelton<sup>26</sup> (04-08-2020):**

Beside above mentioned international perspective on Reforms a brief review of available literature was also conducted relating to research study with regard to Law enforcement agencies, their role and Investigation. In this connection above study reveals that drastic Reforms in Policing are imperative for effectively controlling ever-rising internet Crime to enhance public safety. Since the growth of digital technology and internet has transformed the very nature of Crime. New spot of Crime is called Cyber Space, where most of the technologically driven Crime take place. Not only cheating, frauds of several kind, unethical hacking, child sexual abuse through imagery but one's own privacy is threatened and is at stake in this age of technological breakthrough. In this scenario the private actors are likely to take over the role of providing cyber security and subsequent Investigation, if concerned government and Law implanting organs fails to effectively address the issue. This is an eye opener situation currently worldwide including India.

Aforementioned studies clearly indicate that the time is ripe to envision and think about the modality of Police Investigation based on modern scientific line by deductive reasoning as well as by conducting an empirical study to pave the way for a much smoother and harmonious system to emerge. Nonetheless Investigation of crime is the stepping stone to initiate the wheel of criminal justice system in motion. The sole purpose of an investigator is to solve a crime by collecting and gathering evidence pertaining to a Criminal case in hand. Society's organised institutional endeavour is to fight against Crime, to ensure social harmony through Law and its enforcement. The primary institutions involved in this venture are the Police (law enforcement), Prosecution and defence Lawyers, Judiciary and Prisons.

### **VI. CONCLUSION AND SUGGESTIONS:**

General perception is that to some extent Police Force is constrained to perform their statutory duty of Investigation of Crime in accordance with Constitutional mandate & aspiration of the society on a rational basis. The larger issue is about modalities of Preventive Detention & Investigation of Crime by Police to have larger sanctity of Court and Society at large.

---

<sup>26</sup> Police require radical reforms to deal with 21st century challenges by Sebastian Klovig Skelton (04-08-2020)

As per Construction Police is a subject covered by State therefore, each State have their own Police Force while Centre keeps Central Armed Police Force (CAPF) to assist the states in the event of pressing Law and Order situations. Police, as a visible apparatus of State is necessary in balancing not only the socio-economic fabric of a Nation but also to instill confidence in the people to realise their Fundamental Rights in a more meaningful way. It has been aptly observed by various Commissions on Police Reforms, formed since independence, that to bring reforms in Police is *sinaqua-non*. The main challenge is to bring political and executive interference in day to day working of Police to a minimum or to an end. After all Police under the statutory provisions is directly responsible to Judiciary in its day-to-day deliberations which other departments of governance are seldom exposed to. No doubt, positive change in the perception of Police and Public towards each other has a greater role in transforming Police as a friend of people. This attitudinal change is destined to bring a better quality of life for our people. Modality of Police Reforms pertaining to investigation has to be conceptualised in the light of Constitutionalism, plurality and regional variations. Also, external security is first defined by internal security mechanism of a country for which Police is the major apparatus of States and Nation. To provide external and internal security to its people is an obligation of democratic governance. The issue is how Public-Police relations can be strengthened to increase the accountability of Police Investigation. The time is ripe not to delay Police reforms pertaining to investigation as it is inseparable part of society. It has a potential of transforming Police as Peoples Police rather than Politicians Police. It will also pave the way for a better governance. The investigation by police is also closely linked with human rights envisaged in part III of the Constitution. Also in this regard Criminal Justice begin only after the initiation of investigation which comprises of Police- Prosecution-Judiciary and Prison as its four pillars. However, it comprises of not only the aforementioned Executive and Judicial wings of governance but it also bring in dynamic interplay play the paramount role for the third wing of governance so called Legislature in filling the gaps in law by making suitable Amendments to fulfil aspiration of society from time to time. World over democratic societies are governed by Constitution. Civil Police being the most visible organ of state has the responsibility of Crime Prevention, Detection and ensuring public order. Hence it needs Organisational and Structural Reforms as per Constitutional mandate and societal expectations for a just, fair and reasonable Investigation of Crime. There is a need to study the Socio-Legal aspect of Police Reforms pertaining to investigation in a holistic way by exploring the Constitutional imperative.

Suggestions are following, which needs to be addressed by socio-legal researcher:

1. Suitable Amendments in Chapter XII of Cr.PC particularly section 154 and 161 of Cr.PC to make the Investigation not only accountable but also transparent in order to prevent lodging of false complaint and how to make it insulated from Executive and Political influence.
2. To create public awareness and mechanism for the follow up of the various guidelines issued by judicial pronouncement pertaining to Investigation for promoting constitutionalism.
3. Appropriate Legislative initiatives are imperative to promote Constitutional Democracy. This can be achieved by bringing about desired legislation in order to curb arbitrary power of Police, making it Public friendly.
4. To appreciate the difference between the Investigations under Inquisitorial vs Adversarial system of Justice and to explore main constraints and challenges before the Investigative agencies.
5. In this age of globalisation the best practices of Police Reforms pertaining to Investigation in major democracies worldwide can be adopted in view of their relevance for Indian Police and Society at large.
6. The issue of Cognizable vs. Non Cognizable crime is a major issue as the boundary line dividing the two is very thin (discretionary power) and public faith on Police Investigation is often questioned for registration and non-registration of FIR in its day to day working.
7. Since Law and Society are dynamic concepts so Police Reforms pertaining to Investigation is also a dynamic process. Desired Reforms at regular interval by Multi-disciplinary approach are imperative to suit the need and aspiration of an evolving democratic society.